



(1) JISC SERVICES LIMITED

and

(2) [INSERT COMPANY NAME]

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FRAMEWORK AGREEMENT

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**BETWEEN:**

- (1) **JISC SERVICES LIMITED** (Company Number 2881024) whose registered office is at One Castlepark, Tower Hill, Bristol, BS2 0JA (**JSL**); and
- (2) **[INSERT COMPANY NAME]** (Company Number **[INSERT COMPANY NUMBER]**) whose registered office is at **[INSERT ADDRESS]** (**Contractor**).

**1. Definitions**

- 1.1. In this Agreement, the following words will have the following meanings:

<b>Agreement</b>	means this framework agreement including the Schedules and incorporating the Offer;
<b>Anti-Slavery Policy</b>	Jisc's anti-slavery policy which can be found at <a href="https://www.jisc.ac.uk/about/corporate/slavery-and-human-trafficking-statement">https://www.jisc.ac.uk/about/corporate/slavery-and-human-trafficking-statement</a>
<b>Applicable Law</b>	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;
<b>Bribery Legislation</b>	means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the Bribery Legislation;
<b>Business Day</b>	means every day excluding Saturdays, Sundays and any national holidays throughout the United Kingdom;
<b>Charges</b>	means the charges payable by Customers for the Services under any Contract;
<b>Commercially Sensitive Information</b>	means the subset of Confidential Information listed in Schedule 3: <ul style="list-style-type: none"> <li>(a) which is provided by the Contractor to the JSL in confidence; and/or</li> <li>(b) that constitutes a trade secret;</li> </ul>
<b>Confidential Information</b>	means all information (in whatever format) designated as such by the disclosing Party together with such information which relates to the business, affairs, networks, customers, products, developments, trade secrets, know-how and personnel of the disclosing Party or which may reasonably be regarded as the confidential information of the disclosing Party and, in the case of information disclosed by the Contractor, includes the Commercially Sensitive

	Information;
<b>Contract</b>	means a contract for the supply of Services to a Customer, as concluded pursuant to Clause 4;
<b>Controller</b>	has the meaning given to it in the GDPR;
<b>Customer</b>	means JSL or any Organisation which enters into a Contract for the supply of the Services pursuant to Clause 4;
<b>Data Protection Legislation</b>	means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of the Personal Data to which a Party is subject, including EC Directive 95/46/EC (the <b>DP Directive</b> ), the Data Protection Act 1998 (the <b>DPA</b> ) and Privacy and Electronic Communications (EC Directive) Regulations 2003 (up to and including 24 May 2018) and the GDPR (on and from 25 May 2018), or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of Personal Data; and (b) any code of practice or guidance published by the Regulator from time to time;
<b>Effective Date</b>	means the date of this Agreement;
<b>EIR</b>	means the Environmental Information Regulations 2004;
<b>FOIA</b>	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;
<b>Force Majeure Event</b>	means any cause beyond a Party's reasonable control affecting the performance of its obligations hereunder, including, but not limited to, war, acts of terrorism, governmental requirements, acts of local or central Government or other competent authorities, Acts of God and industrial disputes (other than industrial disputes by the relevant Party's employees). For the avoidance of doubt, the failure or delay of any obligations of any subcontractor will not be deemed to be beyond the reasonable control of a Party unless the delay or failure is a result of an event beyond the reasonable control of the subcontractor;
<b>Funding Councils</b>	means the bodies responsible for the funding of Higher and Further Education in England, Scotland, Wales and Northern Ireland as constituted from time to time and any other bodies which elect to participate in the funding of Janet;

<b>GDPR</b>	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;
<b>Good Industry Practice</b>	means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the telecommunications services industry;
<b>Group</b>	means in relation to a Party, the Party, its subsidiaries, its holding companies and any subsidiaries of such holding companies where "subsidiary" and "holding company" having the meanings ascribed to those terms in section 1159 of the Companies Act 2006;
<b>Insolvency Event</b>	means, in relation to a Party: <ul style="list-style-type: none"> <li>a. an order is made or a resolution is passed for the winding up of that Party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to that Party;</li> <li>b. an order is made for the appointment of an administrator to manage the affairs, business and property of that Party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of that Party, or notice of intention to appoint an administrator is given by that Party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);</li> <li>c. a receiver is appointed of any of that Party's assets or undertakings, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of that Party, or if any other person takes possession of, or sells, that Party's assets;</li> <li>d. that Party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt;</li> <li>e. that Party ceases, or threatens to cease, to trade;</li> <li>f. that Party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt;</li> </ul>
<b>Implementation Date</b>	means [            ];
<b>Information</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>Janet Network</b>	means the means the UK's Education and Research

	Network, operated and developed by JSL.
<b>Management Charge</b>	means the management charge payable by the Contractor to JSL under this Agreement as set out in Clause 7;
<b>Modern Slavery Legislation</b>	the Modern Slavery Act 2015 and any subordinate legislation made under that Act from time to time together with all applicable anti-slavery and human trafficking laws, statutes, regulations, guidance or codes of practice issued by the relevant government department.
<b>Monthly Service Report</b>	the monthly service report to be provided by the Contractor to JSL under Clause 9.1;
<b>Offer</b>	has the meaning given to it in Clause 1.6;
<b>Organisation</b>	means JSL, Higher Education institutions, Further Education and Specialist Colleges and Research Council establishments in the UK, and any other bodies whose core purpose is the support or advancement of further or higher education or of research;
<b>Personal Data</b>	has the meaning given to it in the GDPR and for the purposes of this Agreement includes Sensitive Personal Data;
<b>Processing</b>	has the meaning given to it in the GDPR (and <b>Processed</b> shall be construed accordingly);
<b>Reporting Templates</b>	JSL's standard reporting templates for the reports required under Clause 9 available upon request;
<b>Requests for Information</b>	will have the meaning set out in FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations;
<b>Quarterly Service Revenue Report</b>	The quarterly service revenue report to be provided by the Contractor to JSL under Clause 9.3;
<b>Sensitive Personal Data</b>	means Personal Data that incorporates such categories of data as are listed in Article 9(1) of the GDPR;
<b>Services</b>	means the telecommunications services to be provided by the Contractor falling within the categories or lots set out in Schedule 1 which may be provided to Customers under a Contract; and
<b>Service Reports</b>	reports to be provided by the Contractor to JSL comprising: (i) monthly service report and (ii) quarterly service revenue statement as required under Clause 9;
<b>Term</b>	means the term of this Agreement as set out in Clause 3.

- 1.2. References in this Agreement to any statute or statutory provision include, unless the context otherwise requires, references to that statute or provision as from time to time amended, extended or re-enacted. References in this Agreement to a "Party" or the "Parties" mean a party or the parties to this Agreement.
- 1.3. Reference to words importing the singular only also includes the plural and vice versa where the context requires.
- 1.4. The headings in this Agreement are for ease of reference only and will not be taken into account in the construction or interpretation of this Agreement.
- 1.5. Unless otherwise stated, references in this Agreement to Clauses and Schedules are references to the clauses of, and schedules to, this Agreement.
- 1.6. The Contractor acknowledges that JSL has relied upon the Contractor's response dated **[INSERT DATE]** to JSL's Operational Requirement dated **[INSERT DATE]** (Offer) in entering into this Agreement, the contents of which the Contractor warrants are true, accurate and not misleading, and the terms of which are hereby expressly incorporated into this Agreement.
- 1.7. The Contractor acknowledges and agrees to the publication by JSL of the outcome of the Telecommunications framework procurement and the terms of the Framework Agreement together with the ranking of suppliers in each of the lots set out in Schedule 1 (Services).
- 1.8. The following order of precedence will apply in relation to any conflict, inconsistency or contradiction between the various documents and provisions referred to in this Agreement (from highest to lowest):
  - 1.8.1. the terms and conditions of this Agreement (excluding the Schedules);
  - 1.8.2. the Schedules to this Agreement;
  - 1.8.3. the Offer.

## 2. **Scope**

- 2.1. This Agreement governs the overall relationship of the Parties with respect to the supply of the Services to Customers. Potential Customers are entitled (but not required) at any time after the Implementation Date and during the Term to request Services and, subject to the completion of a Contract as set out in Clause 4, the Contractor will supply such Services in accordance with the terms and conditions of the Contract.

## 3. **Term**

- 3.1. Unless terminated by either Party in accordance with the terms and conditions of this Agreement, this Agreement will commence on the Effective Date and will continue for a fixed term of 4 years from the Implementation Date. Individual Contracts under the framework may last for longer than 4 years.

## 4. **Contracts**

- 4.1. Each Contract will:

- 4.1.1. be on the Contractor's terms and conditions incorporating JSL's mandatory contractual provisions set out in Clauses 4.1.2 to 4.1.10 below and will be for the provision of the Services set out at Schedule 1 in consideration of payment of the Charges;
- 4.1.2. provide for cancellation by the Customer once the Initial Term has expired on provision of 30 days' notice to the Contractor;
- 4.1.3. provide for confirmation of receipt of a request to cancel a connection within 3 working days;
- 4.1.4. provide for flexible billing for Customers including but not limited to invoicing on a quarterly basis;
- 4.1.5. provide for the submission of Customer orders electronically by e-mail or through a web portal;
- 4.1.6. provide and return a signed Order Form as detailed in Schedule 2 within 30 days of an order being placed;
- 4.1.7. provide for the payment of credits to Customers in respect of the late delivery of the Services;
- 4.1.8. provide for the payment of service credits to Customers in respect of failure by the Contractor to meet the service levels for availability and for timely fault repair;
- 4.1.9. provide for monthly reporting to Customers against the Contractor's service level agreement to include details of faults and other service level failures detailing any applicable service credits;
- 4.1.10. will contain provisions which govern any processing carried out by the Contractor as a processor on behalf of the Customer in compliance with the GDPR, including without limitation Article 28 of the GDPR;
- 4.1.11. be to the exclusion of all other terms and conditions (including any terms and conditions which the Contractor purports to apply under any confirmation of order or other document); and
- 4.1.12. form a separate agreement between the Contractor and the Customer (and for the avoidance of doubt JSL will not be liable to either the Contractor or any Customer for any Contracts for which JSL is not a party unless JSL is the Customer under the Contract in question.

## 5. **Supply of Services**

- 5.1. The Contractor will supply the Services to each Customer in accordance with the terms of the Order Form, a template of which is set out in Schedule 2, and the relevant Contract.
- 5.2. The Contractor will provide an up to date Customer Service Plan (CSP) to the Customer detailing an escalation process for fault management resolution and for quotes and orders issue resolution.

- 5.3. All changes to this Agreement will be agreed between the Parties in writing. For the avoidance of doubt, changes to this Agreement will not affect any Contracts in force as at the date of the change.

## 6. **Charges**

- 6.1. The Contractor will invoice each Customer for the Charges.
- 6.2. The Contractor will ensure that the Charges will be competitive with market charges prevailing from time to time.

## 7. **Management Charge**

- 7.1. The Contractor will pay JSL a Management Charge of 1.8% to JSL on all amounts received by the Contractor from Customers in respect of the Services (net of VAT) (Services Revenue).
- 7.2. The Management Charge may be adjusted by the Contractor to reflect changes in the Services Revenue including those caused by non-payment or late payment of invoices by Customers.
- 7.3. To enable calculation of the Management Charge, the statement to be provided by the Contractor to JSL under Clause 7.6 will include:
  - 7.3.1. the Services Revenue applicable for the relevant quarter;
  - 7.3.2. details of any amounts deducted by the Contractor in any statement previously provided by the Contractor under Clause 7.6 due to non-payment or late payment by Customers.
- 7.4. The Management Charge is payable by the Contractor to JSL for the duration of any Contract irrespective of whether this Agreement is terminated.
- 7.5. JSL will invoice the Contractor at the end of each quarter for the Management Charge in respect of the preceding quarter, following receipt of the statement provided by the Contractor pursuant to Clause 7.6 below. All references to "quarter" shall be to an academic year quarter: Q1: Aug-Oct, Q2: Nov-Jan, Q3: Feb-April, Q4: May-Jul.
- 7.6. The Contractor will send to JSL within 30 days following each 3 month period a statement setting out the information specified in Clause 7.3 above to enable calculation of the Management Charge.
- 7.7. The Contractor will pay each invoice within 30 days of the date of the invoice.

## 8. **Progress Meetings**

- 8.1. The Parties agree to meet as often as is reasonably necessary and at least quarterly, to facilitate the operation of this Agreement and the proper and timely delivery of the Services, such meetings to be the forum for discussion between the Parties in connection with such operation and delivery. The Parties will arrange for employees, agents or subcontractors to attend from time to time as may be appropriate.



## 9. Reporting

### Monthly Service Report

- 9.1. The Contractor will provide JSL with a Monthly Service Report within 10 days of the end of the calendar month.
- 9.2. The Monthly Service Report will contain details required in the Monthly Service Reporting Template for each calendar month including but not limited to:
  - 9.2.1. all Contracts concluded in the relevant month under this Framework Agreement;
  - 9.2.2. revenue earned by the Contractor relating to the Contracts by reference to sectors and individual Organisations;
  - 9.2.3. all Contracts which have been terminated or not renewed by Customers;
  - 9.2.4. details of Customers who have terminated, or have indicated that they are likely to terminate, a Contract as a result of the default or alleged default of the Contractor.

### Quarterly Service Revenue Report

- 9.3. The Contractor will also provide JSL with a Quarterly Service Revenue Report containing the information required in the Quarterly Service Report Template for each quarterly period ending April, July, October and January within 30 days of receipt of a quarterly service statement from JSL, as set out in Clause 7.6 above.

### Failure to provide Service Reports

- 9.4. If the Contractor fails to supply the Service Reports and/or all information required under this Clause 9, JSL will issue a reminder to the Contractor to either:
  - 9.4.1. rectify defects in the Service Report or
  - 9.4.2. provide a missing Service Report.
- 9.5. JSL will document all Service Report failures and there will be a default charge of £100 for each and any failure to provide either:
  - 9.5.1. the Monthly Service Report; or
  - 9.5.2. the Quarterly Service Revenue Report.
- 9.6. JSL will notify the Contractor of any Service Report failures and JSL will include the default charge in the next quarterly service statement containing the Charges payable by the Contractor.
- 9.7. JSL's standard Reporting Templates for the Monthly Service Report and the Quarterly Service Revenue Report are available on request from [frameworkcontracts@jisc.ac.uk](mailto:frameworkcontracts@jisc.ac.uk).

## 10. Warranties

- 10.1. In performing its obligations under this Agreement, the Contractor will at all times exercise reasonable skill and care and will ensure that the Services are performed in accordance

with Good Industry Practice and by staff who are competent and are skilled and experienced in the relevant subject areas.

10.2. The Contractor warrants that:

- 10.2.1. it has and will for the duration of this Agreement have all necessary licences, consents and authorisations or rights as may be provided for under any Applicable Law to provide the Services to Customers;
- 10.2.2. the Services will meet or exceed any applicable industry standards;
- 10.2.3. it will provide the Services and will carry out its obligations in this Agreement and each Contract in accordance with all applicable telecommunications, data protection and other laws, licences and regulations;
- 10.2.4. it has the full right, power and authority to enter into and perform this Agreement and each Contract in accordance with its terms, and such entry and performance does not and will not violate or infringe the intellectual property or other rights of any other persons;
- 10.2.5. it is not engaged in, and will not during the Term engage in, any business, relationship, contract or other activity which damages or tarnishes, or is likely to damage or tarnish, the reputation of Janet(UK);
- 10.2.6. in relation to this Agreement and/or its subject matter, neither the Contractor nor any of its employees, sub-contractors or agents or others performing services on behalf of the Contractor has done (or agreed to do) or will do (or agree to do) anything which constitutes a breach by the Parties of any Bribery Legislation; and
- 10.2.7. it has in place, and will at all times during the Term continue to have in place, adequate procedures designed to prevent any person associated with the Contractor from committing an offence under the Bribery Legislation and as a minimum such procedures comply, and will at all times during the Term comply, with the most recent guidance issued from time to time by the Secretary of State pursuant to the Bribery Act 2010.
- 10.2.8. it shall, at all times during the Term comply with Modern Slavery Legislation and Anti-Slavery Policy and require that each of its subcontractors and suppliers shall comply with the Modern Slavery Legislation and Anti-Slavery Policy,
- 10.2.9. its responses to any due diligence queries made by JSL are complete and accurate;
- 10.2.10. neither the Contractor nor any of its officers, employees or other persons associated with it:
  - i) has been convicted of any offence involving slavery and human trafficking; and
  - ii) to the best of its knowledge has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; and
- 10.2.11. it shall notify JSL as soon as it becomes aware of:

- i) any breach, or potential breach, of the Anti-Slavery Policy; or
  - ii) any actual or suspected slavery or human trafficking in a supply chain which has a connection with this agreement.
- 10.2.12. it will not engage in any activity, practice or conduct which would constitute either:
  - i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
  - ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
- 10.2.13. it will have and shall maintain in place throughout the term of this agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Consultant) and to ensure compliance with Clause 10.2.12;
- 10.2.14. promptly report to JSL any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 in connection with the performance of this Agreement;
- 10.2.15. within 3 months of the date of this Agreement, and annually thereafter, certify to JSL in writing signed by an officer of the Consultant, compliance with this clause by the Contractor and all persons associated with it under Clause 10.2.16. The Contractor shall provide such supporting evidence of compliance as JSL may reasonably request.
- 10.2.16. it shall ensure that any person associated with the Contractor who is performing services in connection with this Agreement 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 Contractor in Clauses 10.2.12 to 10.2.15 (Relevant Terms) and shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to JSL for any breach by such persons of the Relevant Terms.
- 10.2.17. it will throughout the Term comply with, monitor and enforce the procedures referred to in Clauses 10.2.7 and 10.2.11.
- 10.2.18. For the purposes of Clause 10.2.12 to Clause 10.2.16 the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Contractor includes any sub-contractor of the Consultant.
- 10.2.19. JSL warrants that it has the full right, power and authority to enter into and perform this Agreement in accordance with its terms.

## **11. Liability**

- 11.1. Nothing in this Agreement will limit or exclude the liability of either Party for death or personal injury arising out of its negligence, or for its fraud.
- 11.2. Subject to Clause 11.1:

- 11.2.1. in no circumstances will either Party be liable to the other Party for any loss of business, revenue, profits, anticipated savings or goodwill (whether direct or indirect) or for any indirect, special or consequential loss arising out of or in connection with this Agreement;
  - 11.2.2. each Party's maximum aggregate liability under or in connection this Agreement or its subject matter will not exceed £1,000,000.
- 11.3. Except as expressly provided in this Agreement, all representations, conditions and warranties, whether express or implied (by statute or otherwise) are excluded to the fullest extent permitted by law.
- 12. **Indemnity**
  - 12.1. The Contractor will indemnify and keep JSL and each Customer indemnified against all and any losses, liabilities, costs, claims, damages, awards, and expenses arising out of any claims that the Services (or any part or parts thereof) infringe any intellectual property right of whatever nature of any third Party.
  - 12.2. JSL will notify the Contractor promptly in the event that JSL becomes aware of any claim being made or action being threatened or brought against JSL, which is likely to result in an indemnity claim against the Contractor pursuant to Clause 12.1.
  - 12.3. The Contractor will give JSL and each Customer the earliest possible notice in writing of any claims, threatened or brought against the Contractor, that the Services (or any part or parts thereof) infringe any intellectual property right of whatever nature of any third Party in respect of the Services (or any part or parts of them).
- 13. **Insurance**
  - 13.1. The Contractor undertakes that for the duration of this Agreement, it will be adequately covered against employee misfeasance, accident, third party injury, defective products, fire and other risks normally covered by insurance by persons supplying communications systems. The Contractor will ensure that such insurance remains in place following termination of this Agreement for a period of at least 4 years.
  - 13.2. The Contractor will produce to the Customer, at its reasonable request, satisfactory evidence of the insurance arrangements described Clause 13.1.
- 14. **Termination**
  - 14.1. Either JSL or the Contractor may terminate this Agreement by giving the other Party written notice:
    - 14.1.1. in the event of a material breach of this Agreement by the other Party which is incapable of remedy;
    - 14.1.2. in the event of a material breach of this Agreement by the other Party which is capable of remedy but which the other Party fails to remedy within 20 Business Days of having been notified of such breach; or
    - 14.1.3. if the other Party suffers an Insolvency Event.

- 14.2. JSL may terminate this Agreement by giving the Contractor written notice in the event of the persistent breach of a Contract or Contracts by the Contractor (if such breaches are material and not remediable).
- 14.3. Termination of this Agreement will be without prejudice to the Parties' accrued rights and obligations.
- 14.4. Clauses 1 (Definitions), 10 (Warranties), 11 (Liability), 12 (Indemnity), 13 (Insurance) 14.3 to 14.4 (Termination), 15 (Severability), 16 (Variation), 17 (Force Majeure), 18 (Third Party Rights), 19 (Counterparts), 20 (No Partnership), 21 (Confidentiality), 22 (Assignment) 23 (No Waiver), 25 (Entire Agreement), 26 (Dispute Resolution), 27 (Governing Law) and 28 (Freedom of Information) of this Agreement will continue notwithstanding termination. Termination of this Agreement by JSL or the Contractor will not affect the continuance of any Contracts between the Contractor and any Customer then in force.
15. **Severability**
- 15.1. If any provision of this Agreement, including in particular any limitation, is held by a court or any governmental agency or authority to be invalid, void, or unenforceable, the remainder of this Agreement will nevertheless remain legal, valid, and enforceable.
16. **Variation**
- 16.1. This Agreement will be modified only by the written agreement of both Parties in accordance with Clause 5.3 and in any event no variation, deletion or replacement of this Agreement will be effective unless made in writing and signed by both Parties. For the avoidance of doubt, changes to this Agreement will not affect any Contracts in force as at the date of the change.
17. **Force Majeure**
- 17.1. Notwithstanding anything herein to the contrary but subject to Clause 17.2, neither Party will be liable for any delay or failure in performance of any of its obligations under this Agreement, to the extent such delay or failure is attributable to a Force Majeure Event.
- 17.2. Each Party which is prevented from carrying out its obligations as a result of a Force Majeure Event will notify the other Party forthwith and will agree an action plan with the other Party, at the cost of the Party prevented from carrying out its obligations as a result of the Force Majeure Event, to mitigate the effects of the Force Majeure Event.
- 17.3. If performance of the obligations of the Contractor is substantially prevented for a continuous period of 25 Business Days or more by virtue of any of the aforesaid events then JSL may terminate this Agreement, without any liability, by giving the Contractor written notice.
18. **Third Party Rights**
- 18.1. A person who is not a Party to this Agreement will not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.
19. **Counterparts**
- 19.1. This Agreement may be executed in separate counterparts, each of which will be deemed an original, but all of which taken together will constitute the same instrument.

20. **No Partnership**

- 20.1. Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement will constitute or be deemed to constitute between the Parties a partnership, association, joint venture, or other co-operative entity.

21. **Confidentiality**

- 21.1. Subject to the following provisions of this Clause 21, each Party will treat as confidential the Confidential Information of the other Party.

- 21.2. Subject to Clause 21.3, 21.4 and 21.5 each Party will:

21.2.1. only use Confidential Information for the purposes of this Agreement or the relevant Contract;

21.2.2. only disclose Confidential Information to a third party with the prior written consent of the other Party (except that each Party may disclose Confidential Information to companies in its Group or to its professional advisors or auditors to the extent necessary to exercise its rights or fulfil its obligations under this Agreement); and

21.2.3. ensure that any third party to whom Confidential Information is disclosed is subject to a confidentiality undertaking in terms no less onerous than those of this Clause.

- 21.3. The provisions of Clause 21.1 will not apply to any Confidential Information which:

21.3.1. is in or comes into the public domain other than by breach of this Clause 21; or

21.3.2. a Party can show or has been independently generated by the recipient Party's employees who have neither had any involvement in the performance of the recipient Party's obligations under this Agreement nor access to such Confidential Information or was in the possession of the recipient Party prior to the date of the disclosure.

- 21.4. JSL may disclose such of the Confidential Information of the Contractor as it is strictly required to disclose to the relevant Funding Councils and the JSL in relation to any examination under Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the JSL has used its resources and may disclose any information relating to the performance of JSL and the Services to any Organisation which uses the Janet Network. Where JSL does disclose any Confidential Information under this Clause 21, JSL will accompany such disclosure with a notice which highlights the confidential nature of the Confidential Information being disclosed and will inform the receiving body of the Contractor's contact details (as noted under Clause 24.3 below) in case the receiving body receives any subsequent Requests for Information (where that body is subject to FOIA or EIR) which relates to the Confidential Information disclosed.

- 21.5. Each Party may disclose the Confidential Information under a statutory, legal or parliamentary obligation, an order of a court of competent jurisdiction or the requirement of a competent regulatory body provided that it notifies the other Party as soon as the requirement to notify arises (save where the provision of such notice would constitute a breach of any Applicable Law) and will use its reasonable endeavours to ensure that any

such disclosure is made in a manner which ensures the confidentiality of the Confidential Information.

21.6. Subject to the above provisions of this Clause 21, the Party receiving Confidential Information will take the same precautions and exercise the same degree of care to protect Confidential Information as it takes and exercises in relation to its own Confidential Information. In any event, the receiving Party will take all reasonable care to protect said Confidential Information.

21.7. This Clause will survive termination (however caused) or expiry of this Agreement and will continue for 6 years thereafter.

## 22. **Assignment**

22.1. Subject to Clause 22.2 below, neither Party may assign, novate, transfer, mortgage, charge, declare a trust of or deal in any other manner its rights and/or obligations under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

22.2. Either party (Assigning Party) may assign or novate any of its rights and/or obligations under this Agreement to any member of its Group. In such cases:

22.2.1. the Assigning Party will promptly inform the other party in writing of the identity of the assignee or novatee;

22.2.2. unless otherwise agreed in writing by the Parties, the Assigning Party will remain liable for any acts and/or omissions under this Agreement irrespective of the assignment;

22.2.3. if the relevant assignee or novatee ceases to be a member of the assigning party's Group then the Assigning Party will ensure that this Agreement is promptly transferred back to the Assigning Party or a member of its Group.

## 23. **No Waiver**

23.1. Failure by either Party to exercise or enforce any right or benefit conferred by this Agreement will not be deemed to be a waiver of any such right or benefit nor operate so as to bar the exercise or enforcement thereof or of any other right or benefit on any later occasion.

## 24. **Notices**

24.1. Any notice required or authorised to be given under this Agreement will be delivered by hand or by prepaid registered post to the address stated for that Party at the beginning of this Agreement. Notice will be deemed to have been served immediately if by hand or 48 hours after such posting if by post. Subject to Clause 24.4, notices may also be delivered by email, provided that the sender is able to verify that the email reached the recipient's servers without error. In such cases, service will be upon the email reaching the server.

24.2. Notices for JSL are to be sent to the address below:

FAO: Operations Director

Jisc Services Limited, Lumen House, Library Avenue, Harwell Oxford, Didcot, Oxfordshire, OX11 0SG

Email: legal@jisc.ac.uk

- 24.3. Notices for the Contractor are to be sent to the address below:

FAO: [INSERT NAME]

[INSERT COMPANY DETAILS AND ADDRESS]

Email: [INSERT EMAIL]

- 24.4. Where notices are to be served by email, the email must contain the following wording in the subject matter field: "Notice served in accordance with the terms of the Agreement between JSL and [Contractor's name to be inserted]".

## 25. Entire Agreement

- 25.1. This Agreement and any Contract between the Parties, contains the entire agreement and understanding of the Parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of this Agreement.
- 25.2. Each of the Parties acknowledges and agrees that it does not enter into this Agreement on the basis of and does not rely, and has not relied upon, and will have no remedy in respect of, any statement or representation or warranty or other provision made, given or agreed to by the other Party to this Agreement (whether negligently or innocently made) except those expressly repeated or referred to in this Agreement and the only remedy available in respect of any misrepresentation or untrue statement made to it will be a claim for breach of contract under this Agreement. Nothing in this Clause 25 will operate to limit or exclude liability for fraud.

## 26. Dispute Resolution

- 26.1. In the event of a dispute between the Parties concerning this Agreement, each of the Parties will, in the first instance, endeavour to reach an agreement in respect of the dispute by following the escalation process set out in Clauses 26.2 to 26.5 below.
- 26.2. The aggrieved Party will provide the other Party with written notice and the problem will initially be referred to the first level contact given in the table below (First Level).
- 26.3. If the problem is not resolved at the First Level or a corrective plan of action has not been mutually agreed within 10 Business Days of giving the dispute notice then either Party will have the option to escalate the matter to the second level contact given in the table below (Second Level).
- 26.4. If the problem is not resolved at the Second Level or a corrective plan of action has not been mutually agreed upon within 10 Business Days of giving the dispute notice then either party will have the option to escalate the matter to the final level contact given in the table below (Final Level).
- 26.5. The Final Level representatives agree to use all reasonable efforts to meet within 10 Business Days at a mutually agreeable time and place in order to resolve the dispute.



**Escalation Points as at the Effective Date**

Escalation Level	JSL Contacts	Contractor Contacts
First Level	Infrastructure Contracts Management Team Leader	
Second Level	Head of Operational Services	
Final Level	Operations Director	

26.6. Without prejudice to each Party's rights to terminate the Agreement, if the Parties are unable to reach agreement on the disputed matter through the process as specified in Clauses 26.1 to 26.5, they may agree to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator will be nominated by CEDR. To initiate the mediation the Parties will send a joint notice in writing (ADR notice) to CEDR requesting mediation.

26.7. The mediation will start not later than 30 days after the date of the ADR notice, or such later date as the mediator is available. The commencement of mediation will not prevent the Parties commencing or continuing court proceedings, unless the parties agree otherwise.

27. **Governing Law and Jurisdiction**

27.1. This Agreement will be governed and construed in accordance with the laws of England and the Parties irrevocably agree to the exclusive jurisdiction of the Courts of England and Wales.

28. **Freedom of Information**

28.1. JSL is not subject to the requirements of the FOIA and the EIR and is not obliged to respond to Requests for Information. However, JSL will endeavour to respond to any Request for Information in the spirit of the FOIA where reasonably able to do so. JSL will at all times in providing any response to any Requests for Information comply with its obligations of confidentiality as more particularly detailed in Clause 21. JSL and the Contractor will assist and cooperate with each other if a Request for Information is received by JSL.

29. **Data Protection**

29.1. Where a party acts as a Controller in respect of any Personal Data Processed under or in connection with this Agreement, it shall comply with its respective obligations under the Data Protection Legislation and it shall only use such Personal Data for the purposes of performing its obligations under this Agreement.

**IN WITNESS WHEREOF**, the Parties, intending hereby to be legally bound, by their authorised officers, have executed this Agreement on the date first here written.

Signed for and on behalf of Jisc Services  
Limited

Signed for and on behalf of

[INSERT COMPANY NAME]

.....

Name:

.....

Name:

Title:

Title:

## **SCHEDULE 1**

### **Services**

#### **Lot 1: Managed Transmission Services**

In Lot 1: Managed Transmission Services

#### **Lot 2: Dark Fibre**

In Lot 2: Dark Fibre

**SCHEDULE 2**  
**TEMPLATE ORDER FORM**

CONTRACTOR NAME, COMPANY NUMBER AND ADDRESS ("Contractor"):		CUSTOMER NAME, COMPANY NUMBER AND ADDRESS ("Customer"):	
		CUSTOMER CONTRACT REFERENCE:	
ORDER DATE:			
CONTRACT TERM:	The initial term of this Contract will be a period of [xx] months/years from the Start Date ( <b>Initial Term</b> ). These provisions are subject to the parties' rights of early termination under the terms of the Contract.		

CUSTOMER CONTACT DETAILS			
The contact details for the purpose of escalation of queries or problems are:			
First Level		Telephone:	
		E-mail:	
Second Level		Telephone:	
		E-mail:	
Third Level		Telephone:	
		E-mail:	

TELECOMMUNICATION SERVICE REQUIREMENTS	
Description of Services	[Insert description], as further described below ( <b>Services</b> ).
Customer Connection reference number	
A-end address	
B-end address	
Bandwidth required	
Supplier lead time for delivery	
A-end Termination Details:	
A-end room	

TELECOMMUNICATION SERVICE REQUIREMENTS	
A-end level	
A-end rack	
A-end presentation	
B-end Termination Details:	
B-end room	
B-end level	
B-end rack	
B-end presentation	
Is a 3 <sup>rd</sup> party supplier being used?	[Yes/No - Delete as appropriate]
3 <sup>rd</sup> Party Supplier Details	[Contractor to provide details of any 3rd party supplier used to facilitate delivery of the services. Please include any additional network termination equipment required at either end of the connection e.g. dimensions, amount of rack of space in "U" numbers].
NTE Interface Setting	[Not applicable/Auto/Manual – Delete as appropriate]
CHARGES	£ (ex VAT)
Installation charge	[£], which will be invoiced on or after the Start Date (as defined in the special conditions below). [The connection will only be accepted as delivered once a correct handover document is received by the Customer including an accurate description of the physical presentation of the connection as ordered.]
Annual rental	[£]
Billing cycle for annual rental charges	[Monthly/quarterly/annually – delete as appropriate]
SPECIAL CONDITIONS:	
[Any other special terms to be inserted here, that vary the supplier's terms and conditions or are additional to them]	

SIGNED for and on behalf of *[insert name of Customer contracting entity]*:

SIGNED for and on behalf of *[insert Supplier organisation name]*:

.....

Name:

Date:

.....

Name:

Date:

## APPENDIX 1

*[CONTRACTOR'S TERMS AND CONDITIONS TO BE ATTACHED]*

*[Consider whether the Contractor's SLA needs to be attached as well (it will do if not included as part of their Ts&Cs - in which case add an Appendix 2)]*

**Schedule 3**  
**Commercially Sensitive Information**