

**FRAMEWORK AGREEMENT FOR RESEARCH:**

**STAKEHOLDER CONFIDENCE SURVEY**

**TENDER REFERENCE: QWL252610**

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**THIS AGREEMENT** is dated 2025

**PARTIES**

(1) **Qualifications Wales** whose principal place of business is Q2 Building, Pencarn Lane, Imperial Park, Coedkernew, Newport, NP10 8AR (**Qualifications Wales**); and

(2) xxxxx incorporated and registered in England and Wales with company number xxxx whose registered office is at insert address (**Supplier**),

each a **party** and together the **parties.**

**BACKGROUND**

(A) Qualifications Wales placed a contract notice insert notice ref/date on Sell2Wales/Find a Tender Service for the provision of Services identified in the contract notice to itself.

(B) Following a competitive process and on the basis of the Supplier's Tender, Qualifications Wales selected the Supplier to enter into a framework agreement to provide Services to it when it Requests in accordance with this Framework Agreement.

(C) This Framework Agreement sets out the procedure for ordering Services, the terms and conditions for the provision of the Services and the obligations of the Supplier under this Framework Agreement.

(D) It is the parties' intention that Qualifications Wales has no obligations to place any Requests with the Supplier under this Framework Agreement.

**AGREED TERMS**

# INTERPRETATION

## **Definitions.** In these Conditions, the following definitions apply:

|  |  |
| --- | --- |
| Auditor | means the Audit Wales Office or an auditor appointed by Qualifications Wales as the context requires; |
| Authorised Representative  | the persons respectively designated as such by Qualifications Wales and the Supplier;  |
| Business Day | a day other than a Saturday, Sunday or public holiday in England and/or Wales when banks in London and/or Cardiff are open for business; |
| Change of Control | means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010; |
| Charges | the charges payable by Qualifications Wales for the supply of the Goods and/or Services in accordance with clause 15, as such charges are calculated in accordance with Schedule 3 of the Framework Agreement and the Statement of Work;  |
| Commencement Date | means *insert start date* |
| Commercially Sensitive Information | means the information listed in Schedule 5 comprising the information of a commercially sensitive nature relating to the Supplier, its intellectual property rights or its business;  |
| Confidential Information | means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including [any Commercially Sensitive Information] trade secrets, Intellectual Property Rights, know-how of either party and all personal data and sensitive data within the meaning of the Data Protection Legislation;  |
| **Consumer Prices Index** | the Consumer Prices Index (CPI); |
| **Contract** | means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Goods and/or Services made between Qualifications Wales and the Supplier, comprising a Statement of Work, its appendices and the terms and conditions set out in this Framework Agreement;  |
| **Contract Year** | means a period of 12 months commencing on the Commencement Date; |
| Control | shall be as defined in section 1124 of Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly;  |
| Customer Materials | has the meaning set out in clause 9.3(i); |
| Data Protection Legislation | means the UK Data Protection Legislation and any other European Union legislation relating to Personal Data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party]. |
| Data Subject | shall have the same meaning as set out in the Data Protection Legislation. |
| Default | any breach of the obligations of the relevant party under a Contract (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant party or the Supplier's Personnel in connection with or in relation to the subject matter of the Contract and/or this Framework Agreement and in respect of which such party is liable to the other;  |
| Deliverables | all documents, products, information and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation any reports or research commissioned by Qualifications Wales, drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications reports (including drafts), records relating to awarding bodies or representative bodies (including schools and colleges), learners, other public bodies (such as other qualification regulators or those related to education) and members of the general public that it has obtained in delivering the Services. ; |
| FOIA | the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation; |
| Force Majeure Event | any circumstances not within a party's reasonable control including (but not limited to):1. acts of God, flood, drought, earthquake or other natural disaster;
2. epidemic or pandemic;
3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
4. nuclear, chemical or biological contamination or sonic boom;
5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
6. collapse of buildings, fire, explosion or accident; and
7. interruption or failure of utility service.
 |
| Framework Agreement | this agreement and all schedules to this agreement;  |
| Further Term | as defined in clause 2.2. |
| **Information** | all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); |
| **Initial Term** | the period commencing on the Commencement Date and ending on xxxx (subject to any earlier termination of this Framework Agreement.  |
| Intellectual Property Rights | patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; |
| Key Performance Indicators | the service levels to which the Services are to be provided, as set out in Schedule 4; |
|  |  |
| **Law** | any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply; |
| Personal Data | shall have the same meaning as set out in the Data Protection Legislation. |
| **Processor** | shall have the same meaning as set out in the Data Protection Legislation; |
| Relevant Requirements | all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010; |
| **Relevant Terms** | has the meaning set out in clause 30.2;  |
| **Replacement Supplier** | any third party supplier of Replacement Services appointed by Qualifications Wales from time to time; |
| **Request** | as defined in clause 4.1; |
| **Requests for Information** | a request for information or an apparent request under the FOIA or the EIRs. |
| Service Commencement Date | means the relevant date set out in the Specification |
| Service Specification | the description or specification for the Services agreed in writing by Qualifications Wales and the Supplier set out in Schedule 2 of this Framework Agreement and more particularly set out in the Supplier's Tender; |
| Services | the services, including any Deliverables, to be provided by the Supplier as set out in the Service Specification;  |
| **Supplier's Tender** | means the tender submitted by the Supplier to Qualifications Wales on xxxxxx as included in schedule 6 of this Framework Agreement and presentation / post tender clarification, if applicable;  |
| **Term** | means the Initial Term and any Further Term.  |
| **Termination Date** | means the date of expiry or termination of this Framework Agreement; |
| **UK Data Protection Legislation** | all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended. |
| **Welsh Language Obligations** | means the obligations of Qualifications Wales in respect of the use of the Welsh language, whether under any Law, under any Welsh language scheme made under the Welsh Language Act 1993, under any Welsh language standards which apply to Qualifications Wales under the Welsh Language (Wales) Measure 2011 (whether or not a compliance notice has been given to Qualifications Wales) or any specific obligations in respect of the use of the Welsh language in connection with the delivery of Goods and/or Services which are notified to the Supplier from time to time by Qualifications Wales. |

## **Interpretation**. In these Conditions, the following rules apply:

### a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

### a reference to a party includes its successors or permitted assigns;

### a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

### any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

### the schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement. Any reference to this Framework Agreement includes the schedules;

### subject to clause 1.2(g), where there is any conflict or inconsistency between the provisions of this Framework Agreement, such conflict or inconsistency shall be resolved according to the following order of priority:

#### the clauses and schedules of this Framework Agreement (excluding schedule 6 (Supplier's Tender));

#### schedule 6 (Supplier's Tender) to this Framework Agreement.

### a reference to **writing** or **written** includes e-mails.

# TERM OF FRAMEWORK AGREEMENT

## This Framework Agreement shall take effect on the Commencement Date and (unless terminated in accordance with the terms of this Framework Agreement or is otherwise lawfully terminated) shall continue for the Initial Term whereupon it shall either continue in accordance with the provisions of clause 2.2 or terminate in accordance with the provisions of clause 2.3.

## On the expiry of the Initial Term or any Further Term, this Framework Agreement shall automatically continue for a further consecutive periods of 12 months (each, a **Further Term**) up to a maximum of 2 Further Terms, unless either party has given the other party notice in accordance with clause 2.3, or unless the Framework Agreement is terminated sooner.

## This Framework Agreement shall terminate at the end of the Initial Term or at the end of the then Further Term if either party has given the other 2 months written notice to terminate the Framework Agreement such notice to expire either upon the end of the Initial Term or the end of the then Further Term (as the case may be). The Framework Agreement shall terminate at the end of the final Further Term allowed by clause 2.2 without the need for either party to serve notice.

## Qualifications Wales shall not enter into any further Statements of Work after the expiry of the Term or earlier termination of this Agreement.

## Unless expressly stated to the contrary, the service of a notice to terminate this Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

# SCOPE OF FRAMEWORK AGREEMENT

## This Framework Agreement governs the overall relationship between the parties in relation to the placing of Requests for the supply Services provided by the Supplier to Qualifications Wales for the duration of this Framework Agreement.

## Qualifications Wales may at is absolute discretion and from time to time Request Services from the Supplier in accordance with the ordering procedure set out in clause 4 during the Term.

# ORDERING PROCEDURE

## Qualifications Wales may at any time issue a request to the Supplier for the performance of Services to Qualifications Wales by the Supplier. A request may be made by Qualifications Wales in writing or such similar or analogous form agreed with the Supplier including systems of ordering involving e-mail or other online solutions (including the issuing of a purchase order by Qualifications Wales through its P2P systems) (a **Request**).

## Following receipt of a Request, the Supplier shall promptly and in any event within a reasonable period determined by Qualifications Wales and notified to the Supplier at the same time as the submission of the Request (which in any event shall not exceed three Working Days) acknowledge receipt of the Request and either:

### notify Qualifications Wales in writing and with detailed reasons that it is unable to fulfil the Request; or

### notify Qualifications Wales that it is able to fulfil the Request and provide, at the Supplier's cost, a draft Statement of Work.

## Qualifications Wales and the Supplier shall discuss and agree that draft Statement of Work. Once agreed, both parties shall sign the draft Statement of Work.

## Qualifications Wales shall be entitled to withdraw a Statement of Work by giving the Supplier notice in writing in relation to any Goods and/or Services where the Goods have not been delivered or performance of the Services has not commenced.

## The parties acknowledge and agree that a Request is an "invitation to treat" by Qualifications Wales. Accordingly, the Supplier shall sign and return the Statement of Work (as approved in accordance with clause 4.3) which shall constitute its offer to Qualifications Wales. Qualifications Wales shall signal its acceptance of the Supplier's offer and the formation of a Contract by counter-signing the approved Statement of Work.

## The terms and conditions of this Framework Agreement (including its schedules) shall be incorporated into and apply to each Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

# CONTRACT PERFORMANCE

## The Supplier shall perform all Contracts entered into with Qualifications Wales in accordance with:

### the requirements of this Framework Agreement; and

### the terms and conditions of the respective Contract.

# not used

# not used

# not used

# SUPPLY OF SERVICES

## The Supplier shall from the relevant Service Commencement Date and for the duration of the Statement of Work Term provide the Services to Qualifications Wales in accordance with the terms of the Contract and this Framework Agreement.

## The Supplier shall meet any performance dates for the Services specified in the Statement of Work and/or Specification at Schedule 2 or notified to the Supplier by Qualifications Wales and time is of the essence in relation to any of those performance dates.

## In providing the Services, the Supplier shall:

### co-operate with Qualifications Wales in all matters relating to the Services, and comply with all instructions of Qualifications Wales;

### perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

### use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Framework Agreement and any Contract;

### ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification and the Statement of Work, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by Qualifications Wales;

### provide all equipment, tools and vehicles and such other items as are required to provide the Services;

### use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Qualifications Wales, will be free from defects in workmanship, installation and design;

### obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

### observe all health and safety rules and regulations and any other security requirements that apply at any of Qualifications Wales's premises;

### hold all materials, equipment and tools, drawings, specifications and data supplied by Qualifications Wales to the Supplier (Customer Materials) in safe custody at its own risk, maintain Qualifications Wales Materials in good condition until returned to Qualifications Wales, and not dispose or use Qualifications Wales Materials other than in accordance with Qualifications Wales's written instructions or authorisation; and

### not do or omit to do anything which may cause Qualifications Wales to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Qualifications Wales may rely or act on the Services;

### comply with any additional obligations as set out in the Service Specification and any Statement of Work; and

###

# Key Performance Indicators

## The Supplier shall ensure that the Services meet or exceed the Key Performance Indicators at all times from the relevant Service Commencement Date.

## The Supplier shall provide Qualifications Wales with a quarterly report detailing its performance in respect of each of the Key Performance Indicators in respect of each Contract.

## If there is a Service Failure, the Supplier shall:

### notify Qualifications Wales immediately of the Service Failure;

### deploy all additional resources and take all remedial action that is necessary to rectify or to prevent the Service Failure from recurring; and

##  **Not used.**

##  Nothing in this clause 10.5 shall restrict Qualifications Wales' rights to claim damages at large or any other remedy or to terminate the Framework Agreement and/or any Contract under clause 28.

##  The Authorised Representatives shall have regular meetings to monitor and review the performance of the Framework Agreement and any Contracts, the achievement of the Key Performance Indicators and the provision of the Services.

# SUPPLIER'S STATUS

##  At all times during the Term the Supplier shall be an independent service provider and nothing in this Framework Agreement or any Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the parties and, accordingly, neither party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other party except as expressly permitted by the terms of the this Framework Agreement or any Contract.

# SUPPLIER'S TENDER

##  The Supplier warrants and represents to Qualifications Wales that as at the Commencement Date, all information statements and representations contained in the Supplier's Tender are true, accurate and not misleading save as may have been specifically disclosed in writing to Qualifications Wales before the execution of this Framework Agreement and it will promptly notify Qualifications Wales of any fact, matter or circumstances of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading.

##  The Supplier acknowledges that it has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied by it or on behalf of Qualifications Wales before submitting the Supplier's Tender so as to be satisfied in relation to all matters connected with the performance of its obligations under the Framework Agreement and any Contract or Statement of Work

# QUALIFICATIONS WALES' REMEDIES

##  If the Supplier fails to perform the Services by the applicable date(s) set out in the Statement of Work and at all times in accordance with the provisions of clauses 6 and/or 8 of this Framework Agreement (as the case may be), Qualifications Wales shall, without limiting its other rights or remedies (and whether or not Qualifications Wales has accepted the Goods), have one or more of the following rights:

### to terminate this Framework Agreement and/or the relevant Contract relating to the Statement of Work with immediate effect by giving written notice to the Supplier;

### to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

### to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

### to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;

### to recover from the Supplier any costs incurred by Qualifications Wales in obtaining substitute goods and/or services from a third party;

### where Qualifications Wales has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and

### to claim damages for any additional costs, loss or expenses incurred by Qualifications Wales which are in any way attributable to the Supplier's failure to carry out its obligations under this Framework Agreement and/or any Contract.

##  These terms and conditions shall extend to any substituted or remedial services supplied by the Supplier.

##  Qualifications Wales' rights and remedies under this Framework Agreement and/or any Contract are in addition to its rights and remedies implied by statute and common law.

# QUALIFICATIONS WALES' OBLIGATIONS

Qualifications Wales shall:

### provide the Supplier with reasonable access at reasonable times to Qualifications Wales's premises for the purpose of providing the Services; and

### provide such information as the Supplier may reasonably request for the provision of the Services and Qualifications Wales considers reasonably necessary for the purpose of providing the Services.

# CHARGES AND PAYMENT

##  In consideration of the Supplier's performance of its obligations under the Contract, Qualifications Wales shall pay the Charges in accordance with this clause 15.

## **Not used.**

## The Charges for the Services shall be set out in the relevant Statement of Work, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. The Charges for each Statement of Work shall be calculated in accordance with the provisions of schedule 3 of this Framework Agreement.

## Subject to clause 15.5, the Charges are fixed and are not subject to any variation.

## The parties shall review at least 2 months before the end of each Contract Year (unless notice has been served in accordance with clause 2.3 to terminate this Framework Agreement) and, where appropriate, agree changes in the Charges (**Charges Review**). The Supplier shall submit details of the requested amendment to the Charges to Qualifications Wales in writing, setting out the implications of the variation and the proposed new charges/prices. The Supplier may only propose increases in the Charges which reflect the percentage increases in the Consumer Price Index and no proposed increase of the Charges shall exceed the percentage increase in the Consumer Price Index. The Supplier shall also have regard to the following factors when proposing amendments to the Charges:

### changes to the Supplier's costs of performing the Services;

### the volumes of Services ordered by, and supplied to, Qualifications Wales;

### the price at which the Supplier supplies the Services to comparable customers;

### the prices at which comparable services are supplied by other suppliers in the open market; and

### any cost reductions achieved by the Supplier since the last Charges Review (to the extent that they have not already been taken into account in the Charges).

## Unless the parties agree the proposed variation, the charges/prices shall remain unchanged. Agreed changes shall take effect from the commencement of the following Contract Year.

## If within one month of beginning a Charges Review meeting the parties cannot agree the Charges for the following Contract Year, either party may refer the matter to an independent expert for determination. The independent expert shall determine the Charges for the relevant Contract Year.

## If the Charges for a Contract Year are not agreed or determined by the final day of the preceding Contract Year, the Charges in force during that preceding year shall apply pending agreement or determination of the new Charges. Once the new Charges are agreed or determined, they shall apply with effect from the first day of the relevant Contract Year. Within one month of agreeing or determining the new Charges, Qualifications Wales shall pay the Supplier any outstanding sums due in respect of its purchases of Services in the relevant year, together with any applicable VAT, or the Supplier shall refund Qualifications Wales for any excess amounts paid on Goods and/or Services purchased in the relevant year, and shall repay any VAT due to be repaid, as appropriate.

## In respect of Services, the Supplier shall invoice Qualifications Wales in accordance with the provisions of the relevant Statement of Work which will confirm that the Supplier shall invoice Qualifications Wales on either (i) completion of the Services in respect of a Statement of Work; (ii) on the completion of the milestones as set out in the Statement of Work or (iii) as otherwise set out in the Statement of Work Each invoice shall include such supporting information required by Qualifications Wales to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

## In consideration of the supply of Services by the Supplier, Qualifications Wales shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

## All amounts payable by Qualifications Wales under the Framework Agreement are inclusive of amounts in respect of valued added tax (VAT) chargeable from time to time.

##  If Qualifications Wales fails to make any payment due under the Framework Agreement and/or any Contract by the due date for payment, then it shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. Qualifications Wales shall pay the interest together with the overdue amount. This clause shall not apply to payments that Qualifications Wales disputes in good faith.

##  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 Qualifications Wales to inspect such records at all reasonable times on request.

##  Qualifications Wales may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Qualifications Wales against any liability of Qualifications Wales to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Framework Agreement and/or any Contract or otherwise.

# Non-exclusivity

## The Supplier acknowledges that, in entering into this Framework Agreement, no form of exclusivity or volume guarantee has been granted by Qualifications Wales for the Services from the Supplier and that Qualifications Wales is at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.

# Not Used

# PERSONNEL USED TO PROVIDE THE SERVICES

##  At all times, the Supplier shall ensure that:

### each of the Supplier's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;

### there is an adequate number of Supplier's Personnel to provide the Services properly;

### only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and

### all of the Supplier's Personnel comply with all of Qualifications Wales's policies.

##  Qualifications Wales may refuse to grant access to, and remove, any of the Supplier's Personnel who do not comply with any such policies, or if they otherwise present a security threat.

## The Supplier shall replace any of the Supplier's Personnel who Qualifications Wales reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Supplier's Personnel for any reason, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.

## The Supplier shall maintain up-to-date personnel records on the Supplier's Personnel engaged in the provision of the Services and shall provide information to Qualifications Wales as Qualifications Wales reasonably requests on the Supplier's Personnel. The Supplier shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.

## The Supplier shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations and environments.

# not used

# Not used

# RECORDS AND AUDIT ACCESS

## The Supplier shall keep and maintain until the later of (i) six (6) years after the end of the Framework Agreement or (ii) six (6) years after the last expiry or termination of any Statement of Work (or as long a period as may be agreed between the parties), full and accurate records and accounts of the operation of the Framework Agreement, any Contracts entered into pursuant to it, including the Services and/or Goods provided under these and the amounts paid by Qualifications Wales.

## The Supplier shall keep the records referred to in clause 21.1 in accordance with good accountancy practice.

##  The Supplier shall on request afford Qualifications Wales, Qualifications Wales' representatives and/or the Auditor such access to such records and accounts as may be required by Qualifications Wales from time to time.

## The Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) during the continuance of this Framework Agreement and for a period of six (6) years after the expiry of this Framework Agreement to Qualifications Wales and the Auditor.

## Subject to Qualification Wales' rights of confidentiality, the Supplier shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:

### all information requested by the Auditor within the scope of the Audit;

### reasonable access to sites controlled by the Supplier and to equipment used in the provision of the Services; and

### access to the Supplier Personnel.

# not used

# INTELLECTUAL PROPERTY RIGHTS

## In respect of the Deliverables that are transferred to Qualifications Wales as part of the Services under this Framework Agreement and/or any Contract, the Supplier warrants that it has full clear and unencumbered title to all such items (including any data contained therein), and that at the date of delivery of such items to Qualifications Wales, it will have full and unrestricted rights to sell and transfer all such items to Qualifications Wales.

## The Supplier assigns to Qualifications Wales, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

## The Supplier acknowledges and agrees that further to clause 23.1 and 23.2, as owners of any Intellectual Property Rights in the Goods, products of the Services and/or Deliverables, Qualifications Wales has the right to license or otherwise grant permission to other third parties for the use of the product of the Services or Deliverables without requiring any further consent or permission from the Supplier.

##  The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

##  The Supplier shall, promptly at Qualifications Wales's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Qualifications Wales may from time to time require for the purpose of securing for Qualifications Wales the full benefit of the Framework Agreement and any Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to Qualifications Wales in accordance with clause 23.2.

## The Supplier shall indemnify Qualifications Wales against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services and/or Goods, except to the extent that they have been caused or contributed to by Qualifications Wales' acts or omissions.

## All Customer Materials are the exclusive property of Qualifications Wales.

# TAXATION, NATIONAL INSURANCE AND EMPLOYMENT INDEMNITY

##  The parties acknowledge and agree that this Framework Agreement and each Statement of Work constitute contracts for the provision of Goods and Services and not contracts of employment. The Supplier shall at all times indemnify Qualifications Wales and keep Qualifications Wales indemnified in full from and against all claims, proceedings, actions, damages, costs, expenses, liabilities and demands howsoever arising by reason of any circumstances whereby Qualifications Wales is alleged or determined to have been assumed or imposed with the liability or responsibility for the Supplier's Personnel (or any of them) as an employer of the Supplier's Personnel whether during the Term or arising from termination or expiry of this Framework Agreement and/or any Contract.

# INDEMNITY AND LIABILITY

## Nothing in the Framework Agreement or any Contract shall be construed to limit or exclude either party's liability for:

### death or personal injury caused by its negligence;

### fraud or fraudulent misrepresentation;

### any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

### any claim under the indemnity in clause 23.5;

### any claim under the indemnity in clause 25.2;

### any claim under the indemnity in clause 29.4(i); or

## Subject always to clause 25.3, the Supplier shall indemnify and keep indemnified Qualifications Wales in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the Goods and/or Services or the performance or non-performance by the Supplier of its obligations under this Framework Agreement or any Contract or the presence of the Supplier or any Supplier Personnel on Qualifications Wales' premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly or indirectly by any act or omission of the Supplier.

##  Subject always to clause 25.1, the liability of either party for Defaults shall be subject to the following financial limits:

### Qualifications Wales' annual aggregate liability under each Contract for all Defaults shall in no event exceed 25% of the Charges payable by Qualifications Wales to the Supplier under that Contract in the Contract Year in which the liability arises.

### the Supplier's annual aggregate liability under each Contract shall in no event exceed 125% of the Charges payable by Qualifications Wales to the Supplier under that Contract in the Contract Year in which the liability arises.

## Qualifications Wales may, among other things, recover:

### any additional operational and/or administrative expenses arising from the Supplier's Default;

### any wasted expenditure or charges rendered unnecessary and/or incurred by Qualifications Wales arising from the Supplier's Default; and

### the additional cost of any replacement goods and/or services for the remainder of the Statement of Work Term following termination of the relevant Contract as a result of a Default by the Supplier.

## Nothing in the Framework Agreement or any Contract shall impose any liability on Qualifications Wales in respect of any liability incurred by the Supplier to any other person, but this shall not be taken to exclude or limit any liability of Qualifications Wales to the Supplier that may arise by virtue of either a breach of this Framework Agreement and/or any Contract or by negligence on the part of Qualifications Wales, or Qualifications Wales' employees, servants or agents.

## This clause 24 shall survive termination of the Framework Agreement and/or any Contract.

# INSURANCE

## During the Term of this Framework Agreement and for a period of [one year] after the last termination or expiry of any Contract the Supplier shall maintain in force the following insurance policies with reputable insurance companies:

### public liability insurance for not less than £10 million per claim;

### not used;

### professional indemnity insurance with a limit of indemnity not less than £1million in relation to any one claim or series of claims and shall ensure that all professional consultants or sub-contractors involved in the provision of the Services hold and maintain appropriate cover; and

### employer's liability insurance with a limit of indemnity of not less than £5 million or, if greater, in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims.

The Supplier shall ensure that Qualifications Wales' interest is noted on each insurance policy, or that a generic interest clause has been included.

## On taking out and on renewing each policy, the Supplier shall promptly send a copy of the receipt for the premium to Qualifications Wales. On Qualifications Wales' written request, the Supplier shall provide Qualifications Wales with copies of the insurance policy certificates and details of the cover provided.

## The Supplier shall ensure that any subcontractors also maintain adequate insurance having regard to the obligations under this Framework Agreement and any Contract which they are contracted to fulfil.

## The Supplier shall:

### do nothing to invalidate any insurance policy or to prejudice Qualifications Wales' entitlement under it; and

### notify Qualifications Wales if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.

## The Supplier's liabilities under this Framework Agreement and any Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 26.1.

## If the Supplier fails or is unable to maintain insurance in accordance with clause 26.1, or fails to provide evidence that it has paid the current year's premiums in accordance with clause 26.2, Qualifications Wales may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs and expenses it incurs in doing so from the Supplier.

# CONFIDENTIALITY

## Each party undertakes that it shall not [at any time OR at any time during this Framework Agreement, and for a period of [five] years after termination of the Framework Agreement or last expiry or termination of any Contract, if later,] disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 27.2(b).

## Each party may disclose the other party's Confidential Information:

### to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this Framework Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 27; and

### as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, including, but not limited to, any disclosures required under the FOIA or EIRs.

##  Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under the Framework Agreement and/or any Contract.

# FREEDOM OF INFORMATION

## The Supplier acknowledges that Qualifications Wales is subject to the requirements of the FOIA and the EIRs. The Supplier shall:

### provide all necessary assistance and cooperation as reasonably requested by Qualifications Wales to enable Qualifications Wales to comply with its obligations under the FOIA and EIRs;

### transfer to Qualifications Wales all Requests for Information relating to this Framework Agreement that it receives as soon as practicable and in any event within 2 Business Days of receipt;

### provide Qualifications Wales with a copy of all Information belonging to Qualifications Wales requested in the Request For Information which is in its possession or control in the form that Qualifications Wales requires within 5 Business Days (or such other period as Qualifications Wales may reasonably specify) of Qualifications Wales's request for such Information; and

### not respond directly to a Request For Information unless authorised in writing to do so by Qualifications Wales.

##  The Supplier acknowledges that Qualifications Wales may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information)] without consulting or obtaining consent from the Supplier. Qualifications Wales shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Framework Agreement and/or any Contract) Qualifications Wales shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

# DATA PROTECTION

## Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 29 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 29, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.

##  The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the data controller and the Supplier is the data processor. The relevant Statement of Work shall set out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.

## Without prejudice to the generality of clause 29.1, Qualifications Wales will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Framework Agreement.

## Without prejudice to the generality of clause 29.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Framework Agreement or any Contract:

### process that Personal Data only on the written instructions of the Authority (as set out in the relevant Statement of Work), unless the Supplier is required by the Applicable Laws to otherwise process the Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Authority of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Authority;

### ensure that it has in place appropriate technical and organisational measures, (as defined in the Data Protection Legislation), reviewed and approved by Qualifications Wales, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal 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);

### not transfer any Personal Data outside of the European Economic Area unless the prior written consent of Qualifications Wales has been obtained and the following conditions are fulfilled:

#### Qualifications Wales or the Supplier has provided appropriate safeguards in relation to the transfer;

#### the Data Subject has enforceable rights and effective remedies;

#### the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

#### the Supplier complies with the reasonable instructions notified to it in advance by Qualifications Wales with respect to the processing of the Personal Data;

### notify Qualifications Wales immediately if it receives:

#### a request from a Data Subject to have access to that person's Personal Data;

#### a request to rectify, block or erase any Personal Data;

#### any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);

### assist Qualifications Wales in responding to any request from a Data Subject and in ensuring compliance Qualifications Wales's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

### notify Qualifications Wales immediately and in any event within 24 hours on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Framework Agreement or Contract;

### at the written direction of Qualifications Wales , delete or return Personal Data and copies thereof to Qualifications Wales on termination or expiry of the Framework Agreement unless required by the Applicable Laws to store the Personal Data;

### maintain complete and accurate records and information to demonstrate its compliance with this clause 29 and allow for audits by Qualifications Wales, Qualifications Wales's representatives or the Auditor and immediately inform Qualifications Wales if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation;

### indemnify Qualifications Wales against any losses, damages, cost or expenses incurred by Qualifications Wales arising from or in connection with any breach by the Supplier of its obligations under this clause 29.

## Where the Supplier intends to engage a sub-contractor and intends for that sub-contractor to process any Personal Data relating to this Framework Agreement or any Contract, it shall:

### notify Qualifications Wales in writing of the intended processing by the sub-contractor;

### obtain prior written consent from Qualifications Wales to the processing;

### ensure that any sub-contract imposes obligations on the sub-contractor to give effect to the terms set out in this clause 29.

## Either party may, at any time on not less than 30 Working Days' written notice to the other party, revise this clause 29 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Framework Agreement).

## The provisions of this clause shall apply during the continuance of this Framework Agreement and any Contract and indefinitely after its expiry or termination.

# COMPLIANCE WITH RELEVANT REQUIREMENTS

* 1. The Supplier shall:
		1. comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
		2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
		3. have and shall maintain in place throughout the term of the Framework Agreement and any Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 18.1(b), and will enforce them where appropriate;
		4. promptly report to Qualifications Wales any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Framework Agreement and/or any Contract; and
		5. immediately notify Qualifications Wales (in writing) if a foreign public official 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 this Framework Agreement).
	2. The Supplier shall ensure that any person associated with the Supplier who is providing goods in connection with this Framework Agreement and any Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 30 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Qualifications Wales for any breach by such persons of any of the Relevant Terms.
	3. Breach of this clause 30 shall be deemed a material breach under clause 33.
	4. For the purpose of this clause 30, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 30 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

# HUMAN RIGHTS, EQUALITY AND DIVERSITY, AND ANTI-SLAVERY AND HUMAN TRAFFICKING

## The Supplier shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 and the Modern Slavery Act 2015 in the performance of this Framework Agreement and any Contract.

## The Supplier shall undertake, or refrain from undertaking, such acts as Qualifications Wales requests so as to enable the Supplier to comply with its obligations under the Human Rights Act 1998.

## The Supplier shall:

### perform its obligations under this Framework Agreement and any Contract (including those in relation to the Goods and/or Services) in accordance with:

#### all applicable equality, anti-slavery and anti-human trafficking Law;

#### Qualifications Wales's equality and diversity policy and anti-slavery policy as provided to the Supplier from time to time;

#### any other requirements and instructions which Qualifications Wales reasonably imposes in connection with any equality, anti-slavery or anti-human trafficking obligations imposed on Qualifications Wales at any time under applicable equality Law;

### take all necessary steps, and inform Qualifications Wales of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation);

### implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains [and report to Qualifications Wales on this as and when requested by Qualifications Wales]; and

### notify Qualifications Wales as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Framework Agreement and/or any Contract.

# WELSH LANGUAGE

## The Supplier warrants that it will supply the Goods and/or Services and perform its obligations under this Framework Agreement and any Contract at all times in furtherance of Qualifications Wales' obligations under the Welsh Language Obligations.

# TERMINATION

## Without limiting its other rights or remedies, Qualifications Wales may terminate the Framework Agreement and/or any Contract with immediate effect by giving written notice to the Supplier if:

### the Supplier commits a material breach of any term of this Framework Agreement and/or any Contract and (if such breach is remediable) fails to remedy that breach within [30] days of that party being notified in writing to do so;

### the Supplier repeatedly breaches any of the terms of this Framework Agreement and/or any Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Framework Agreement and/or any Contract;

### the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

### the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business;

### the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

### the Supplier's financial position deteriorates to such an extent that in the reasonable opinion of Qualifications Wales, the Supplier's capability to adequately fulfil its obligations under this Framework Agreement and/or any Contract has been placed in jeopardy.

## Without limiting its other rights or remedies, Qualifications Wales may terminate this Framework Agreement and/or any Contract at any time by giving Three months' written notice to the Supplier.

## The Supplier shall notify Qualifications Wales immediately if the Supplier undergoes a Change of Control. Qualifications Wales may terminate the Framework Agreement by giving notice in writing to the Supplier with immediate effect within six months of:

### being notified that a Change of Control has occurred; or

### where no notification has been made, the date that the Authority becomes aware of the Change of Control;

## but shall not be permitted to terminate where Qualifications Wales's approval in writing to the Change of Control was granted before the Change of Control.

## Termination of this Framework Agreement and/or any Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

## Unless expressly stated to the contrary, the service of a notice to terminate this Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

## In any of the circumstances in this Framework Agreement and/or any Contract in which a party may terminate the Framework Agreement and/or any Contract, where both Goods and Services are supplied, Qualifications Wales may terminate the Framework Agreement and/or any Contract in respect of the Goods, or in respect of the Services, and the Framework Agreement and/or Contract shall continue in respect of the remaining supply.

## Clauses which expressly or by implication survive termination of the Framework Agreement and/or any Contract shall continue in full force and effect.

# CONSEQUENCES OF TERMINATION

## On termination of this Framework Agreement in whole or in part for any reason or on the expiry of the Term:

### the Supplier shall immediately deliver to Qualifications Wales all Deliverables whether or not then complete, and return all Customer Materials; and

### the Supplier shall ensure that all documents and/or computers records in its possession, custody or control which contain Confidential Information or relate to personal information of Qualifications Wales' employees, rate payers or service users, are delivered up to Qualifications Wales or securely destroyed;

### assist and co-operate with Qualifications Wales to ensure an orderly transition of the provision of the Services to any Replacement Supplier and/or the completion of any work in progress;

### promptly provide all information

## On termination of any Contract in whole or in part for any reason or on expiry of the Statement of Work Term, the Supplier shall comply with the provisions of clause 34.1 to the extent required by Qualifications Wales and notified to the Supplier.

## If the Supplier fails comply with clause 34.1 and/or 34.2, then Qualifications Wales may enter the Supplier's premises and take possession thereof and the Supplier grants a licence to Qualifications Wales or its appointed agents to enter (for the purposes of such recovery) any premises of the Supplier or its permitted Suppliers or sub-contractors where any such items may be held.

# FORCE MAJEURE

##  Provided it has complied with clause 35.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Framework Agreement or any Contract by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Framework Agreement or the relevant Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

##  The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

## The Affected Party shall:

### as soon as reasonably practicable after the start of the Force Majeure Even but no later than seven days from its start, notify the other party [in writing] of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

### use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations; and

### resume performance of its obligations as soon as possible after the removal of the cause of the delay or prevention or cessation of the Force Majeure Event.

## A party cannot claim relief if the Force Majeure Event is attributable to that party’s wilful act, neglect or failure to take reasonable precautions against or mitigate the relevant Force Majeure Event.

##  The Supplier cannot claim relief if the Force Majeure Event is one where a reasonable Supplier should have foreseen and provided for the cause in question[, or if it is attributable to a failure by the Supplier to comply with the provisions of the Disaster Recovery Plan (unless such failure is also due to a Force Majeure Event affecting the operation of the Disaster Recovery Plan)].

## As soon as practicable following the Affected Party’s notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Framework Agreement and/ or relevant Contract(s). Where the Supplier is the Affected Party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with best industry practice.

##  The Affected Party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Framework Agreement and/or relevant Contract(s). Following such notification, this Framework Agreement and/or relevant Contract(s) shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event unless agreed otherwise by the parties.

## If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 6 weeks, the party not affected by the Force Majeure Event may terminate this agreement [immediately] by giving 4 weeks' written notice to the Affected Party.

# HEALTH AND SAFETY

##  The Supplier shall perform its obligations under this Framework Agreement and any Contract in accordance with:

### all applicable Law regarding health and safety; and

### Qualifications Wales's health and safety policy whilst at Qualifications Wales's premises.

##  Each party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at Qualifications Wales's premises of which it becomes aware and which relate to or arise in connection with the performance of this Framework Agreement and any Contract. The Supplier shall instruct the Supplier Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

# GENERAL

## **Conflict of interest.**

### The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Supplier's Personnel are placed in a position where (in the reasonable opinion of Qualifications Wales) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or Supplier's Personnel and the duties owed to Qualifications Wales under the provisions of the Framework Agreement and/or any Contract.

### The Supplier shall promptly notify and provide full particulars to Qualifications Wales if such conflict referred to in 37.1(a) above arises or is anticipated to arise.

### Qualifications Wales reserves the right to terminate the Framework Agreement and/or any Contract immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of Qualifications Wales, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to Qualifications Wales under the provisions of the Framework Agreement and/or any Contract. The action of Qualifications Wales pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to Qualifications Wales.

### Clause 37.1 shall apply during the term of the Framework Agreement and for a period of two (2) years after its termination or expiry (whichever is sooner).

## **Partnership or agency.**

### Nothing in this Framework Agreement or any Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

### Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## **Publicity.**

## The Supplier shall not:

### make any press announcements or publicise this Framework Agreement or any Contract or their contents in any way; or

### use Qualifications Wale' name or logo in any promotion or marketing or announcement of orders.

###  except as required by law, any government or regulatory authority, any court or other authority of competent jurisdiction, without the prior written consent of Qualifications Wales.

## **Entire agreement.**

## This Framework Agreement and each Contract (as applicable) constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

##  **Assignment and other dealings.**

### Qualifications Wales may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Framework Agreement or any Contract.

### The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Framework Agreement or any Contract without the prior written consent of Qualifications Wales.

##  **Subcontracting.**

## The Supplier shall not subcontract any or all of its rights or obligations under this Framework Agreement or any Contract without the prior written consent of Qualifications Wales. If Qualifications Wales consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

## **Notices.**

### Any notice or other communication given to a party under or in connection with the Framework Agreement or any Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or e-mail.

### A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 37.7(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

### The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## **Severance.**

## If any provision or part-provision of the Framework Agreement or any 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 shall not affect the validity and enforceability of the rest of the Framework Agreement or any Contract.

## **Waiver.**

## A waiver of any right or remedy under the Framework Agreement or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Framework Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

##  **No partnership or agency.**

## Nothing in the Framework Agreement or any Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

##  **Third parties.**

## A person who is not a party to the Framework Agreement and/or any Contract (as the case may be) shall not have any rights to enforce its terms.

## **Variation.**

## Except as set out in these terms and conditions, no variation of the Framework Agreement or any Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Qualifications Wales.

## **Governing law.**

## The Framework Agreement and any Contract, and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales, as applied in Wales.

## **Jurisdiction.**

## Each party irrevocably agrees that the courts of England and Wales (sitting in Cardiff) shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or any Contract or their subject matter or formation (including non-contractual disputes or claims).

## This Framework Agreement has been entered into on the date stated at the beginning of it.

|  |
| --- |
| Signed by Philip Blaker, Chief Executivefor and on behalf of Qualifications Wales: |
|
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|  |

|  |
| --- |
| Signed by **[**NAME OF DIRECTOR**]** for and on the behalf of  |
| Director |

**SCHEDULE 1**

**STATEMENT OF WORK (SOW)**

**Contract title:**

**REFERENCE:**

**PARTIES:**

**(1) Qualifications Wales** whose principal place of business is Q2 Building, Pencarn Lane, Imperial Park, Coedkernew, Newport, NP10 8AR; and

**(3) [Insert Supplier name],** a company organized under the laws of [insert country] whose registered office is at [insert location]("**Supplier**")**.**

**Introduction:**

Qualifications Wales and Beaufort Research Limited entered into a Framework Agreement dated (the "**Framework Agreement**"). Qualifications Wales made a Request on the [insert date]. The parties set out above enter into this Statement of Work pursuant to clause 3 and clause 4 of the Framework Agreement. This Statement of Work incorporates the terms and conditions of the Framework Agreement as amended from time to time and forms a discrete contract.

**Interpretation**

In the event of any conflict or inconsistency between the terms of this Statement of Work and the Framework Agreement, the terms of this Statement of Work will prevail.

Words and expressions defined in the Framework Agreement will have the same meanings when used in this Statement of Work.

**Statement of Works number**: [1]

**Duration of Work:**

The Services Commencement Date for this Statement of Work shall be [date].

This Statement of Work will commence on the Service Commencement Date and will continue [until the completion of the Services / delivery of the Goods][for x months][until *insert date*] unless otherwise terminated in accordance with the terms of the Framework Agreement.

**1. Services**

The Supplier shall provide the Services in accordance with Schedule 2

**2. Charges**

2.1 In consideration of the Supplier's performance of its obligations under the Statement of Work, Qualifications Wales shall pay the Charges in accordance with this paragraph 3.

2.2 In respect of Goods, the Supplier shall invoice Qualifications Wales on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice Qualifications Wales on completion of the Services, or in instalments if otherwise agreed in writing by Qualifications Wales. Each invoice shall include such supporting information required by Qualifications Wales to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

2.3 In consideration of the supply of Goods and/or Services by the Supplier, Qualifications Wales shall pay the invoiced amounts within [30] days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

2.4 All amounts payable are inclusive of amounts in respect of valued added tax chargeable from time to time (VAT).

2.5 If Qualifications Wales fails to make any payment due by the due date for payment, then it shall pay interest on the overdue amount at the rate of [4]% per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. Qualifications Wales shall pay the interest together with the overdue amount. This clause shall not apply to payments that are disputed in good faith.

2.6 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 Qualifications Wales to inspect such records at all reasonable times on request.

2.7 Qualifications Wales may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to that party against any liability they have to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Framework Agreement and/or this Statement of Work.

**3. Key Performance Indicators**

The Supplier shall comply with the Key Performance Indicators

**4. Data Protection**

The Supplier will comply with the provisions of clause 29 of the Framework Agreement and the Data Processing schedule when processing Personal Data under this Statement of Work.

**5.** **Key Personnel and Authorised Representative**

The following persons shall be deemed to be Key Personnel for the purposes of this Statement of Work:

Qualifications Wales:

|  |  |
| --- | --- |
| **Role/Function** | **Name**  |
| Authorised Representative | [*insert name*] |
| [*name role or function*] | [*insert name*] |

Supplier:

|  |  |
| --- | --- |
| **Role/Function** | **Name**  |
| Authorised Representative | [*insert name*] |
| [*name role or function*] | [*insert name*] |

**6. Agreement of Statement of Work**

Once agreed a purchase order (PO) setting out the costs (plus estimated expenses) will be issued. This PO number must be stated on your invoice in relation to this work.

# BY SIGNING AND RETURNING THIS STATEMENT OF WORK THE SUPPLIER AGREES to enter a legally binding contract to provide to Qualifications Wales the Services and/or Goods specified in this Statement of Work incorporating the rights and obligations set out in the Framework Agreement entered into by the Supplier and Qualifications Wales on xxxxx.

Signed by: Elizabeth Frizi

Head of Procurement

For and on behalf of Qualifications Wales

Signed by:

On behalf of

**DATA PROCESSING**

The Supplier is responsible for ensuring that all data is stored securely and adheres to the General Data Protection Regulation.

**Subject matter of the processing**

**Duration of the processing**

[Insert duration of processing (usually duration of Statement of Work)]

**Nature and purposes of the processing**

[Insert nature and purpose of the processing]

**Type of Personal Data**

[Insert type of Personal Data to be processed by Supplier]

**Categories of Data Subject**

[Insert categories of Data Subject whose Personal Data is to be processed by Supplier]

**Plan for return and destruction of the data once the processing is complete**

The supplier must retain all personal or sensitive data pertaining to this project for at least one year, and all anonymised data sets for at least six years from the project completion date.

At the end of the retention period, and within twenty-eight days, the supplier must contact Qualifications Wales (informationgovernance@qualifications.wales)

 to confirm the data destruction arrangements before any data is destroyed. Depending on the historical significance of the data collected, it may need to be transferred to Qualifications Wales for storage and transferral to the National Archives. A decision on further retention of the data will be made in conjunction with the guidelines set out in The National Archives Records Collection Policy and will depend on the impact of the research on decision-making. The supplier is responsible for ensuring the secure destruction or transfer of the data, in agreement with Qualifications Wales.

## **SCHEDULE 2: SERVICE SPECIFICATION**

**SCHEDULE 3: CHARGES**

## **SCHEDULE 4: KEY PERFORMANCE INDICATORS**

**Proposed KPIs :**

|  |
| --- |
| 1. Effective communication   |
| 2. Achieving a high-quality, publishable standard in the reports   |
| 3. Meeting agreed deadlines  |
| 4. Standards and conduct including effective management of ethics and risk  |

## **SCHEDULE 5: COMMERCIALLY SENSITIVE INFORMATION**

## **SCHEDULE 6: SUPPLIER’S TENDER**