



Weston House,
42 Curtain Road, London EC2A 3NH

NSPCC Supply of Goods and Services Terms and Conditions

1. INTRODUCTION

- 1.1 These **Conditions** govern the supply by the **Supplier** to the **Customer** of the **Goods** and/or **Services**. To protect your interests please read the **Conditions** carefully. If you are uncertain as to your rights under them or you want an explanation about any of them please contact requestcontract@nspcc.org.uk. Any amendments to these **Conditions** must be agreed in writing and signed by both parties.
- 1.2 If a Framework Agreement (**FA**) has been signed by both parties, the **Order** is governed by the terms and conditions of such **FA**, as amended from time to time. Capitalized terms in the **Order** or in these **Conditions** shall have the same meaning as described in the **FA**, unless otherwise stated below. In the event of a conflict between the **Order**, the **Conditions** and the **FA**, the **FA** shall prevail.
- 1.3 In the absence of any fraud or fraudulent misrepresentation these **Conditions** apply to the **Contract** to the exclusion of any other terms not agreed in writing between the parties. If the **Supplier** and the **Customer** enter into a separate written agreement for the supply of the goods and/or services under the **Order**, and if there is a conflict between these **Conditions** and the separate written agreement, the separate written agreement will take precedence. If any term of these **Conditions** conflicts with the **Order**, the conflicting term in the **Order** shall take precedence.
- 1.4 All of these **Conditions** shall apply to the supply of both **Goods** and/or **Services** (except where the application to one or the other is specified).

2. SUPPLY OF SERVICES AND/OR GOODS

- 2.1 The **Supplier** shall from the **Commencement Date** supply the **Services** and/or **Goods** to the **Customer** as stated in the **Order (s)** in accordance with this **Contract**.
- 2.2 The **Supplier** warrants that the **Services** and/or **Goods** supplied shall:
 - (a) correspond with their description and any applicable specification and be delivered and/or provided in accordance with any due dates, as set out in the **Order**;
 - (b) be of satisfactory quality (within the meaning of the **Sale of Goods Act 1979** and the **Supply of Goods and Services Act 1982**) and be fit for any purpose expressly or impliedly made known to the **Supplier** by the **Customer**, and in this respect the **Customer** relies on the **Supplier's** skill and judgment; and
 - (c) where applicable, be free from defects in design, workmanship, materials or installation and remain so for 12 months after delivery, including but not limited to defects in the **Goods** and materials supplied and used in the **Services**.
- 2.3 The **Supplier** warrants that it shall, in providing the **Services**:
 - (a) co-operate with the **Customer** in all matters relating to the **Services**, and comply with all reasonable instructions of the **Customer**;
 - (b) perform the **Services** with the best care, skill and diligence in accordance with best practice in the **Supplier's** industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and where applicable vetted in accordance with the NSPCC's safeguarding and vetting procedure for the **Services**, and provided in sufficient number to ensure that the **Supplier's** obligations are fulfilled in accordance with this **Contract**;
 - (d) provide all equipment, tools, vehicles and other items as are required to provide the **Services**;
 - (e) use the best quality goods, materials, standards and techniques;
 - (f) observe all health and safety rules and regulations and any other security requirements that apply at any of the **Customer's** premises;
 - (g) hold all **Customer Materials** in safe custody at its own risk, maintain the **Customer**

Materials in good condition until returned to the **Customer**, and not dispose or use the **Customer Materials** other than in accordance with the **Customer's** written authorisation;

(h) not do or omit to do anything which may cause the **Customer** to lose any licence, authority, consent or permission which it relies upon to conduct its charitable purposes; and

(i) comply with NSPCC's ethical procurement policy and ensure, where applicable, the compliance of any subcontractors.

2.4 The **Supplier** will make sure that it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the **Contract** and complies with all applicable statutory and regulatory requirements.

2.5 The **Customer** shall have the right to carry out inspections and tests of the **Goods** at any time before delivery. If following such inspections or tests the **Customer** considers that the **Goods** do not or are unlikely to comply with the **Supplier's** undertakings at clause 2.2, the **Supplier** shall immediately take such remedial action as is necessary to ensure compliance. The **Supplier** shall remain responsible for the **Goods** and any such inspection or testing by the **Customer** shall not reduce or otherwise affect the **Supplier's** obligations under the **Contract**.

3. DELIVERY OF GOODS

3.1 The **Supplier** shall ensure that:

(a) the **Goods** are properly packed and secured in such manner as to enable them to reach their destination in good condition;

(b) each delivery of the **Goods** will be accompanied by a delivery note which shows the date of the **Order**, the **Order** number, the type and quantity of the **Goods** (including the code number of the **Goods** where applicable), special storage instructions (if any) and, if the **Goods** are being delivered by instalments the outstanding balance of **Goods** remaining to be delivered; and

(c) if the **Supplier** requires the **Customer** to return any packaging material for the **Goods** to the **Supplier**, such must be clearly stated on the delivery note. Any such packaging material shall only be returned to the **Supplier** at the cost of the **Supplier**.

3.2 The **Supplier** shall deliver the **Goods**:

(a) on the date specified in the **Order** or as instructed by the **Customer** or, if no such date is specified or instructed then within 14 days of the date of the **Order**, for which time will be of the essence;

(b) to the **Delivery Location**; and

(c) during the **Customer's** normal hours of business on a **Business Day**, or as instructed by the **Customer**.

3.3 **Delivery** of the **Goods** shall be completed when the unloading of the **Goods** at the **Delivery Location** is completed by the **Supplier**, unless it has been agreed that the **Goods** are to be installed by the **Supplier**, in which case the **Delivery** of the **Goods** shall be completed when the **Goods** are successfully installed by the **Supplier** to the **Customer's** reasonable satisfaction.

3.4 If the **Supplier** delivers less than the amount of **Goods** ordered the **Customer** may reject the **Goods**. If the **Supplier** delivers more than the amount ordered the **Customer** may reject the excess **Goods**. If the **Customer** accepts either such delivery, a pro rata adjustment shall be made to the invoice to reflect the excess or deficit. Any rejected **Goods** shall be returnable at the **Supplier's** risk and expense.

3.5 The **Supplier** shall not deliver the **Goods** in instalments without the **Customer's** prior written consent. Where it is agreed that the **Goods** are delivered by instalments, they may be invoiced and paid for separately. However, failure by the **Supplier** to deliver any one instalment on time or at all or any defect in an instalment shall entitle the **Customer** to the remedies set out in clause 4.

3.6 Title and risk in the **Goods** shall pass to the **Customer** on completion of **Delivery** in accordance with clause 3.3.

4. CUSTOMER REMEDIES

4.1 It is a condition of the Contract that the **Supplier** will deliver the **Goods** and/or perform the **Services** by the agreed date and/or time (with time being of the essence) and/or in accordance with the **Contract**, and if the Supplier fails to do so the **Customer** may, at its absolute discretion and without limiting any other rights or remedies:

- (a) reject the **Goods** (in whole or in part) whether or not title has passed and return them to the **Supplier** at the **Supplier's** own risk and expense and:
 - (i) either require the **Supplier** without charge to repair or replace the rejected **Goods**; or
 - (ii) refuse to accept any subsequent delivery of the rejected **Goods**, require the **Supplier** to provide a full refund of all sums paid for the rejected **Goods** and/or terminate the **Contract**, or any part of it, with immediate effect by giving written notice to the **Supplier**; and/or
- (b) reject the **Services** (in whole or in part) and:
 - (i) either require the **Supplier** without charge to carry out such additional work necessary to correct the failure of the rejected **Services** to comply with the **Contract**; or
 - (ii) refuse to accept subsequent performance of the rejected **Services** require the **Supplier** to provide a full refund of all sums paid for the rejected **Services** and/or terminate the **Contract**, or any part of it, with immediate effect by giving written notice to the **Supplier**; and/or
- (c) claim by way of loss and/or damages for any additional cost, loss and/or expense incurred by the **Customer** as a consequence of the **Supplier's** failure to supply in accordance with the **Contract**.

4.2 These **Conditions** shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the **Supplier**.

4.3 Nothing in this **Contract** shall negate any additional rights and remedies the **Customer** may have as implied by statute or common law.

5. CHARGES AND PAYMENT

5.1 The price for the **Services** and/or **Goods**:

- (a) shall be the price set out in the **Order**, or if no price is quoted, the price set out in the **Supplier's** published price list at the date of the Order and discounted by any amount agreed in writing between the parties;
- (b) shall be the full and exclusive remuneration of the **Supplier** for such **Services** and/or **Goods** including all costs and/or expenses unless otherwise agreed in writing by the **Customer**. No extra charges shall be payable unless agreed in writing by the **Customer**; and
- (c) shall be payable in Pounds Sterling unless otherwise agreed in writing between the parties.

5.2 In respect of **Goods**, the **Supplier** shall invoice the **Customer** on or at any time after completion of delivery. In respect of **Services**, the **Supplier** shall invoice the **Customer** on completion of the **Services** or as agreed in writing by the parties. Each invoice must include such supporting information required by the **Customer** to verify the accuracy of the invoice, including but not limited to the relevant **Order** number and proof of delivery of **Services** and/or **Goods** and must be addressed to NSPCC, **National Processing Unit**, Diane Engelhardt House, (Unit 2) Treglown Court, Dowlais Road, Cardiff CF24 5LQ. **Customer** shall be entitled to reject and return to the **Supplier** any invoice which does not provide such supporting information and withhold payment until a suitable invoice is provided.

5.3 In consideration of the supply of **Goods** and/or **Services** by the **Supplier**, and

acceptance of the **Goods** and/or delivery of **Services** by **Customer**, the **Customer** shall pay the invoiced amounts within 30 days from the end of the month in which a correctly rendered invoice was received to a bank account nominated in writing by the **Supplier**.

- 5.4 All amounts payable by the **Customer** under the **Contract** are inclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**).
- 5.5 If the **Customer** fails to pay any amount properly due and payable by it under the **Contract**, the **Supplier** shall have the right to charge interest on the overdue amount at the rate of 2 percent a year above the base rate of the Bank of England accruing on a daily basis at the relevant rate applicable to such day from the due date up to the date of actual payment, whether before or after judgment. This clause shall not apply to amounts that the **Customer** disputes.
- 5.6 The **Supplier** shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the **Services**, and the **Supplier** shall allow the **Customer** to inspect such records at all reasonable times on request.
- 5.7 If any sums are due to **Customer** from the **Supplier** the **Customer** shall be entitled to exercise the right of set off against any sums due to the **Supplier** in accordance with this **Contract** or otherwise.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 The **Supplier** warrants that it has full clear and unencumbered title and unrestricted rights to sell and transfer all **Goods**, **Services** and/or **Deliverables** supplied to the **Customer** in accordance with the **Contract**. The **Supplier** also warrants that it will ensure that NSPCC consents are completed from all individuals used in imagery used as part of the **Services**.
- 6.2 The **Supplier** assigns to the **Customer**, with full title guarantee and free from all third party rights, all **Intellectual Property Rights** in the **Goods** and/or **Services** and any products of the **Services**, including all **Intellectual Property Rights** in the **Deliverables**.
- 6.3 The **Supplier** shall obtain waivers of all moral rights in the **Goods** and/or **Services**, including for the **Deliverables** to which any third party is now or may be at any future time entitled to under the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 6.4 The **Supplier** shall, promptly at the **Customer's** request, do (or procure to be done) all such further acts and execute all such other documents as the **Customer** may require for the purpose of securing for the **Customer** the full benefit of the **Intellectual Property Rights** assigned to the **Customer** in accordance with this clause.
- 6.5 All **Customer Materials** are the exclusive property of the **Customer**.

7. INDEMNITY AND INSURANCE

- 7.1 The **Supplier** shall indemnify and keep the **Customer** indemnified in full, against all losses, liabilities, damages, demands, claims, costs and/or expenses (including reasonable legal costs and disbursements), suffered or incurred by the **Customer**, whether arising directly or indirectly, as a result of or in connection with:
- (a) any death, personal injury and/or damage to property arising out of, or in connection with, defects in **Goods** or **Deliverables** or in connection with the provision of the **Services**, to the extent that the defect was attributable to any act or omission and/or negligence of the **Supplier**, its employees, agents or subcontractors;
 - (b) any actual or alleged infringement of a third party's **Intellectual Property Rights** arising as a breach by the Supplier of clause 6 and/or; and
 - (c) any damage and/or loss suffered to the **Customer's** reputation arising from the **Supplier** breaching clause 2.3.
- 7.2 Except where otherwise agreed in writing, the maximum liability of the **Customer** for any breach of this **Contract** shall be limited to the total cost of the **Goods** and/or **Services** supplied in accordance with the **Contract**.
- 7.3 The **Supplier** shall maintain in force, with a reputable insurance company appropriate

insurance to cover the liabilities that may arise under or in connection with this **Contract** and shall, on the **Customer's** request, produce appropriate evidence of suitable insurance to meet this requirement.

8. CONFIDENTIALITY

8.1 Each party shall keep in strict confidence the other parties' technical and/or commercial know-how, specifications, **Intellectual Property Rights**, business processes or initiatives which are of a confidential nature. The receiving party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the receiving party's obligations under the **Contract**, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the receiving party. The **Supplier** shall ensure that it uses suitable security measures with regards to all confidential information, documents, hard-drives or other confidential materials, data or items provided by the **Customer** to the **Supplier** as part of the **Services**. This restriction does not apply to:

- (a) any use or disclosure authorised by the **Customer**; or
- (b) any use or disclosure to the extent such **Confidential Information** is required to be disclosed by **Applicable Law**, by any governmental or other regulatory authority or body or by a court or other competent jurisdiction; or
- (c) any information which is already in, or comes into, the public domain otherwise than through the **Supplier's** or its **Personnel's** unauthorised disclosure; or
- (d) **Confidential Information** to those of its representatives who need to know such **Confidential Information**.

8.2 At any stage during the term of this **Contract**, the **Supplier** will promptly on request return to the **Customer** all and any Customer Property in the **Supplier's** or its **Personnel's** possession.

8.3 The **Supplier** shall use all reasonable efforts to maintain the strictest confidence concerning any materials, Intellectual Property Rights, Deliverables, third party materials supplied under licence, plans or policies divulged by **Customer** to the **Supplier**.

8.4 This clause 8 shall continue in force notwithstanding the expiry or termination of this **Contract** for whatever reason.

9. TERMINATION AND CONSEQUENCES

9.1 Without limiting its other rights or remedies, the **Customer** may terminate the **Contract** in respect of part or all of the supply of **Goods** and/or **Services** immediately on written notice:

- (a) for convenience, in which case the **Customer** shall pay the **Supplier** fair and reasonable compensation for any work in progress and/or **Goods** supplied up to the date of termination but such compensation shall not include loss of anticipated profits and/or or any consequential loss; or
- (b) if the **Supplier**:
 - (i) fails to deliver the **Goods** and/or perform the **Services** by the agreed date and/or time and/or in accordance with the **Contract**;
 - (ii) commits or suffers an **Insolvency Event** or (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;
 - (iii) fails to comply with the **Customer's** ethical procurement policy;
 - (iv) brings or may bring the **Customer** into disrepute, contempt, scandal, ridicule;
 - (v) or Supplier's Personnel acts in a manner which is contrary to the aims of the NPSCC; and/or
 - (vi) the ownership of the **Supplier** changes.

- 9.2 On termination of the **Contract**, or any part of it, for any reason the **Supplier** shall immediately deliver to the **Customer** all accepted **Deliverables**, whether or not then complete, and return all **Customer Materials** and any **Data**. If the **Supplier** fails to do so, then the **Customer** may without limiting its other rights or remedies enter the **Supplier's** premises and take possession of them. Until they have been returned or delivered, the **Supplier** shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this **Contract**.
- 9.3 Termination of the **Contract**, or any part of it, shall not affect the accrued rights and remedies of the parties, including the right to claim damages in respect of any breach of the **Contract** which existed at or before the date of termination.
- 9.4 Clauses which expressly or by implication have effect after termination shall continue in full force and effect, including but not limited to clauses 6, 7, 8, 9 and 10.

10. DATA PROTECTION

- 10.1 In this clause, the terms “**data controller**”, “**data processor**”, “**data subject**”, “**personal data**”, and “**processing**” will be as defined in **Data Protection Legislation**.
- 10.2 The parties agree to comply with the **Data Protection Legislation** insofar as it relates to the performance of their roles under this Agreement. Without limiting the remaining provisions of this clause, the **Supplier** shall comply with any **NSPCC data processing** and data sharing guidelines that the NSPCC may produce from time to time and may provide to the **Supplier**.
- 10.3 Where, in the NSPCC's reasonable opinion, there are safeguarding and/or child protection and/or adult at risk concerns in respect of the **Supplier** or the **Personnel** or a **subcontractor**, it may disclose such concerns to the Police, the relevant Children's Services Department, the relevant Local Authority Designated Officer and any relevant statutory or regulatory body.
- 10.4 The Parties acknowledge that the Supplier may process **personal data** on behalf of the NSPCC and that NSPCC shall be the **data controller** and the **Supplier** shall be the **data processor** in respect of **personal data** processed by the **Supplier**, on the NSPCC's behalf in performing its obligations under this Agreement.
- 10.5 The NSPCC shall be solely responsible for determining the purposes for which and the manner in which **personal data** are, or are to be, processed. The **subject matter** and duration of the processing, the nature and purposes of the processing, the categories or data subjects and type of **personal data** that will be processed pursuant to this Agreement shall be as set out in the Schedule.
- 10.6 Supplier shall:
- (a) ensure that it complies at all times with the applicable **Data Protection Legislation** and that any disclosure of **personal data** made in the context of this Agreement is lawful;
 - (b) Act only on written instructions and directions from the NSPCC and shall comply promptly with all such instructions and directions received from the NSPCC from time to time;
 - (c) immediately notify the NSPCC if, in the **Supplier's** opinion, any instruction or direction from the NSPCC infringes the Data Protection Legislation or other applicable European Union or Member State data protection law;
 - (d) not process personal data for any purpose other than for the provision of **Services** to the NSPCC and only to the extent reasonably necessary for the performance of this Agreement;
 - (e) not disclose **personal data** to any employee, director, agent, contractor or affiliate of Supplier or any third party except as necessary for the performance of the Services, to comply with applicable law or with the NSPCC's prior written consent;
 - (f) ensure that all employees, directors, agents, contractors or affiliates of **Supplier** authorised to process **personal data** have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

- (g) in a manner consistent with the **Data Protection Legislation** and with any guidance issued by the competent **Regulator**, maintain a record of processing activities under its responsibility;
 - (h) implement all necessary or appropriate technical and organisational measures, having regard to the state of the art and the costs of implementation and the risks to the rights and freedoms of **data subjects**:
 - i. to protect the security and confidentiality of personal data processed by it in providing the Services;
 - ii. to protect **personal data** against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, access, or processing; and
 - iii. as required under **Data Protection Legislation**;
 - (i) immediately notify the NSPCC of its receipt of any complaint, notice or request made by a **data subject** in relation to the personal data processed by **Supplier** on behalf of the NSPCC and, if required by the NSPCC, permit the NSPCC to handle such request and at all times cooperate with and assist the NSPCC to execute its obligations under the **Data Protection Legislation** in relation to such **data subject** requests, including by appropriate technical and organisational measures where appropriate. If the NSPCC elects not to handle any request from a **data subject** received by **Supplier**, **Supplier** shall comply with such request and provide written evidence to the NSPCC about how it was fulfilled. In all cases, **Supplier** shall provide a copy to the NSPCC of all **personal data** which it does so disclose.
 - (j) **Supplier shall**, without undue delay and in any event within 24 hours of becoming aware, promptly notify the NSPCC in writing of any actual or suspected unauthorised access or processing of **Personal Data** or breach of the Security Policy, and such notice shall include details of such actual unauthorised access or processing or the breach of the Security Policy, including nature of the breach categories and numbers of data subjects affected; categories and numbers of records affected; likely consequences of the breach and measures to be taken in mitigation and timescales;
 - (k) **Supplier** shall cooperate and provide the NSPCC with such reasonable assistance as the NSPCC requires in relation to any complaints made by data subjects, unauthorised access or processing of personal data, or investigations or enquiries made by any **Regulator** relating to the NSPCC's or **Supplier's** obligations under the **Data Protection Legislation**.
 - (l) **Supplier** shall provide such co-operation as the NSPCC considers to be necessary to enable the NSPCC to verify Supplier's compliance with this clause from time to time. Such co-operation may, at the NSPCC's discretion, include helping the NSPCC to carry out risk assessments of **Supplier's** data processing operations or completion of privacy impact assessments, in particular providing information to the NSPCC or its representatives about **Supplier's** data processing facilities, procedures and documentation in order to ascertain compliance with the terms of this Agreement.
 - (m) No personal data processed by **Supplier** pursuant to this Agreement shall be exported outside the European Economic Area.
- 10.7 The NSPCC is entitled, on giving the **Supplier** at least 7 days' notice to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Data by the **Supplier**. This requirement to give notice will not apply if the NSPCC believes that the **Supplier** is in breach of any of its obligations under this Agreement.
- 10.8 The **Supplier** shall:
- (a) comply with the NSPCC **Data Security Principles and Questionnaire** document as updated by the NSPCC from time to time;
 - (b) complete the NSPCC data security questionnaire contained within the "**Data Security Principles and Questionnaire**" and return it to the NSPCC, if not already completed to the NSPCC's satisfaction prior to signature of this agreement; and

- (c) ensure it does not knowingly or negligently do or omit to do anything which places the NSPCC in breach of the NSPCC's obligations under the **Data Protection Legislation**;
 - (d) ensure that the **NSPCC Data** is kept secure and in an encrypted form, and shall use the best available security practices and systems applicable to the use of the **NSPCC Data** to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Data;
 - (e) use **Security Features** in relation to the storage of the **NSPCC Data**, the **Security Features** must, unless NSPCC notifies the **Supplier** otherwise, be kept confidential and not lent, shared, transferred or otherwise misused.
 - (f) The NSPCC may terminate this Agreement with immediate effect if the NSPCC reasonably suspects that the **Supplier** is not in compliance with this clause.
- 10.9 The **Supplier** may only authorise a third party (sub-contractor or otherwise) ("Sub-Processor") to process NSPCC Data:
- (a) subject to the NSPCC's prior written consent where it has supplied the NSPCC with full details of such third party; and
 - (b) provided that the **Supplier** enters into a written contract with the Sub-Processor containing binding obligations regarding the protection of personal data which contains terms regarding the same levels of security and protection for such data which are at least as protective as the terms of this clause 10.9;
 - (c) provided that the Sub-Processor's contract terminates automatically on termination of this agreement for any reason.
- 10.10 The **Supplier** undertakes to provide training as necessary from time to time to Supplier Personnel with respect to **Supplier's** obligations in this clause 10 to ensure that Supplier Personnel are aware of and comply with such obligations.
- 10.11 In relation to personal data processed by the **Supplier** under this Agreement, the **Supplier** shall co-operate with the NSPCC to the extent reasonably necessary to enable the NSPCC to adequately discharge its responsibility as a data controller under the Data Protection Legislation, including without limitation that the **Supplier** shall cooperate and provide the NSPCC with such reasonable assistance as the NSPCC requires in relation to preparation of data protection impact assessments to the extent required under the **Data Protection Legislation**.
- 10.12 On termination or expiry of this Agreement, at the NSPCC's request, the **Supplier** shall delete or return to the NSPCC all **personal data** processed on behalf of the NSPCC, and the **Supplier** shall delete existing copies of such personal data except where necessary to retain such **personal data** strictly for the purposes of compliance with Applicable Law.
- 10.13 The **Supplier** shall indemnify and keep indemnified the NSPCC from and against all Losses suffered or incurred by the NSPCC or for which the NSPCC may become liable due to any breach by the **Supplier** or **Personnel** or Subcontractors to comply with any of the **Supplier's** obligations under this clause.

11. PERSONNEL AND SAFEGUARDING

11.1 The **Supplier** shall and shall procure that the **Personnel** shall:

- (a) comply with **NSPCC Policies** and conduct the **Services** in a way which is consistent with the aforementioned;
- (b) provide the **Services** in accordance with best industry practice;
- (c) provide the **Services** in accordance with all **Applicable Laws**, including but not limited to **Data Protection Legislation**;
- (d) obtain, maintain and comply with all **Consents**;
- (e) allocate sufficient resources to provide the **Services** in accordance with the terms of this **Contract**;

- (f) ensure that to the extent that **Personnel** have access to **Children** and/or **Adults at Risk** and/or their **Data** in providing the **Services**:
 - (i) follow best practice in dealing with **Children** and/or **Adults at Risk**;
 - (ii) **Supplier** shall ensure that either; a **DBS Check** is completed for each **Personnel** where there is an opportunity for unsupervised contact or, if a **DBS Check** is not obtainable, ensure that each **Personnel** completes a **Safeguarding Declaration Form** which must be obtained from the **Customer**;
 - (iii) the **Supplier** shall store the **DBS Check** or **Safeguarding Declaration Form**
 - (iv) for a period of 12 months from the end of the **Services**;
 - (v) disclose to the **Customer** if at any time any **Personnel** is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed) or receive a caution for any offence or are subject to notification requirements.
- 11.2 The **Supplier** shall complete HR management on each **Personnel** including referencing and vetting, provision of employment contracts and payroll services, including holiday entitlement, absenteeism and disciplinary policies and ensuring the activity takes place in compliance with **Applicable Laws** relating to employment and contracting **Personnel**.
- 11.3 The **Supplier** undertakes, warrants and represents on an on-going basis that:
- (a) it will perform and procure the performance of its obligations under this **Contract** in compliance with all **Applicable Laws**; and
 - (b) it has, and will continue to hold, all **Consents** and regulatory approvals necessary to provide the **Services**.
- 11.4 The **Supplier** shall ensure that in the event that it has a concern about the welfare of a child, it contacts the **Customer's** Helpline on 0808 800 5000 or online via the **Customer's** website. If a child is in immediate danger it shall call the Police on 999.
- 11.5 The **Supplier** shall immediately notify the **Customer** of its receipt of any complaint, investigation, notice or communication which relates directly or indirectly to the obligations contained in this **Contract** and it shall provide the **Customer** with full co-operation and assistance in relation to any such complaint, investigation, notice or communication.
- 11.6 Notwithstanding any input or assistance provided by the **Customer**, the **Supplier** shall be responsible for the safe conduct of any **Services** and take all steps necessary to protect health and safety, including by carrying out at the **Supplier's** own cost all necessary risk assessments, provide all necessary safety equipment and supervision.
- 11.7 The **Customer** may require the **Supplier** to remove, or procure the removal of, any of the **Supplier's Personnel** whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which may have an impact on such person's responsibilities.
- 11.8 The **Supplier** shall indemnify and keep indemnified and defend at its own expense the **Customer** against all liabilities, losses, costs, claims, damages, fines and /or expenses suffered or incurred for which the **Customer** may become liable due to any failure by the **Supplier**, its **Personnel** or subcontractors or agents to comply with any of the **Supplier's** obligations under this clause 11.

12. GENERAL

Force majeure:

- 12.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the **Contract** if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or effects of the event lasts for more than 30 days either party shall be able to terminate this contract immediately on written notice.

12.2 Assignment and subcontracting:

- (a) The **Supplier** shall not assign, transfer, charge, subcontract or deal in any other manner with any of its rights or obligations under the **Contract** without the **Customer's** prior written consent.
- (b) The **Customer** may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights under the **Contract** and may subcontract or delegate in any manner any or all of its obligations under the **Contract** to any third party or agent.

12.3 Queries/Notices:

- (a) Any query regarding the terms of this **Contract** should be emailed to **requestacontract@nspcc.org.uk**
- (b) Any notice or other communication required to be given to a party under or in connection with this **Contract** shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, email, fax, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business.
- (c) Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second **Business Day** after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax or email, on the next **Business Day** after transmission.

12.4 Waiver and cumulative remedies: A waiver of any right under the **Contract** is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the **Contract** or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. Unless specifically provided otherwise, rights arising under the **Contract** are cumulative and do not exclude rights provided by law.

12.5 Severance:

- (a) If a court or any other competent authority finds that any provision (or part of any provision) of the **Contract** is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the **Contract** shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the **Contract** would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.6 Relationship of parties: Nothing in the **Contract** is intended to, or shall be deemed to, constitute a partnership, agency or joint venture of any kind between any of the parties. No party shall have authority to act as agent for, or to bind, the other party in any way for any purpose.

12.7 Third parties: A person who is not a party to the **Contract** shall not have any rights under or in connection with it under the provisions of the Contracts (Rights of Third Parties) Act 1999.

12.8 Variation: Any variation, including any additional terms and conditions, to the **Contract** shall only be binding when agreed in writing and signed by both parties.

12.9 Governing law and jurisdiction: The **Contract** and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by English law and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

13. INTERPRETATION

In these Conditions, the following definitions apply:

Adult(s) at Risk: anyone aged 18 years or over who may:

- (a) be at risk of abuse or neglect because of their needs for care and support;
- (b) not have capacity to make a decision; and/or

(c) be in a vulnerable circumstance and require additional care and support;

Applicable Laws: the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the **Services**.

Business Day: means a day (other than a Saturday, Sunday or public holiday) when the Bank of England is open.

Children: means children under the age of 18 (eighteen).

Commencement Date: is the date when the Order is accepted and effective in accordance with clause 1.2.

Conditions: means these terms and conditions (as amended in accordance with clause 11.8).

Confidential Information: information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the Customer for the time being confidential to the Customer and trade secrets including, without limitation, technical data and know-how relating to the Customer or any of its suppliers, customers, agents, distributors, management or business contacts, including in particular (by way of illustration only and without limitation) its campaigns or supporters, and including (but not limited to) information that Supplier or its Personnel creates, develops, receives or obtains in connection with this Contract, whether or not such information (if in anything other than oral form) is marked confidential.

Consents: all permissions, consents, approvals, certificates, permits, licences, agreements and authorities (whether statutory, regulatory, contractual or otherwise) necessary for the provision of the **Services**.

Contract: the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions and the Order (as amended in accordance with clause 11.8).

Customer: is the National Society for the Prevention of Cruelty to Children a charity registered in England, Wales and Scotland with charity numbers 216401 and SC037717.

Customer Materials: means all materials, equipment, tools, drawings, specifications, data and/or any other materials supplied by **the Customer to the Supplier**.

Data Protection Legislation: a) all Applicable Law and regulations relating to data or privacy, including but not limited to the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003, EU General Data Protection Regulation 2016/679 and any other data protection laws (including any associated regulations or instruments) applicable to the Supplier's provision of the Services; and

b) all in term ICO codes of practice and relevant industry guidance as amended or replaced from time to time, including but not limited to, as issued by the Information Commissioner and/or any similar or replacement regulatory or self-regulatory body or bodies which may come into existence during the term of this Agreement.

Data Security Principles and Questionnaire: the NSPCC's protocol and questionnaire; as set out in Schedule 1.

DBS Check: a check of the Disclosure and Barring Service in England and Wales, Access NI in Northern Ireland or Disclosure Scotland in Scotland.

Deliverables: means all documents, products and/or materials developed by the Supplier or its agents, contractors and/or employees as part of or in relation to the Services which may take any form or media, including but not limited to drawings, maps, plans, diagrams, designs, digital images, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location: is the location as set out in the **Order** or as indicated by the **Customer** before delivery.

Goods: means the goods, if any, or any part of them, as supplied in accordance with these Contracts and as set out in the **Order**.

Insolvency Event: the calling of any creditors meeting, the appointment of any receiver, administrator, or administrative receiver over all or any part of assets, the presentation of a winding-up or bankruptcy petition, the convening of a meeting to pass a winding up resolution, entering liquidation, a bankruptcy petition being issued in respect of any director, owner or key individual, the suspension or cessation of business or any threat to do so.

Intellectual Property Rights: means all patents, copyright and related rights, trade or service marks, trade, business or domain names, rights in goodwill or to sue for passing off, rights in designs or computer software, database rights, topography rights, confidential information rights (including know-how and trade secrets) and any other intellectual property rights, whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Losses: all losses, liabilities, fines, charges, damages, actions, costs and expenses, professional fees (including legal fees actually incurred) and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties.

NSPCC Data: all data (including personal data), information, text, drawings and other materials which are embodied in any medium including all electrical, optical, magnetic or tangible media and which are supplied to the Supplier by or on behalf of the NSPCC or which the Supplier is required to generate, collect, process, store or transmit in connection with this Agreement.

NSPCC Policies: NSPCC policies and protocols as amended from time to time including but not limited to those set out in Schedule1 (Data Protocol Principles);

Order: means the **Customer's** order for the supply of **Goods** and/or **Services**.

Personnel: all employees, staff, other workers, consultants and agents of the **Supplier** and of any subcontractors, third parties or assignees who may be involved in the **Services** from time to time.

Regulator: any person having regulatory or supervisory authority over any part of the Services or the Supplier's or the Customer's business or operations, in whatever jurisdiction, including H.M. Revenue and Customs, the Office of the Information Commissioner and the Department for Business Innovation and Skills and, in each case, any successor body or bodies in the United Kingdom and anybody or bodies carrying out similar functions in any relevant jurisdiction.

Safeguarding Declaration Form: the NSPCC safeguarding declaration form as may be requested by the **Supplier** and provided by the **Customer** from time to time.

Security Feature: any security feature including any key, PIN, password, token or smartcard.

Services: means the services, if any, including any **Deliverables**, to be provided by the Supplier in accordance with this **Contract** as set out in the **Order**.

Supplier: the person or organisation from whom the **Customer** purchases the **Goods** and/or **Services**.

Data Processing Schedule

1. The transfer of personal data is not anticipated under these Purchase Order terms and conditions. Any transfer of personal data will be subject to the terms and conditions of a framework agreement between the Customer and Supplier.

SCHEDULE 1 – Data Security Principles and Questionnaire

Supplier Security Principles

Introduction

The NSPCC has an expectation when working with a supplier that they adhere to a common set of security principles which are listed below. This helps the NSPCC assess the risk of working with a supplier. Where a supplier does not follow these principles then this should be highlighted to the NSPCC.

Principles

The following is a set of common security principles the NSPCC expects a supplier to meet.

- Security policy - The supplier should have a documented security policy that outlines the security controls the company adheres to.
- Personnel security - The supplier is responsible for ensuring staff are made aware of their contractual and information security responsibilities. And that they monitor staff conformance and take appropriate measures when these are deficient. The supplier should also ensure that they operate a starters and leavers process.
- Physical security - The supplier should use physical and environmental security to protect its offices and information systems.
- Operations security - The supplier is responsible for ensuring services they deliver to the NSPCC are properly managed in terms of service delivery such as incident, problem and change management. Information systems used in the delivery of their services should be on vendor supported operating systems, configured securely, patched, protected from malware, resilient, auditable, and backed up to minimize service interruption to the NSPCC.
- Communication security - The supplier should ensure that communications with the NSPCC involving sensitive information are performed securely and are kept confidential.
- Supply chain - The supplier is expected to have appropriate agreements in place to ensure services provided by sub-contractors do not expose the NSPCC to an adverse level of risk.
- Compliance - The supplier is expected to comply with legislative, regulatory and contractual requirements. Personal data should be handled as defined under the data protection act. Sensitive information encountered by the supplier whilst working for the NSPCC should be kept confidential and not disclosed. Suppliers who connect directly into the NSPCC's network must comply with the NSPCC's security policy.
- Security incidents - The supplier should report any security incidents impacting the NSPCC immediately and take the appropriate actions to contain, eradicate and recover from the incident.