

Terms and Conditions

External audit of the Public Employees' Pension Fund

DD Month YYYY

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1. Agreement

This contract is made on the *day of month* 2026 between -

The Comptroller and Auditor General of Jersey (the **Comptroller and Auditor General**) of Jersey Audit Office, Jubilee Wharf, 24 The Esplanade, St Helier, Jersey, JE2 3QA

AND

The Treasurer of the States (the **Treasurer**) of Government of Jersey, Union Street, St Helier, Jersey JE2 3DN

AND

[] (the **Supplier**) whose registered office is situated at []

**Signed for and on
behalf of**

**the Comptroller and
Auditor General**

Signed:

Name:

Lynn Pamment CBE

Position:

Comptroller and Auditor
General

Date:

**Signed for and on
behalf of**

the Treasurer

Signed:

Name:

Position:

Date:

**Signed for and on
behalf of**

the Supplier

Signed:

Name:

Position:

Date:

2. Interpretation

a) In these terms and conditions the following words shall have the following meanings:-

- (i) **"Authorised Representative"** means the person or persons appointed by the Comptroller and Auditor General of Jersey to act on its behalf for the purpose of managing the Contract
- (ii) **"Beneficiary"** means any or all of:
 - (i) The Public Employees' Pension Fund
 - (ii) Any statutory successor to the above; and**"Beneficiaries"** shall be construed accordingly
- (iii) **"Business Continuity Plan"** means, where the Authorised Representative exercises rights under clause 21b), the business continuity plan that is provided by the Supplier and approved by the Authorised Representative in accordance with clause 21b) (as such business continuity plan may be updated in accordance with clause 21b) from time to time)
- (iv) **"Commencement Date"** means the starting date of the Contract
- (v) **"Commercially Sensitive Information"** means the subset of Confidential Information listed in the Commercially Sensitive Information Schedule comprised of information:
 - (i) which is provided by the Supplier to the Authorised Representative in confidence for the period set out in that Schedule; and/or
 - (ii) that constitutes a trade secret
- (vi) **"Commercially Sensitive Information Schedule"** means Schedule 7 containing a list of the Commercially Sensitive Information
- (vii) **"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 information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel,

customers and suppliers of either Party, all personal data and special category data within the meaning of the 2018 Law and the Commercially Sensitive Information

- (viii) **“Contract”** means the contract between the Comptroller and Auditor General, the Treasurer and the Supplier comprising the Order, these terms and conditions and schedules hereto, the Specification, and for the avoidance of doubt all other terms, conditions or warranties other than any terms, conditions or warranties implied by law in favour of the Comptroller and Auditor General or Treasurer are excluded from the contract between the Comptroller and Auditor General, the Treasurer and the Supplier unless expressly accepted in writing by the Comptroller and Auditor General
- (ix) **“Contract Value”** shall mean the total sum that is an accumulation of each Price payable by the Treasurer to the Supplier for work to be carried out by virtue of this Contract
- (x) **“Default”** means any breach of the obligations of either Party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other
- (xi) **“Dispute Resolution Procedure”** means the dispute resolution procedure set out in Schedule 8, including the infographics appended thereto
- (xii) **“Excusable Delay”** means a delay caused by unforeseeable events out of the Supplier’s control
- (xiii) **“Expiry Date”** means the end date of the Contract subject to such extension as may be awarded in accordance with clause 4 of this Contract;
- (xiv) **“FOIL”** means the Freedom of Information (Jersey) Law 2011 and any subordinate legislation made under this Law from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation

- (xv) **"Force Majeure Event"** has the meaning given to it in clause 20a).
- (xvi) **"Information"** has the meaning given under Article 1 of the Freedom of Information (Jersey) Law 2011
- (xvii) **"Intellectual Property Rights"** means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the Channel Islands or the United Kingdom) and the right to sue for passing off
- (xviii) **"Invitation to Tender"** means the document issued by the Comptroller and Auditor General in respect of the external audit of the financial statements of the Public Employees' Pension Fund and the Public Employees' Pension Fund
- (xix) **"Jersey Living Wage"** means the minimum hourly rate payable to employees by an employer set annually by the appropriate body on behalf of the Living Wage Foundation
- (xx) **"Mandatory Policies"** means the mandatory States of Jersey policies that are listed in Schedule 6, as such list of policies (and the policies themselves) may be updated or supplemented by the States of Jersey from time to time
- (xxi) **"Parties"** shall mean the Comptroller and Auditor General, the Treasurer and the Supplier
- (xxii) **"Price"** shall mean each sum payable in respect of the works set out at Schedule 2 to the Contract (expressed as a percentage of the total annual fee)
- (xxiii) **"Rates/Fees"** means the financial remuneration for the Services as detailed in Schedule 2 to the Contract
- (xxiv) **"Requests for Information"** shall have the meaning set out in the FOIL or any apparent request for information under the FOIL
- (xxv) **"Schedule"** means a schedule to these Terms and Conditions
- (xxvi) **"Services"** means the services to be supplied by the Supplier as described in Schedule 4

- (xxvii) **"Specification"** means the description, standards, methods and techniques to be used in executing the Services as specified in Schedule 4
- (xxviii) **"Staff"** means all persons employed by the Supplier to perform the Contract including any employees, officers, agents, suppliers and sub-contractors of the Supplier
- (xxix) **"Supplier"** means the person, firm or company that is Party to the Contract with the Comptroller and Auditor General as set out above
- (xxx) **"Supplier's Authorised Representative"** means the person appointed by the Supplier to act on its behalf for the purpose of managing the Contract
- (xxxi) **"Supplier Parties"** means all entities that are affiliated to the Supplier and each of their subsidiaries, predecessors, successors and assignees, and all partners, principals, members, owners, directors, employees and agents of all such entities
- (xxxii) **"Tender"** means
- (i) the Comptroller and Auditor General's Invitation to tender or request for proposal in connection with the subject matter of the Contract; and
 - (ii) the Supplier's tender (including any clarifications) that has been submitted by the Supplier in response, as set out (or incorporated by reference) in Schedule 4
- (xxxiii) **"Term"** means the period starting on the Commencement Date and ending on the Expiry Date
- (xxxiv) **"Treasurer's Authorised Representative"** means the person or persons appointed by the Treasurer to act on his behalf for the purpose of managing the Contract
- (xxxv) **"Working Day"** means Monday to Friday excluding bank holidays in Jersey
- b) Where appropriate, the singular includes the plural and vice versa. Words importing one gender include all other genders.
- c) Persons include companies and all other legal entities.

- d) Unless otherwise stated, any reference to a provision of any legislation is a reference to that provision as amended, extended or re-enacted by any subsequent legislation.
- e) The words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation"
- f) The headings in these terms and conditions are for convenience only and will not affect its interpretation.

3. Appointment and Length of Appointment

- a) The Comptroller and Auditor General hereby appoints the Supplier to provide the Services from the Commencement Date of xx month 2026 to 31 May 2031 with the possibility of extending the Contract until the completion of the work specified within this Contract, at the Comptroller and Auditor General's sole discretion.
- b) For the avoidance of any doubt this Contract shall require the Supplier to provide the Services set out in Schedule 4 for specific accounting periods. The Comptroller and Auditor General therefore appoints the Supplier to carry out the audit of the financial statements of the Public Employees' Pension Fund for the year ending 31 December 2027 to 31 December 2031 with an option to extend the Contract to the audit of accounts of the Public Employees' Pension Fund for the year ending 31 December 2032.

4. Supplier's Obligations

- a) The Supplier shall provide the Services -
 - (i) with reasonable care and skill
 - (ii) in accordance with the Specification
 - (iii) in compliance with the Code of Audit Practice issued by the Comptroller and Auditor General; and
 - (iv) with due regard to all relevant health and safety legislation and codes of practice.
- b) The Supplier will ensure that the Services are carried out by appropriately qualified personnel who are acceptable to the Authorised Representative and will replace immediately any person who the Authorised Representative reasonably requires replacing. Any replacement of Key Personnel set out in

Schedule 3, shall be made with the written consent of the Comptroller and Auditor General.

- c) No provision of the Contract will operate to exclude or restrict the Supplier's liability under statute or common law for any goods that the Supplier supplies, or has supplied, for use on, or incorporation into the Services.
- d) Any sub-contractors directly appointed by the Supplier will be under the direct control and supervision of the Supplier at all times and the Supplier will be and remain liable under the Contract for all work subcontracted by him and for acts defaults or neglects of any sub-contractor his agents, officers or employees.
- e) The Supplier will keep the Authorised Representative fully and promptly informed in writing of all matters in relation to the Services which may have programme, cost or contractual implications.
- f) The Comptroller and Auditor General and Supplier agree and acknowledge that the Comptroller and Auditor General has relied on, and will be relying on, the Supplier's expertise in carrying out the Services and also on the accuracy of all statements made and advice given by the Supplier in connection with the Services.
- g) The Supplier shall comply at its own expense with any statutory requirements and industry standards.
- h) The Supplier's Authorised Representative shall be empowered to act on behalf of the Supplier and shall be available for consultation with the Authorised Representative at all reasonable times.

5. Price, Inflation and Payment

- a) The Treasurer agrees to pay the Price set out in Schedule 2 for the Services. The Price shall be paid in accordance with the stage payments set out in Schedule 2 on completion of each Milestone referred to therein.
- b) The prices specified in Schedule 2 (Appendix 4 of the Invitation to Tender) for the audit of financial statements for the year ending 31 December 2027 shall be uplifted by the increase in the Jersey Retail Prices Index (Y) (Jersey RPI(y)) from 30 September 2027. The prices specified in Schedule 2 for the audit of financial statements for subsequent years shall be uplifted for the increase in the Jersey Retail Prices Index (Y) (Jersey RPI(y)) from 30 September 2027 to the 30 September in the year to which the audit relates.

- c) The rates specified in Schedule 2 (Appendix 5 of the Invitation to Tender) for the audit of financial statements for the year ending 2027 and subsequent years, shall be uplifted by the increase in the Jersey Retail Prices Index (Y) (Jersey RPI(y)) from 30 September 2027 to 30 September in the year to which the audit relates.
- d) In order for the invoice to be valid, it will have to be certified correct by the Treasurer's Authorised Representative upon receipt, and in line with the payment profile detailed in Schedule 2.
- e) The Treasurer will pay (or facilitate payment to) the Supplier for each contractually correct invoice within thirty (30) days following receipt subject to the invoice not being disputed by the Treasurer.
- f) In the event of the Treasurer's Authorised Representative disputing any invoices, the Treasurer will have liability to pay only the undisputed invoices until such a time as the dispute is resolved in accordance with 34 (Dispute Resolution).
- g) The Parties agree that Value Added Tax shall not be chargeable and that any additional tax liability (in respect of any other jurisdiction) shall be met by the Supplier.

6. Termination

- a) If at any time after the Commencement Date of the Contract, either the Comptroller and Auditor General or the Supplier considers that the continuance of the Contract is not in its best interest, it may terminate the Contract by serving the other Parties notice of its intention to so terminate the Contract no later than 30 September in each calendar year of the Term. The Comptroller and Auditor General shall typically consult the Supplier and the Supplier shall typically consult the Comptroller and Auditor General prior to serving any such notice.
- b) A notice served in accordance with sub-clause 7(a) above shall specify that the Contract shall terminate after the completion of the audit of the financial statements in respect of that calendar year.
- c) The Authorised Representative may, by notice in writing to the Supplier and the Treasurer, terminate the Contract with immediate effect without liability for compensation or damages, in the following occurrences -
 - (i) subject to sub-clause 7(d) below, if the Supplier unreasonably refuses or neglects to execute the Services or any part of them, or commits any

breach of any obligation imposed upon it by this Contract, or refuses or neglects within a reasonable time to comply with any instructions given to it by the Authorised Representative; or

- (ii) in the event of any substantial change in legal status, or of circumstances occurring which will materially affect the contractual relationship between the Parties, or the rights of the Comptroller and Auditor General or the Treasurer to sue, or otherwise recover monies due, or enforce any other right arising under the Contract; or
- (iii) if at any time progress on any part of the Services appears to the Authorised Representative to be unnecessarily delayed by any cause within the reasonable control of the Supplier and such delay and the cause thereof if capable of remedy will not be remedied within seven days (7) after an instruction in writing requiring the same is given to the Supplier by the Authorised Representative; or
- (iv) if the Supplier through death or incapacity or being a firm owing to its dissolution is unable to provide the Services hereby agreed; or
- (v) if the Supplier fails to maintain its professional indemnity insurance or such insurance becomes unavailable during the provision of the Services; or
- (vi) if the Supplier, being an individual or a partnership, has a petition for bankruptcy presented to the courts becomes bankrupt, or makes a composition, or arrangement with his creditors, or has a proposal in respect of himself or his firm for a voluntary arrangement for a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986 as amended by the Enterprise Act 2002 or the equivalent Jersey legislation, or where an application for bankruptcy is made against any individual partner of the firm, or where the partnership has a provisional liquidator receiver or manager of its business duly appointed, or where the partnership is dissolved save for the purposes of bona fide reconstruction on terms acceptable to the Comptroller and Auditor General, or where a substantial change in the partners occurs; or
- (vii) if the Supplier, being a company, has a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986 or the equivalent Jersey legislation, or has an application made under the Insolvency Act 1986 or equivalent Jersey legislation to the Court for the appointment of an administrator, or has a petition for a winding-up order made or

except for the purposes of reconstruction a resolution for voluntary winding-up passed, or professional liquidator, or receiver or manager of its business or undertaking duly appointed, or has an administrative receiver, as defined in the Insolvency Act 1986 or equivalent Jersey legislation, appointed or possession taken by or on behalf of the holders of any debentures secured by a floating charge or has a lien enforced or arrestment order made against it or served on any of its debtors on behalf of any of its creditors or commits any act of insolvency as defined in the Insolvency Act 1986 or equivalent Jersey legislation.

- d) In the event of the circumstances set out in sub-clause 7(c)(i) above, the Comptroller and Auditor General undertakes to provide reasonable notice to the Supplier in order that he may have the opportunity to remedy the issues contained in sub-clause 7(c)(i). If the Supplier fails to do so within a reasonable timescale to the satisfaction of the Comptroller and Auditor General, the Authorised Representative may, by notice in writing to the Supplier, terminate the Contract with immediate effect without liability for compensation or damages.
- e) The Comptroller and Auditor General reserves the right under the Contract to seek recourse against the Supplier in the event of professional negligence or wilful misconduct in the Supplier's performance of the Services.
- f) In addition to the above, the Supplier may terminate the Contract immediately if required to do so by International Standards on Auditing (UK) or the Ethical Standard issued by the Financial Reporting Council.
- g) In the event of the Comptroller and Auditor General terminating the Contract in accordance with sub-clause 7(a), or of the Supplier terminating in accordance with sub-clause 7(f) the Supplier will be entitled to payment for work completed with a percentage of the fee apportioned in relation to work in progress.
- h) If the Supplier (as defined above) is made up of more than one legal entity or if the Supplier is a partnership, each Supplier party or partner to the Supplier (as applicable) is fully responsible for both their own liabilities and the liabilities of the other Supplier parties or partners to the Supplier.

7. Conflict of Interest

- a) The Supplier may undertake other work for the Public Employees' Pension Fund, the States of Jersey or an entity controlled by the States of Jersey only in

accordance with the Code of Audit Practice issued by the Comptroller and Auditor General.

- b) The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where in the reasonable opinion of the Comptroller and Auditor General there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or such persons and the duties owed to the Comptroller and Auditor General and the Treasurer under the provisions of the Contract. The Supplier will disclose to the Comptroller and Auditor General full particulars of any such conflict of interest which may arise.

8. Confidentiality

- a) All Parties:
 - (i) shall treat all Confidential Information belonging to the other Parties as confidential and safeguard it accordingly; and
 - (ii) shall not disclose any Confidential Information belonging to the other Parties to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of the Contract.
- b) The Supplier shall take all necessary precautions to ensure that all Confidential Information obtained from the Public Employees' Pension Fund under or in connection with the Contract:
 - (i) is given only to such of the Staff and professional advisors engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;
 - (ii) is treated as confidential and not disclosed (without prior written approval from the Authorised Representative) or used by any Staff or such professional advisors otherwise than for the purposes of the Contract.
- c) The Supplier shall not use any Confidential Information it receives from the Public Employees' Pension Fund otherwise than for the purposes of the Contract.

- d) The provisions of clauses 9a) to 9c) shall not apply to any Confidential Information received by one Party from the other:
- (i) which is or becomes public knowledge (otherwise than by breach of this clause)
 - (ii) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party
 - (iii) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure
 - (iv) is independently developed without access to the Confidential Information; or
 - (v) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIL pursuant to clause 32.
- e) Nothing in this clause shall prevent any Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

9. Security of Confidential Information

- a) In order to ensure that no unauthorised person gains access to any Confidential Information, or any data obtained in the performance of the Contract, the Supplier undertakes to maintain security systems approved by the Comptroller and Auditor General. Where necessary to prevent such access, the Comptroller and Auditor General may require the Supplier to restrict or remove access for specific accounts or make agreed alterations to security systems to prevent unauthorised access.
- b) The Supplier will immediately once verified notify the Comptroller and Auditor General of any breach of security in relation to Confidential Information and all data obtained in the performance of the Contract and will keep a record of such breaches. The Supplier will use its best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Supplier's obligations under clause 5. The Supplier will co-operate with the Comptroller and Auditor General in any investigation that the Comptroller and Auditor General considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

10. Publicity, Media and Official Enquiries

- a) Without prejudice to the Public Employees' Pension Fund obligations under the FOIL, no Party shall make any press announcements or publicise the Contract or any part thereof in any way, except with the written consent of the other Parties.
- b) All Parties shall take all reasonable steps to ensure the observance of the provisions of clause 11 by all their officers, employees, agents, professional advisors and contractors. The Supplier shall take all reasonable steps to ensure the observance of the provisions of clause 11 by its sub-contractors.
- c) The provisions of this clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.
- d) Without prejudice to clause 11a), the Supplier shall not publish any literature, deliver any lecture, or make any communication to the press relating to the business of the Public Employees' Pension Fund or on any matter with which the Public Employees' Pension Fund may be concerned unless it has previously and, on each occasion, obtained the prior written permission of the Authorised Representative. The copyright in any publication or report by the Supplier relating to the business of the Public Employees' Pension Fund or to any matter with which the Public Employees' Pension Fund may be concerned shall belong to the Public Employees' Pension Fund absolutely and beneficially, unless otherwise agreed in writing in any particular case.

11. Risk, Indemnity and Insurance

- a) The Supplier shall indemnify and keep indemnified the Comptroller and Auditor General, the Public Employees' Pension Fund and the States of Jersey fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Contract including, but not limited to, 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 the Supplier's negligence or breach of its contractual obligations in relation to the Services. The indemnity in the foregoing sentence shall, except in respect of death, personal injury, fraud or any other liabilities that cannot lawfully be limited or excluded, be subject to the limitation of the Supplier's liability set out in sub-clause 12(b) below.
- b) In relation to each annual audit of financial statements specified in Schedule 1 to the Contract, the aggregate liability of either the Supplier or the Treasurer

or the Comptroller and Auditor General for any breach of contract, default, act, omission or negligence in connection with or in relation to the subject matter of this Contract and in respect of which such party is liable to another, whether arising under contract, tort (including negligence) or otherwise in connection with this Contract shall in no event exceed the greater of £1 million (one million pounds sterling) or 10 times the Price, subject to an aggregate liability cap for the Contract in respect of all work entered into by the Parties of £2 million (two million pounds sterling).

- c) In no event shall either the Supplier, the Treasurer or the Comptroller and Auditor General be liable to another for indirect or consequential loss or damage or loss of profits, business, revenue, goodwill or anticipated savings.
- d) Nothing in this Contract shall exclude or restrict any liability arising from fraud or other liabilities that cannot lawfully be limited or excluded.
- e) Without prejudice to any other rights or remedies which the Comptroller and Auditor General or the Treasurer may possess, the Supplier warrants that it will have and keep in force (for a minimum of 6 (six) years following the expiration or earlier termination of the Contract) professional indemnity insurance and if applicable employer's liability insurance to cover any claim made against it by the Comptroller and Auditor General or the Treasurer in relation to the Services including (but not limited to) any loss arising out of the breach of clause 5.
- f) The Supplier shall upon the request of the Comptroller and Auditor General provide a broker's verification that the Supplier has and is maintaining adequate professional indemnity insurance to cover its liabilities under this Contract.

12. Intellectual Property

- a) The Supplier shall have no right (save where expressly permitted under the Contract or with the Comptroller and Auditor General's prior written consent) to use any trade marks, trade names, logos or other intellectual property rights of the Comptroller and Auditor General, the Public Employees' Pension Fund or the States of Jersey. Likewise, the Comptroller and Auditor General, the Public Employees' Pension Fund and the States of Jersey shall have no right (save where expressly permitted under the Contract or with the Supplier's prior written consent) to use any trade marks, trade names, logos or other intellectual property rights of the Supplier.
- b) The Supplier shall indemnify the Comptroller and Auditor General against all loss damage costs and expenses for which the Comptroller and Auditor

General is or becomes liable as a result of any infringement or alleged infringement by the Supplier of any third party's intellectual property rights. The Comptroller and Auditor General shall use reasonable endeavours to mitigate any loss. The Comptroller and Auditor General shall grant the Supplier control of the defence of any such claim.

- c) The Supplier shall indemnify the Treasurer against all loss damage costs and expenses for which the States are or become liable as a result of any infringement or alleged infringement by the Supplier of any third party's intellectual property rights. The Treasurer shall use reasonable endeavours to mitigate any loss. The Treasurer shall grant the Supplier control of the defence of any such claim.

13. Notices

- a) Any notice required to be given under the Contract may be given by being personally delivered at or sent by pre-paid first class post to the address of the relevant party as given in the Contract or such other address as shall be notified in writing to the other party in accordance with this clause 14, or by email to the email address provided or by fax if appropriate. In the case of personal delivery, delivery shall be deemed to be the day of such delivery, and in the case of post delivery shall be deemed to have been effected two Working Days after the date of posting.

14. Sub Contracts

- a) The Supplier shall not, without the prior written consent of the Authorised Representative, enter into any sub-contract for the performance of any part of the Contract.

15. Assignment

- a) The Supplier shall not assign or otherwise transfer the Contract or any of its rights or obligations hereunder, whether in whole or in part, without the prior written consent of the Authorised Representative.

16. Third Party Rights

- a) The Contract is entered into by the Authorised Representative for its own benefit and for the benefit of the Beneficiaries. Each Beneficiary shall have the benefit of and the right to enforce the terms of the Contract, including, but not limited to, the benefit of and the right to enforce all rights, licences, warranties, undertakings and indemnities granted in favour of the Comptroller and Auditor General under the Contract.

- b)** Without prejudice to the generality of clause 16(a) the Authorised Representative shall be entitled:
 - (i) to enforce the terms of the Contract on behalf of any Beneficiary; and
 - (ii) to recover any losses suffered and/or incurred by any Beneficiary in connection with the Contract on behalf of any Beneficiary.
- c)** Subject to clauses 17(a) and 17(b), nothing in the Contract confers or purports to confer any rights to enforce any of its terms pursuant to the Contract on any person who is not a Party to the Contract.

17. Tax Requirements

- a)** The Supplier shall bear exclusive responsibility for discharging all income tax and social security contribution liabilities arising out of or incidental to its performance of the Services under the Contract. In the event that the Comptroller and Auditor General is held liable for any such payments then the Supplier shall compensate the Comptroller and Auditor General in full on demand for any liability which it suffers in connection with them. In the event that the States of Jersey are held liable for any such payments then the Supplier shall compensate the States of Jersey in full on demand for any liability which it suffers in connection with them.

18. Status of the Supplier as an Independent contractor

- a)** During the term of the Contract, where the Supplier is an independent contractor he/she will not be the servant of the Comptroller and Auditor General or the States of Jersey.
- b)** In such capacity the Supplier shall bear exclusive responsibility for the payment of his national insurance contributions as a self-employed person and for discharge of any income tax (or other tax) liability arising out of remuneration for his work performed by him under the Contract.
- c)** Where the Supplier or any Staff are liable to be taxed or to pay national insurance contributions in the UK relating to payment received under the Contract, the Supplier shall:
 - (i) ensure all Staff are (and will remain throughout the period they are employed or engaged in providing the Services) employed or engaged directly with the Supplier or its relevant sub-contractor under a

contract of employment under which their income is taxed in full under pay as you earn

- (ii) ensure the Staff do not (and will not at any time during the period they are employed or engaged in providing the Services) provide their services to the Supplier or its sub-contractors through an intermediary to which the provisions of Chapters 8 and/or 10 of Part 2 of the Income Tax (Earning and Pensions) Act 2003 (and/or any other legislation or regulations dealing with the tax and national insurance contributions treatment of workers whose services are provided via intermediaries from time to time) apply (an "IR35 Intermediary")
- (iii) in connection with the performance of the Services under the Contract, not operate as an IR35 Intermediary and the Supplier is not (and will not become prior to the date that it ceases to perform the Services) a managed service company within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003
- (iv) comply with the Income Tax (Earnings and Pensions) Act 2003 (including IR35) and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 and national insurance contributions; and
- (v) indemnify the Comptroller and Auditor General on demand against (and pay to the Comptroller and Auditor General on demand an amount equal to) any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment, fine, penalty or claim arising from or made during or after the term of the Contract in connection with the provision of the Services by the Supplier or any of the Staff.

19. Force Majeure

- a) Notwithstanding any other provision of these conditions no Party shall be liable for any failure or delay in its performance of the Contract caused by means beyond its reasonable control including without limitation, strikes (except by the Suppliers' staff), lock outs, labour disputes, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction or any overriding emergency procedures, pandemic, fire, flood and storm (a "**Force Majeure Event**").
- b) If any Party is unable to perform the Services and obligations under the Contract as a direct result of a Force Majeure Event, that Party shall give to the other written notice of the inability stating the reason in question within two

(2) days of the inability arising. The operation of the Contract shall be suspended during the period and to the extent (and only during the period and to the extent) the reason continues, save in respect of confidentiality. Forthwith upon the reason ceasing to exist the Party relying on it shall give written notice to the other of this fact whereupon the Contract shall continue in operation. If the reason continues for a continuous period of ten (10) days or more, the Party not claiming relief under this clause 20 may terminate the Contract forthwith upon giving written notice of such termination to the other Party.

20. Business Continuity

- a) The Supplier agrees that it will take appropriate steps to help ensure continuity of the provision of Services under the Contract throughout the Term.
- b) Without prejudice to its other obligations under and/or pursuant to the Contract, the Supplier shall:
 - (i) if requested by the Authorised Representative at any time, develop (for approval by the Comptroller and Auditor General) a Business Continuity Plan relating to the Services, the aim of which Business Continuity Plan will be to exclude or minimise the potential impact of any service-affecting events or interruptions on the performance of the Services. The Business Continuity Plan must be provided by the Supplier within such reasonable timescale as may be specified by the Authorised Representative
 - (ii) maintain in place and comply with the Business Continuity Plan, which the Supplier will update from time to time, and in any event annually, in accordance with Good Industry Practice. The Supplier will promptly provide the Authorised Representative with a copy of the Business Continuity Plan as updated from time to time for approval by Comptroller and Auditor General
 - (iii) if required by the Comptroller and Auditor General, explain how the procedures set out in the Business Continuity Plan will interface with any business continuity and disaster recovery plans and procedures of the Office of the Comptroller and Auditor General notified to the Supplier from time to time
 - (iv) test the Business Continuity Plan on a six-monthly basis (as well as following any significant updates to the Business Continuity Plan and/or to the Services), and will share details of the results of each such

test (and any remedial actions that will be taken by the Supplier to address issues arising from such tests) with the Authorised Representative promptly after the completion of each such test; and

- (v) if the Comptroller and Auditor General considers (on reasonable grounds) that the Business Continuity Plan is insufficient to ensure the continued performance of the Contract and the operational resilience of the Supplier's business then the Supplier will make such modifications to the Business Continuity Plan as are required by the Comptroller and Auditor General (acting reasonably).

21. Cost

- a) Each of the Parties shall pay any costs and reasonable expenses incurred by it in connection with the Contract.

22. Variation

- a) Any amendment to the Contract shall only be valid if made in writing, signed by the Parties hereto and, where necessary, made pursuant to any agreed change control procedure.
- b) In respect of any variation to Price, the Parties agree that there shall be no variation in the Price specified in Schedule 2 (Appendix 4 of the Invitation to Tender) if the cumulative effect of variations in any one year starting from the Commencement Date would increase or reduce the total Contract Value by 5% or less.
- c) Variation in total Contract Value, is only permitted in accordance with paragraph 30 of the Invitation to Tender, namely on the basis that:
 - (i) the basis of financial reporting for the Public Employees' Pension Fund changes
 - (ii) there are significant changes to the applicable financial reporting regime
 - (iii) there are significant changes to the timing of preparation of the draft financial statements and/or completion of the audit from that specified in this Contract
 - (iv) there are significant changes to International Standards on Auditing (UK) or the Ethical Standard issued by the Financial Reporting Council

- (v) there are significant changes to the scale or nature of the activities of the Public Employees' Pension Fund
- (vi) there are significant changes to the financial systems or relevant service organisations used by the Public Employees' Pension Fund; or
- (vii) there are significant changes in the level or nature of internal audit provision or that, where the Supplier planned to place reliance on internal audit work, the Supplier was unable to do so.

23. Severance

- a) If any provision of the Contract shall be declared invalid, unenforceable or illegal by the Courts of any jurisdiction to which it is subject such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of the Contract.

24. Audit and Accounts

- a) For the purpose of the examination and certification of the States of Jersey's accounts the Comptroller and Auditor General and the States of Jersey or its auditors may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to produce such oral or written explanation as they consider necessary in relation to the Supplier which is not a function exercisable under the Contract.

25. Copy documentation

- a) The Supplier hereby agrees to provide the Comptroller and Auditor General with full copies of all final deliverables issued by the Supplier to the Public Employees' Pension Fund in accordance with the Contract at the same time as providing the original final deliverables to the Public Employees' Pension Fund.

26. Working Papers

- a) The Supplier will retain secure custody of working papers for the Services for the period specified in the Audit Regulations issued by the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland and Chartered Accountants Ireland, howsoever it may change from time to time.
- b) For the avoidance of doubt, all working papers remain the property of the Supplier.

27. Entire Contract

- a) The Contract embodies the entire understanding of the Parties in respect of the matters contained or referred to in it and is the only subsisting Contract between the Comptroller and Auditor General, the Treasurer and the Supplier relating to the Services.
- b) There are no promises, terms, conditions or obligations either oral or written expressed or implied other than those contained in the Contract.
- c) The Contract does not create a partnership.

28. Waiver

- a) The failure of a party hereto to exercise or enforce any right conferred upon it under the Contract shall not be deemed to be a waiver of any such right or operate so as to bar the enforcement thereof at any time.

29. Health and Safety

- a) The Supplier acknowledges that it has been supplied with a copy of the States of Jersey policy regarding health and safety. The Supplier agrees to comply with these rules, and any additional rules made known to the Supplier from time to time by the States of Jersey together with all applicable statutory rules and regulations regarding these matters. The States of Jersey will be responsible for procuring that its employees and agents also comply with these rules and regulations.
- b) Each party shall notify the other Parties as soon as practicable of any health and safety hazards of which it becomes aware.

30. Data Protection (Jersey) Law 2018

- a) The Supplier is the Controller for the purposes of this Contract and as such is registered to process personal data under the Data Protection (Jersey) Law 2018 (if the Successful Tenderer is established in Jersey). The Supplier acknowledges this and will if necessary on processing such personal data comply in all respects with the Data Protection (Jersey) Law 2018.
- b) The personal data in respect of which the Supplier is Controller includes but is not limited to the names, addresses and email addresses of pension scheme members and suppliers.
- c) The Supplier will, where appropriate, only process or be granted access to personal data in accordance with the applicable data protection laws in Jersey

and the equivalent legislation in the United Kingdom, the terms of the Contract and for the purposes of performing its obligations and/or exercising its rights under the Contract and the Supplier shall ensure that it does not commit any breach of such laws, and in particular will:

- (i) implement appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss of, or destruction or damage to, the personal data and having regard to the nature of the personal data which is to be protected;
 - (ii) process the personal data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Legislation or any Regulatory Body;
 - (iii) ensure that persons authorized to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and ensures that any personal data that it processes are kept confidential;
 - (iv) keep records of their data processing activities in accordance with the Data Protection (Jersey) Law 2018 and disclose them on request to the Data Protection Authority; and
 - (v) notify the C&AG and the Treasurer without undue delay after becoming aware of a personal data breach.
- d) The provisions of this clause 31 will continue in perpetuity.
- e) The Supplier is to ensure that its sub-contractors are bound by the requirements of this clause 31.

31. Freedom of Information

- a) The Supplier acknowledges that the Comptroller and Auditor General may become subject to the requirements of the FOIL and shall assist and cooperate with the Comptroller and Auditor General (at the Supplier's expense) to enable the Comptroller and Auditor General to comply with Information disclosure requirements.
- b) The Supplier shall and shall procure that its sub-contractors shall:

- (i) transfer the Request for Information to the Comptroller and Auditor General as soon as practicable after receipt and in any event within 2 Working Days of receiving a Request for Information;
 - (ii) provide the Comptroller and Auditor General with a copy of all Information in its possession or power, which may not already be in the possession of the Comptroller and Auditor General, in the form that the Comptroller and Auditor General requires within 5 Working Days (or such other period as the Comptroller and Auditor General may specify) of the Comptroller and Auditor General requesting that Information; and
 - (iii) provide all necessary assistance as reasonably requested by the Comptroller and Auditor General to enable the Comptroller and Auditor General to respond to a Request for Information within the time for compliance set out in Article 13 of the FOIL or any subordinate legislation made under the Law.
- c) The Comptroller and Auditor General shall be responsible for determining at its absolute discretion whether any Information:
 - (i) is exempt from disclosure in accordance with the provisions of the FOIL;
 - (ii) is to be disclosed in response to a Request for Information, andin no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Comptroller and Auditor General.
- d) The Supplier acknowledges that the Comptroller and Auditor General may, acting in accordance with the FOIL be obliged under the FOIL to disclose Information:
 - (i) without consulting with the Supplier, or
 - (ii) following consultation with the Supplier and having taken its views into account.
- e) The Supplier shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Comptroller and Auditor General to inspect such records as requested from time to time.
- f) The Supplier acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Comptroller

and Auditor General may nevertheless be obliged to disclose Confidential Information in accordance with sub-clause 9(c).

- g) The Comptroller and Auditor General shall, wherever possible, consult with the Supplier in relation to a request prior to disclosing information owned by the Supplier.

32. Ethics and Anti-Corruption

- a) The Supplier warrants to the Treasurer that all financial statements and invoices rendered to the Treasurer, under the Contract, properly reflect the fact that of all activities and transactions made or undertaken by the Supplier in providing the Services may be relied upon as being complete and accurate in any further recording or reporting by the Treasurer.
- b) The Supplier must not offer to any person any gift to persuade or reward them for doing or not doing anything relating to the award of the Contract or any other contract with the Comptroller and Auditor General or the Treasurer. Nor must the Supplier offer any gift to any person to persuade or reward them for special treatment to the Supplier once the Contract has been awarded.
- c) If the Supplier does offer any gift or reward or commit any offence under the Corruption (Jersey) Law 2006 or Part 7 of the States of Jersey Law 2005, the Comptroller and Auditor General will have the right to determine the Contract and recover from the Supplier any losses arising from the termination.

33. Equal Opportunities

- a) The Supplier will not unlawfully discriminate within the meaning and scope of any statutory instrument, byelaw or legislation of Jersey relating to equal opportunities which may be in force or come into force.
- b) The Supplier shall take all necessary steps to secure the observance of the provisions of sub-clause 36(a) above by all its employees, servants, agents or sub-contractors employed in the execution of this Contract.

34. Jersey Living Wage

- a) The Supplier will ensure that all relevant Staff employed or engaged by the Supplier (or by its subcontractors) are paid an equivalent hourly wage which is equal to or exceeds the Jersey Living Wage.
- b) The Supplier will provide to the Comptroller and Auditor General such information concerning the Jersey Living Wage and the performance of its

obligations under this clause 37 as the Comptroller and Auditor General may reasonably require and within the deadlines the Comptroller and Auditor General reasonably imposes.

35. Precedence of Contract Documents

- a) The Contract comprise these terms and conditions, the Specification and the Tender. In the event of conflict these documents will be construed in the following order of precedence, the first having the highest precedence -
 - (i) these terms and conditions
 - (ii) the engagement letter and terms of business set out in Schedule 5
 - (iii) the Specification; and
 - (iv) the Tender.

36. Governing Law

- a) The Supplier submits to the jurisdiction of the Jersey courts and agrees that the Contract is to be governed and construed according to Jersey law.
- b) For the avoidance of doubt, nothing in this Contract shall prevent any party from complying with all applicable legislation in force from time to time in relation to the Services.

37. Standards and Regulations

- a) The Comptroller and Auditor General and the Treasurer note that the Supplier is bound by the Ethical Standards issued by the Financial Reporting Council and the Audit Regulations issued by the Institute of Chartered Accountants in England and Wales, Institute of Chartered Accountants in Ireland and the Institute of Chartered Accounts of Scotland.
- b) For the avoidance of doubt, nothing in this Contract shall prevent the Supplier from complying with all relevant professional standards and regulations issued from time to time by the professional bodies listed in sub-clause 40(a).

38. Dispute Resolution

- a) The Dispute Resolution Procedure shall apply to any dispute between the Parties which may arise out of or in connection with this Contract except where this Contract expressly provides that a matter may not be disputed

and/or is to be determined in the sole and absolute discretion of the Comptroller and Auditor General.

39. Timescales

- a) All Parties shall perform all their obligations under the Contract in accordance with timescales specified in the Schedules. In particular, the Supplier shall provide the Services prior to or on the delivery dates in Schedule 1 but time shall not be of the essence.
- b) In the event that the Supplier fails due to its default to fulfil an obligation by the date specified in Schedule 1 for such fulfilment, the Supplier shall at the request of the Comptroller and Auditor General and without prejudice to the Supplier's other rights and remedies, arrange all such additional resources as are necessary to fulfil the said obligation as early as practicable thereafter at no additional charge to the Supplier.
- c) In the event that any obligation of the Supplier specified in the Schedule 1 is delayed as a result of a failure by Comptroller and Auditor General or the States of Jersey to perform their obligations or as a result of delays on the part of Comptroller and Auditor General or the States of Jersey ("Default") by the Comptroller and Auditor General or the States of Jersey, then the date associated with the relevant obligation(s) as specified in Schedule 1 (and the dates similarly associated with any subsequent obligations specified) shall be amended by a period of time equal to the period of such Comptroller and Auditor General or States of Jersey Default (or such other period as the Parties agree); and all Parties shall use all reasonable endeavours to mitigate the impact of such delay to and to recover any resultant delay to the performance of the services.

40. Co-operation with Third Parties

- a) In performing its obligations under the Contract, the Supplier shall endeavour to co-operate with any third parties appointed by the Comptroller and Auditor General who are performing activities which are related to the activities of the Comptroller and Auditor General under the Contract and to not jeopardise or compromise their work but the Supplier shall do so without any assumption of a duty of care or other responsibility to such third parties and will require such acknowledgement from any third party.
- b) Subject to any incoming auditor entering into a release letter with the Supplier confirming that the incoming auditor shall not disclose copies of the Suppliers

audit files or any information extracted therefrom to any third party or to Comptroller and Auditor General without the prior written consent of the Supplier and the incoming auditor confirming that the Supplier shall not owe the incoming auditor any duty of care or other responsibility for its audit work the Supplier shall provide reasonable access to its own audit files in respect of the Public Employees' Pension Fund to any incoming auditor appointed by the Comptroller and Auditor General and shall allow an incoming auditor to take copies of such files for their records, subject to any restrictions imposed by the Data Protection (Jersey) Law 2018, the General Data Protection Regulation 2018 and the Data Protection Act 2018.

- c) Subject to the incoming auditor entering into a release letter with the Supplier confirming that the incoming auditor shall not disclose any communications or information without the prior written consent of the Supplier and the incoming auditor confirming that the Supplier shall not owe the incoming auditor or service provider any duty of care or other responsibility the Supplier shall respond to all reasonable professional communications from an incoming auditor or service provider.
- d) Subject to sub-clause 41(b) and (c) above the Supplier shall hold at least one meeting with the incoming auditor in order to provide information in connection with a future audit engagement at no additional cost to the Comptroller and Auditor General, the States of Jersey or the incoming auditor.

Schedule 1 – Particular Conditions

Audit of the Financial Statements of the States

Output	Audit of financial statements for the year ending 31 December 2027	Audit of financial statements for the year ending 31 December 2028 and subsequent years throughout the Term of the contract
Finalised audit plan	31 October 2027	30 September before the end of the financial year to which the financial statements relate
Independent auditor's report	31 May 2028	31 May after the end of the financial year to which the financial statements relate
Finalised report to Those Charged with Governance on the audit of the financial statements	Before the opinion on the financial statements for the year ending 31 May 2028	Before the opinion on the financial statements for the year in question

Schedule 2 - Fee & Payment Information

Appendix 4 from the Invitation to Tender: Pricing schedule

Year ending 31 December 2027	
Year ending 31 December 2028	
Year ending 31 December 2029	
Year ending 31 December 2030	
Year ending 31 December 2031	
Year ending 31 December 2032 (if the Comptroller and Auditor General exercises the option to extend)	

Appendix 5 from the Invitation to Tender: Daily rates for variations to prices contained in Appendix 4

Role	Description	Daily Rate
Partner/ Director	Person serving as 'Engagement Partner', Engagement Quality Control Reviewer or of equivalent seniority	
Senior Manager/ Manager	Next in line of command for the engagement or equivalent	
Other qualified staff	Other staff holding full professional membership of a CCAB body or equivalent	
Other professional staff	Trainees, accounting technicians and other professional staff	

Schedule 3 - Key Personnel & Addresses for Notices

Key Personnel

[]

Addresses for Notices

For the Comptroller and Auditor General of Jersey

Lynn Pamment CBE
Comptroller and Auditor General
Jersey Audit Office
Jubilee Wharf
24 The Esplanade
St Helier
Jersey
JE2 3QA

email: enquiries@jerseyauditoffice.je

For the Treasurer

Graham Chidlow
Government of Jersey
Union Street
St Helier
Jersey
JE2 3DN

email: G.Chidlow@gov.je

For the Supplier

[]

email: []

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Schedule 4 - Invitation to Tender & Supplier's Response (incl. clarifications)

The Services shall mean as including the following:

An annual audit of the financial statements of the Public Employees' Pension Fund undertaken in accordance with International Standards on Auditing (UK), the Ethical Standard issued by the Financial Reporting Council and the Code of Audit Practice issued by the Comptroller and Auditor General.

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Schedule 5 – Mandatory Policies

States of Jersey Health and Safety Policy

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Schedule 6 - Cyber Essentials Scheme Requirements

As at the date of this Contract, information on Cyber Essentials Scheme can be found at: [Cyber Essentials \(gov.je\)](https://www.gov.je/cyber-essentials)

Information on the Government of Jersey's Information Security Policy can be found at: [Information security policies](#)

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Schedule 7 Commercially Sensitive Information Schedule

Response to Invitation to Tender, including presentations to Comptroller and Auditor General/Public Employees' Pension Fund and supporting documentation.

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Schedule 8 – Dispute Resolution Procedure

In this Schedule 8, the following expressions shall have the following meanings:

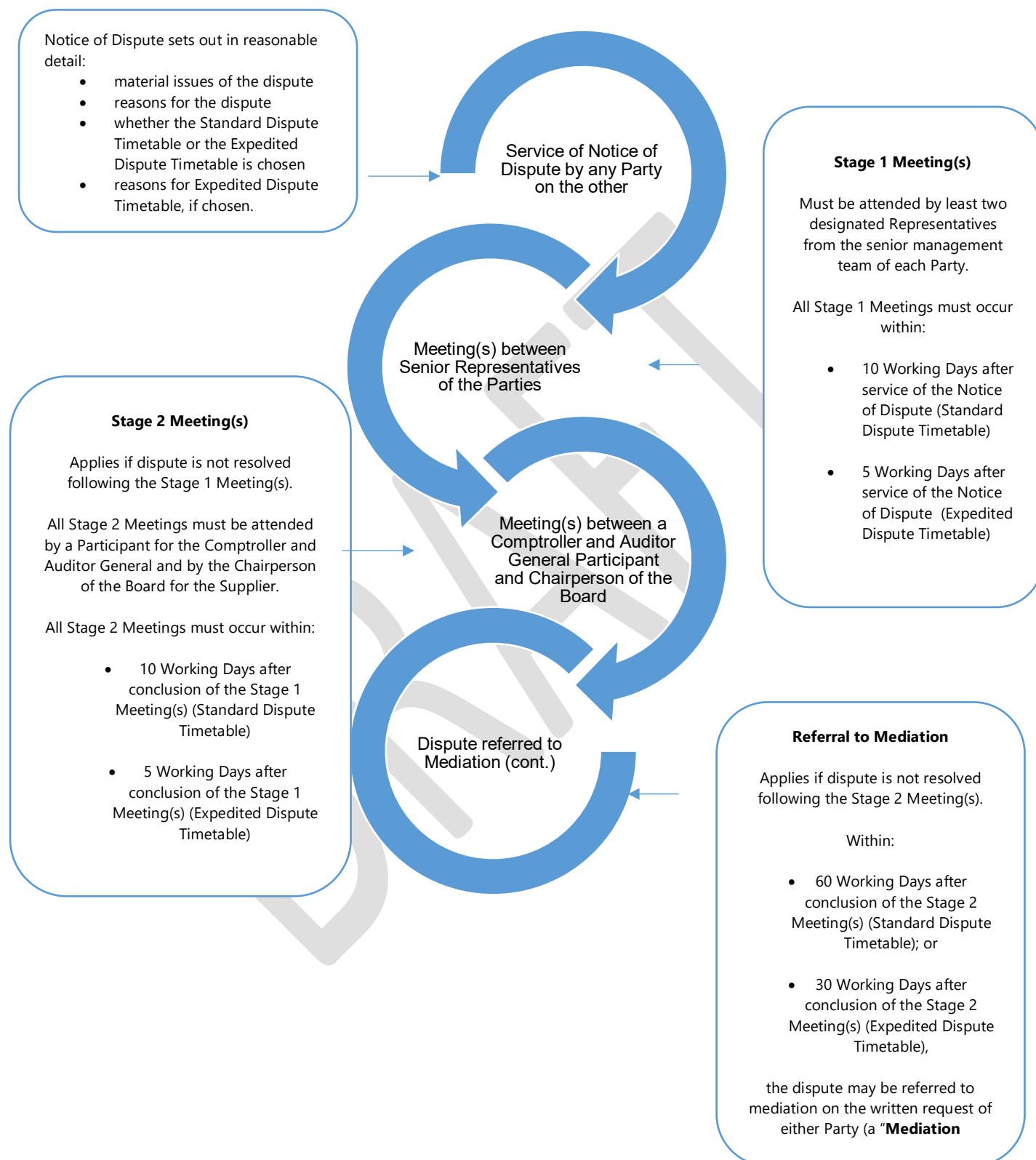
“Expedited Dispute Timetable” means the reduced timetable for the resolution of disputes set out in this Dispute Resolution Procedure.

“Notice of Dispute” means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a dispute to which this Dispute Resolution Procedure applies.

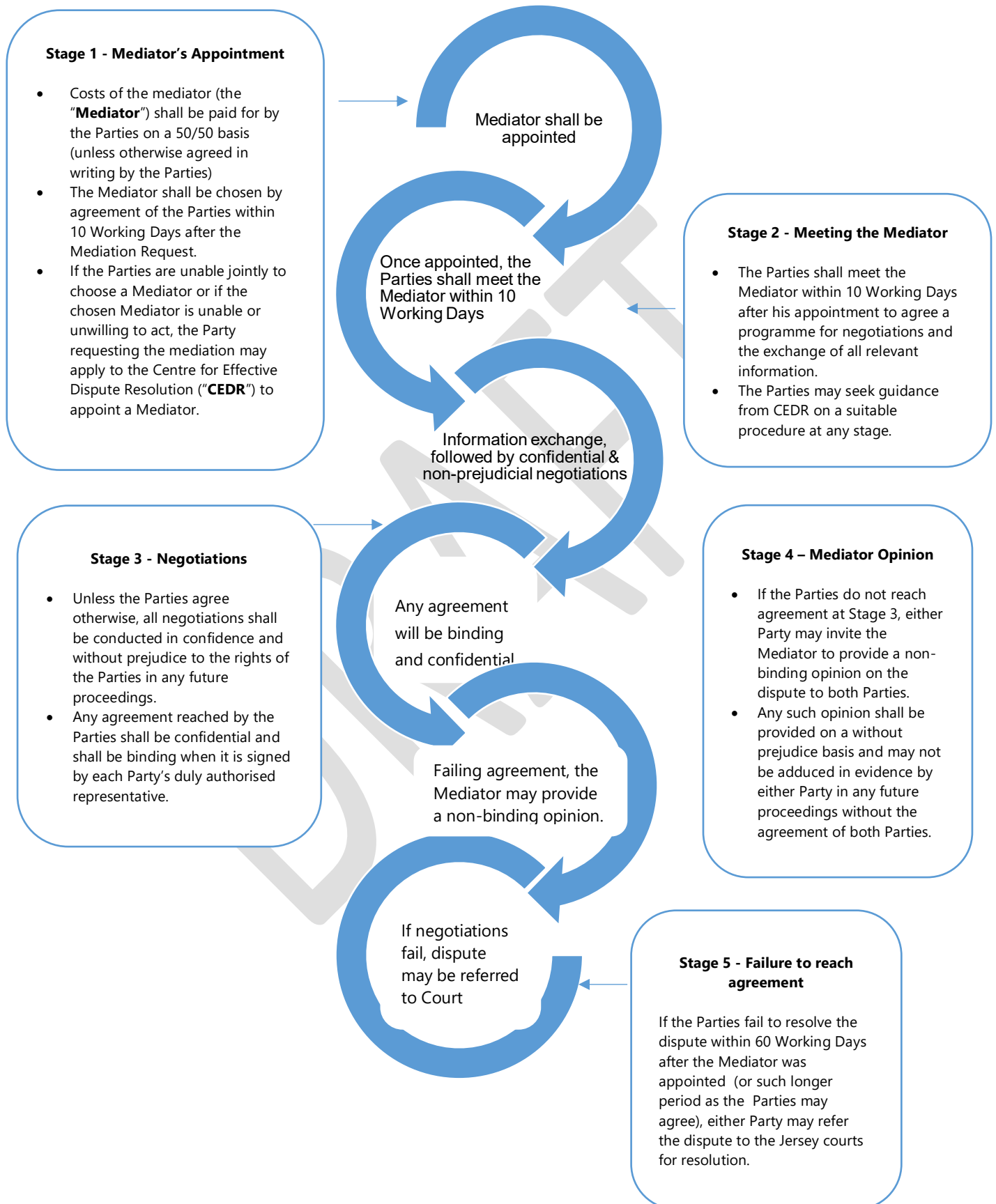
“Standard Dispute Timetable” means the standard timetable for the resolution of disputes set out in this Dispute Resolution Procedure.

- 1) The Dispute Resolution Procedure is set out in the infographics on the following pages of this Schedule 11.
- 2) The Parties shall use all reasonable endeavours to settle any dispute between them in good faith and in accordance with the Dispute Resolution Procedure.
- 3) Unless agreed otherwise in writing by the Comptroller and Auditor General, the Supplier shall continue to comply with its obligations under this Contract regardless of the nature of the dispute and notwithstanding the referral of the dispute to the Dispute Resolution Procedure.
- 4) The time periods set out in the Dispute Resolution Procedure shall apply to all disputes unless the Parties agree in writing that an alternative timetable should apply in respect of a specific dispute.
- 5) The Parties may only agree to use the Expedited Dispute Timetable in exceptional circumstances where the use of the Standard Dispute Timetable would be unreasonable, including where a delay in resolving the dispute would have a material impact on the immediate delivery of a material objective of the contract. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within 5 Working Days after the service of a Notice of Dispute, then the use of the Expedited Dispute Timetable shall be at the sole discretion of the Comptroller and Auditor General.
- 6) If at any point it becomes clear that an applicable deadline set out in the Dispute Resolution Procedure cannot be met or has passed, the Parties may agree in writing to extend the deadline. Any agreed Extension shall have the effect of delaying the start of the subsequent stages set out in the Dispute Resolution Procedure by the period agreed in the Extension.

DISPUTE RESOLUTION PROCEDURE



DISPUTE RESOLUTION PROCEDURE CONTINUED - MEDIATION



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