

## Order Form & Order Schedules

### Order Form

ORDER REFERENCE:	<b>CPD4120156</b>
THE BUYER:	<b>Department for Levelling Up, Housing &amp; Communities</b>
BUYER ADDRESS	<b>Fry Building, 2 Marsham Street, London, SW1P 4DF</b>
THE SUPPLIER:	<b>National Centre for Social Research</b>
SUPPLIER ADDRESS:	<b>35 Northampton Square, London, EC1V 0AX</b>
REGISTRATION NUMBER:	<b>4392418</b>
DUNS NUMBER:	<b>42-404-7426</b>

#### APPLICABLE DPS CONTRACT

This Order Form is for the provision of the Deliverables and dated 21 July 2022.

It's issued under the DPS Contract with the reference number RM6126 for the provision of the English Housing Survey and Associated Research.

DPS FILTER CATEGORY(IES):  
20980

## ORDER INCORPORATED TERMS

The following documents are incorporated into this Order Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form including the Order Special Terms and Order Special Schedules.
2. Joint Schedule 1(Definitions and Interpretation) RM6126
3. DPS Special Terms
4. The following Schedules in equal order of precedence:
  - Joint Schedules for RM6126
    - Joint Schedule 2 (Variation Form)
    - Joint Schedule 3 (Insurance Requirements)
    - Joint Schedule 4 (Commercially Sensitive Information)
    - Joint Schedule 6 (Key Subcontractors)
    - Joint Schedule 10 (Rectification Plan)
    - Joint Schedule 11 (Processing Data)
    - Joint Schedule 12 (Supply Chain Visibility)
  - Order Schedules for RM6126
    - Order Schedule 1 (Transparency Reports)
    - Order Schedule 2 (Staff Transfer)
    - Order Schedule 3 (Continuous Improvement)
    - Order Schedule 5 (Pricing Details)
    - Order Schedule 7 (Key Supplier Staff)
    - Order Schedule 8 (Business Continuity and Disaster Recovery)
    - Order Schedule 9 (Security)
    - Order Schedule 10 (Exit Management)
    - Order Schedule 14 (Service Levels)
    - Order Schedule 15 (Order Contract Management)
    - Order Schedule 20 (Order Specification)
5. CCS Core Terms (DPS version) v1.0.3
6. Joint Schedule 5 (Corporate Social Responsibility) RM6126
7. Order Schedule 4 (Order Tender) as long as any parts of the Order Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

No other Supplier terms are part of the Order Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

## ORDER SPECIAL TERMS

None

## DPS Schedule 6 (Order Form and Order Schedules)

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ORDER START DATE:	<b>1 June 2022</b>
ORDER EXPIRY DATE:	<b>31 December 2026</b>
ORDER INITIAL PERIOD:	<b>4 years, 6 Months</b>
CONTRACT VALUE ( <i>Initial Period</i> ):	<b>£25,506,737 (excluding VAT)</b>
OPTIONAL EXTENSION PERIOD:	<b>1 Year (until 31 December 2027)</b>

### DELIVERABLES

See details in Order Schedule 20 (Order Specification)

### MAXIMUM LIABILITY

The limitation of liability for this Order Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year are **£6,484,179.71 (excluding VAT)**. *These charges are based on costs for 2022/23 set out in the 'Summary of Cost by Financial Year' in the Price Schedule (see Order Schedule 5).*

### ORDER CHARGES

See details in Order Schedule 5 (Pricing Details)

The Charges will not be impacted by any change to the DPS Pricing. The Charges can only be changed by agreement in writing between the Buyer and the Supplier.

### REIMBURSABLE EXPENSES

None

### PAYMENT METHOD

BACS / Electronic Invoice.

Invoices must quote the Buyer's contract number and purchase order number (to be confirmed) along with an appropriate description of work completed and timesheets which have been approved by the Buyer. Failure to do so may result in a delay in payment for which the Buyer cannot be held responsible.

## DPS Schedule 6 (Order Form and Order Schedules)

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### BUYER'S INVOICE ADDRESS:

[clginvoices@levellingup.gov.uk](mailto:clginvoices@levellingup.gov.uk)

CP2P Team, DLUHC, 4th Floor, High Trees, Hillfield Road, Hemel Hempstead, HP2 4XN.

### BUYER'S AUTHORISED REPRESENTATIVE

<REDACTED>

Principal Analyst

Email: <REDACTED>

### BUYER'S ENVIRONMENTAL POLICY

Available online at:

<https://www.gov.uk/government/collections/greening-government-commitments>

### BUYER'S SECURITY POLICY

Available online at:

<https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework>

### SUPPLIER'S AUTHORISED REPRESENTATIVE

<REDACTED>

Director of Household Surveys

Email: <REDACTED>

### SUPPLIER'S CONTRACT MANAGER

<REDACTED>

Director of Household Surveys

Email: <REDACTED>

### PROGRESS REPORT FREQUENCY

- Weekly report on fieldwork progress;
- Monthly progress dashboard, submitted ahead of each monthly meeting on high level progress.

### PROGRESS MEETING FREQUENCY

- Weekly progress meetings to discuss all operational matters, except reporting;
- Between February and June each year, weekly progress meetings to discuss reporting;
- Monthly meetings on high level progress issues;
- Quarterly progress meetings attended by the Buyer, the Supplier and the Supplier's Sub-Contractors.

## **DPS Schedule 6 (Order Form and Order Schedules)**

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### **KEY STAFF**

As listed in Annex 1 to Order Schedule 7 (Key Supplier Staff)

### **KEY SUBCONTRACTOR(S)**

Building Research Establishment (BRE)

Bucknalls Lane, Watford, Herts, WD25 9XX

### **CA Design Services (CADS)**

The Design Centre, Hewett Road, Gapton Hall, Great Yarmouth NR31 0NN

### **E-AUCTIONS**

Not applicable.

### **COMMERCIALLY SENSITIVE INFORMATION**

Supplier proposal and break down of cost details.

### **SERVICE CREDITS**

Service Credits will accrue in accordance with Order Schedule 14 (Service Levels).

The Service Credit Cap will be finalised and agreed between the Customer and the Supplier during the contract mobilisation period to take account of the unit value and calculation of the Service Credits

The Service Period is: one financial year.

A Critical Service Level Failure is:

- Response to the English Housing Survey - When the number of interview surveys achieved at the end of each fieldwork year falls below 16,195.
- Data delivery - When any of the data files required for the Headline Report is not delivered within five working days of the agreed date.
- Analysis and reporting - When at least one annual report or fact sheet is not delivered within five working days of the agreed date.

### **ADDITIONAL INSURANCES**

Not applicable

### **GUARANTEE**

There's a guarantee of the Supplier's performance provided for all Order Contracts entered under the DPS Contract.

### **SOCIAL VALUE COMMITMENT**

The Supplier agrees, in providing the Deliverables and performing its obligations under the Order Contract, that it will comply with the social value commitments in Order Schedule 4 (Order Tender).

<b>For and on behalf of the Supplier:</b>		<b>For and on behalf of the Buyer:</b>	
Signature:		Signature:	
Name:		Name:	
Role:		Role:	
Date:		Date:	

## Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In each Contract, unless the context otherwise requires:
  - 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
  - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
  - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;

**Joint Schedule 1 (Definitions)**

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1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract; and

1.3.12 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
"Additional Insurances"	insurance requirements relating to an Order Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
"Admin Fee"	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> ;
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;
"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Annex"	extra information which supports a Schedule;
"Approval"	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;
"Audit"	<p>the Relevant Authority's right to:</p> <ul style="list-style-type: none"><li>a) verify the accuracy of the Charges and any other amounts payable by a Buyer under an Order Contract (including proposed or actual variations to them in accordance with the Contract);</li><li>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li><li>c) verify the Open Book Data;</li><li>d) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li><li>e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li></ul>



**Joint Schedule 1 (Definitions)**

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	<p>f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</p> <p>g) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</p> <p>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract;</p> <p>i) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;</p> <p>j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources;</p> <p>k) verify the accuracy and completeness of any Management Information delivered or required by the DPS Contract;</p>
<b>"Auditor"</b>	<p>a) the Buyer's internal and external auditors;</p> <p>b) the Buyer's statutory or regulatory auditors;</p> <p>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>d) HM Treasury or the Cabinet Office;</p> <p>e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>f) successors or assigns of any of the above;</p>
<b>"Authority"</b>	CCS and each Buyer;
<b>"Authority Cause"</b>	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
<b>"BACS"</b>	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer"</b>	the relevant public sector purchaser identified as such in the Order Form;

<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Order Contract initially identified in the Order Form;
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"CCS"</b>	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
<b>"CCS Authorised Representative"</b>	the representative appointed by CCS from time to time in relation to the DPS Contract initially identified in the DPS Appointment Form and subsequently on the Platform;
<b>"Central Government Body"</b>	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> <li>a) Government Department;</li> <li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c) Non-Ministerial Department; or</li> <li>d) Executive Agency;</li> </ul>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Order Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Order Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in the DPS Appointment Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority,

	would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as <b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS;
<b>"Contract"</b>	either the DPS Contract or the Order Contract, as the context requires;
<b>"Contracts Finder"</b>	the Government's publishing portal for public sector procurement opportunities;
<b>"Contract Period"</b>	the term of either a DPS Contract or Order Contract from the earlier of the: a) applicable Start Date; or b) the Effective Date until the applicable End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the GDPR;
<b>"Core Terms"</b>	CCS' standard terms and conditions for common goods and services which govern how Supplier must interact with CCS and Buyers under DPS Contracts and Order Contracts;
<b>"Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables: a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Man Day, of engaging the Supplier Staff, including:

**Joint Schedule 1 (Definitions)**

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	<ul style="list-style-type: none"> <li>i) base salary paid to the Supplier Staff;</li> <li>ii) employer's National Insurance contributions;</li> <li>iii) pension contributions;</li> <li>iv) car allowances;</li> <li>v) any other contractual employment benefits;</li> <li>vi) staff training;</li> <li>vii) work place accommodation;</li> <li>viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</li> <li>ix) reasonable recruitment costs, as agreed with the Buyer;</li> </ul> <p>b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables;</p> <p>d) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <ul style="list-style-type: none"> <li>a) Overhead;</li> <li>b) financing or similar costs;</li> <li>c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Order Contract Period whether in relation to Supplier Assets or otherwise;</li> <li>d) taxation;</li> <li>e) fines and penalties;</li> <li>f) amounts payable under Order Schedule 16 (Benchmarking) where such Schedule is used; and</li> <li>g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</li> </ul>
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments

	and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under an Order Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
"Default Management Levy"	has the meaning given to it in Paragraph 8.1.1 of DPS Schedule 5 (Management Levy and Information);
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Mobilisation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of an Order Contract as confirmed and accepted by the Buyer by either (a) confirmation in writing to the Supplier; or (b) where Order Schedule 13 (Implementation Plan and Testing) is used, issue by the Buyer of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof

**Joint Schedule 1 (Definitions)**

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	will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Order Form (for the purposes of this definition the " <b>Disaster Period</b> ");
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
<b>"Dispute"</b>	any claim, dispute or difference arises out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:</p> <p>a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables;</p> <p>b) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>has been or shall be generated for the purpose of providing the Deliverables;</p>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	a) the Data Protection Act 2018;
<b>"DPS"</b>	the dynamic purchasing system operated by CCS in accordance with Regulation 34 that this DPS Contract governs access to;
<b>"DPS Application"</b>	the application submitted by the Supplier to CCS and annexed to or referred to in DPS Schedule 2 (DPS Application);
<b>"DPS Appointment Form"</b>	the document outlining the DPS Incorporated Terms and crucial information required for the DPS Contract, to be executed by the Supplier and CCS and subsequently held on the Platform;

<b>"DPS Contract"</b>	the dynamic purchasing system access agreement established between CCS and the Supplier in accordance with Regulation 34 by the DPS Appointment Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the OJEU Notice;
<b>"DPS Contract Period"</b>	the period from the DPS Start Date until the End Date or earlier termination of the DPS Contract;
<b>"DPS Expiry Date"</b>	the date of the end of the DPS Contract as stated in the DPS Appointment Form;
<b>"DPS Incorporated Terms"</b>	the contractual terms applicable to the DPS Contract specified in the DPS Appointment Form;
<b>"DPS Initial Period"</b>	the initial term of the DPS Contract as specified in the DPS Appointment Form;
<b>"DPS Optional Extension Period"</b>	such period or periods beyond which the DPS Initial Period may be extended up to a maximum of the number of years in total specified in the DPS Appointment Form;
<b>"DPS Pricing"</b>	the maximum price(s) applicable to the provision of the Deliverables set out in DPS Schedule 3 (DPS Pricing);
<b>"DPS Registration"</b>	the registration process a Supplier undertakes when submitting its details onto the Platform;
<b>"DPS SQ Submission"</b>	the Supplier's selection questionnaire response;
<b>"DPS Special Terms"</b>	any additional terms and conditions specified in the DPS Appointment Form incorporated into the DPS Contract;
<b>"DPS Start Date"</b>	the date of start of the DPS Contract as stated in the DPS Appointment Form;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>"End Date"</b>	the earlier of:  a) the Expiry Date (as extended by any Extension Period exercised by the Authority under Clause 10.2); or  if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and

	minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Estimated Year 1 Contract Charges"</b>	the anticipated total charges payable by the Supplier in the first Contract Year specified in the Order Form; a)
<b>"Estimated Yearly Charges"</b>	means for the purposes of calculating each Party's annual liability under clause 11.2 :  i) in the first Contract Year, the Estimated Year 1 Contract Charges; or  ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or  iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Expiry Date"</b>	the DPS Expiry Date or the Order Expiry Date (as the context dictates);
<b>"Extension Period"</b>	the DPS Optional Extension Period or the Order Optional Extension Period as the context dictates;
<b>"Filter Categories"</b>	the number of categories specified in DPS Schedule 1 (Specification), if applicable;
<b>"FOIA"</b>	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 or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either the Relevant Authority or the Supplier of its obligations arising from:  a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;  b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;



	<p>c) acts of a Crown Body, local government or regulatory bodies;</p> <p>d) fire, flood or any disaster; or</p> <p>e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:</p> <ul style="list-style-type: none"> <li>i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</li> <li>ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</li> </ul> <p>any failure of delay caused by a lack of funds;</p>
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
<b>"GDPR"</b>	i) the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"General Anti-Abuse Rule"</b>	<p>b) the legislation in Part 5 of the Finance Act 2013; and</p> <p>any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p>
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	a) goods made available by the Supplier as specified in DPS Schedule 1 (Specification) and in relation to an Order Contract as specified in the Order Form;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	<p>the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which:</p> <ul style="list-style-type: none"> <li>i) are supplied to the Supplier by or on behalf of the Authority; or</li> </ul>

	the Supplier is required to generate, process, store or transmit pursuant to a Contract;
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a> ;
"Guarantor"	i) the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Order Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including: a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; b) details of the cost of implementing the proposed Variation; c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the DPS Pricing/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; d) a timetable for the implementation, together with any proposals for the testing of the Variation; and such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Deliverables set out in Order Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Indemnifier"	a) a Party from whom an indemnity is sought under this Contract;
"Independent Control"	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly;
"Indexation"	the adjustment of an amount or sum in accordance with DPS Schedule 3 (DPS Pricing) and the relevant Order Form;

<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of a Contract specified on the Platform or the Order Form, as the context requires;
<b>"Insolvency Event"</b>	<p>a) in respect of a person:</p> <p>b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</p> <p>c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</p> <p>d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>f) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</p> <p>any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</p>
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Order Contract Period to install the Goods in accordance with the Order Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or

	<p>business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<b>"Invoicing Address"</b>	the address to which the Supplier shall Invoice the Buyer as specified in the Order Form;
<b>"IPR Claim"</b>	a) any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 ( <i>Processing Data</i> );
<b>"Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Key Personnel"</b>	the individuals (if any) identified as such in the Order Form;
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <p>a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</p> <p>b) which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Order Contract,</p> <p>and the Supplier shall list all such Key Subcontractors on the Platform and in the Key Subcontractor Section in the Order Form;</p>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;

**Joint Schedule 1 (Definitions)**

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<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Man Day"</b>	7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Man Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Management Information"</b>	the management information specified in DPS Schedule 5 (Management Levy and Information);
<b>"Management Levy"</b>	the sum specified on the Platform payable by the Supplier to CCS in accordance with DPS Schedule 5 (Management Levy and Information);
<b>"Marketing Contact"</b>	shall be the person identified in the DPS Appointment Form;
<b>"MI Default"</b>	means when two (2) MI Reports are not provided in any rolling six (6) month period;
<b>"MI Failure"</b>	means when an MI report: <ul style="list-style-type: none"> <li>a) contains any material errors or material omissions or a missing mandatory field; or</li> <li>b) is submitted using an incorrect MI reporting Template; or</li> </ul> is not submitted by the reporting date (including where a declaration of no business should have been filed);
<b>"MI Report"</b>	means a report containing Management Information submitted to the Authority in accordance with DPS Schedule 5 (Management Levy and Information);
<b>"MI Reporting Template"</b>	a) means the form of report set out in the Annex to DPS Schedule 5 (Management Levy and Information) setting out the information the Supplier is required to supply to the Authority;
<b>"Milestone"</b>	an event or task described in the Mobilisation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Mobilisation Plan by which the Milestone must be Achieved;

<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
<b>"New IPR"</b>	<p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>b) IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> <li>i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ul> <p>any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
<b>"Open Book Data"</b>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Order Contract, including details and all assumptions relating to:</p> <p>a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</p> <p>b) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p> <ul style="list-style-type: none"> <li>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency)</li> </ul>

	<p>together with a list of agreed rates against each manpower grade;</p> <p>iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and</p> <p>iv) Reimbursable Expenses, if allowed under the Order Form;</p> <p>c) Overheads;</p> <p>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>e) the Supplier Profit achieved over the DPS Contract Period and on an annual basis;</p> <p>f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and the actual Costs profile for each Service Period;</p>
<b>"Order"</b>	a) means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract;
<b>"Order Contract"</b>	b) the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the DPS Contract), which consists of the terms set out and referred to in the Order Form;
<b>"Order Contract Period"</b>	the Contract Period in respect of the Order Contract;
<b>"Order Expiry Date"</b>	the date of the end of an Order Contract as stated in the Order Form;
<b>"Order Form"</b>	a completed Order Form Template (or equivalent information issued by the Buyer) used to create an Order Contract;
<b>"Order Form Template"</b>	the template in DPS Schedule 6 (Order Form Template and Order Schedules);
<b>"Order Incorporated Terms"</b>	the contractual terms applicable to the Order Contract specified under the relevant heading in the Order Form;
<b>"Order Initial Period"</b>	the Initial Period of an Order Contract specified in the Order Form;
<b>"Order Optional Extension Period"</b>	such period or periods beyond which the Order Initial Period may be extended up to a maximum of the number of years in total specified in the Order Form;
<b>"Order Procedure"</b>	the process for awarding an Order Contract pursuant to Clause 2 (How the contract works) and DPS Schedule 7 (Order Procedure);

<b>"Order Special Terms"</b>	any additional terms and conditions specified in the Order Form incorporated into the applicable Order Contract;
<b>"Order Start Date"</b>	the date of start of an Order Contract as stated in the Order Form;
<b>"Order Tender"</b>	the tender submitted by the Supplier in response to the Buyer's Statement of Requirements following an Order Procedure and set out at Order Schedule 4 (Order Tender);
<b>"Other Contracting Authority"</b>	any actual or potential Buyer under the DPS Contract;
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	in the context of the DPS Contract, CCS or the Supplier, and in the in the context of an Order Contract the Buyer or the Supplier. <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Performance Indicators" or "PIs"</b>	the performance measurements and targets in respect of the Supplier's performance of the DPS Contract set out in DPS Schedule 4 (DPS Management);
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Platform"</b>	the online application operated on behalf of CCS to facilitate the technical operation of the DPS;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;



<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Meeting Frequency"</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Progress Report Frequency"</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
<b>"Prohibited Acts"</b>	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</li> </ul> <p>any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<b>"Protective Measures"</b>	appropriate technical and organisational measures which may include pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in DPS Schedule 9 (Cyber Essentials), if applicable, in the case of the DPS Contract or Order Schedule 9 (Security), if applicable, in the case of an Order Contract;

<b>"Recall"</b>	a) a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>"Rectification Plan"</b>	the Supplier's plan (or revised plan) to rectify its breach using the template in Joint Schedule 10 (Rectification Plan Template) which shall include:  a) full details of the Default that has occurred, including a root cause analysis;  b) the actual or anticipated effect of the Default; and  the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);
<b>"Rectification Plan Process"</b>	the process set out in Clause 10.4.3 to 10.4.5 (Rectification Plan Process);
<b>"Regulations"</b>	a) the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:  a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and  subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
<b>"Relevant Authority"</b>	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
<b>"Relevant Authority's Confidential Information"</b>	a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);  b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and

	c) information derived from any of the above;
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 10.6 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Order Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Insurances"</b>	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Part B of Order Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Order Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to a DPS or Order Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Order Schedule 9 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Order Form, in force as at the Order Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Self Audit Certificate"</b>	means the certificate in the form as set out in DPS Schedule 8 (Self Audit Certificate);

<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Order Contract (which, where Order Schedule 14 (Service Credits) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Order Form;
<b>"Services"</b>	services made available by the Supplier as specified in DPS Schedule 1 (Specification) and in relation to an Order Contract as specified in the Order Form;
<b>"Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:  a) the Deliverables are (or are to be) provided; or  the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Special Terms"</b>	a) any additional Clauses set out in the DPS Appointment Form or Order Form which shall form part of the respective Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in DPS Schedule 1 (Specification), as may, in relation to an Order Contract, be supplemented by the Order Form;
<b>"Standards"</b>	any:  a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;  b) standards detailed in the specification in DPS Schedule 1 (Specification);

**Joint Schedule 1 (Definitions)**

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	c) standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time; relevant Government codes of practice and guidance applicable from time to time;
<b>"Start Date"</b>	in the case of the DPS Contract, the date specified on the DPS Appointment Form, and in the case of an Order Contract, the date specified in the Order Form;
<b>"Statement of Requirements"</b>	a) a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Order Procedure;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than an Order Contract or the DPS Contract, pursuant to which a third party: a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	a) any third party appointed to process Personal Data on behalf of that Processor related to a Contract;
<b>"Supplier"</b>	the person, firm or company identified in the DPS Appointment Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Order Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the DPS Appointment Form, or later defined in an Order Contract;
<b>"Supplier's Confidential Information"</b>	a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract; Information derived from any of (a) and (b) above;

<b>"Supplier's Contract Manager"</b>	the person identified in the Order Form appointed by the Supplier to oversee the operation of the Order Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supplier Equipment"</b>	a) the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Order Contract;
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: a) Achieve a Milestone by its Milestone Date; b) provide the Goods and/or Services in accordance with the Service Levels ; and/or comply with an obligation under a Contract;
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of an Order Contract for the relevant period;
<b>"Supplier Profit Margin"</b>	a) in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of Joint Schedule 12 (Supply Chain Visibility);
<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Order Contract detailed in the information are properly payable;
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in an Order Contract;
<b>"Test Plan"</b>	a plan: a) for the Testing of the Deliverables; and setting out other agreed criteria related to the achievement of Milestones;

<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to an Order Contract as set out in the Test Plan or elsewhere in an Order Contract and <b>"Tested"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	a) Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>"Transparency Information"</b>	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for – (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and (ii) Commercially Sensitive Information;
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Order Schedule 1 (Transparency Reports);
<b>"Variation"</b>	has the meaning given to it in Clause 24 (Changing the contract);
<b>"Variation Form"</b>	the form set out in Joint Schedule 2 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 24 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form.

## Joint Schedule 2 (Variation Form) [Template]

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details		
This variation is between:	Department for Levelling Up, Housing & Communities ("the Buyer") And National Centre for Social Research ("the Supplier")	
Contract name:	Provision of English Housing Survey and Associated Research ("the Contract")	
Contract reference number:	CPD4120156	
Details of Proposed Variation		
Variation initiated by:	[delete] as applicable: Buyer/Supplier]	
Variation number:	[insert] variation number]	
Date variation is raised:	[insert] date]	
Proposed variation		
Reason for the variation:	[insert] reason]	
An Impact Assessment shall be provided within:	[insert] number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li>[Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ [insert] amount]
	Additional cost due to variation:	£ [insert] amount]
	New Contract value:	£ [insert] amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer.
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.



Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

## Joint Schedule 3 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under an Order Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than:
  - 1.1.1 the DPS Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
  - 1.1.2 the Order Contract Effective Date in respect of the Additional Insurances.
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

### **4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

### **Joint Schedule 3 (Insurance Requirements)**

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- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

**ANNEX: REQUIRED INSURANCES**

1. The Supplier shall hold the following [standard] insurance cover from the DPS Start Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] one million pounds (£1,000,000);
  - 1.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than one million pounds (£1,000,000); and
  - 1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] five million pounds (£5,000,000).

## Joint Schedule 4 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
1	15 Mar 2022	Proposal / Cost Breakdown	Indefinite

## Joint Schedule 6 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the DPS Contract to the Key Subcontractors identified on the Platform.
- 1.2 The Supplier is entitled to sub-contract its obligations under an Order Contract to Key Subcontractors listed on the Platform who are specifically nominated in the Order Form.
- 1.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Buyer and the Supplier shall, at the time of requesting such consent, provide CCS and the Buyer with the information detailed in Paragraph 1.4. The decision of CCS and the Buyer to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to the Platform. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to the Key Subcontractor section of the Order Form. CCS and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.3.3 the proposed Key Subcontractor employs unfit persons.
- 1.4 The Supplier shall provide CCS and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the CCS and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4 for CCS, the Key Sub-Contract price expressed as a percentage of the total projected DPS Price over the DPS Contract Period;
  - 1.4.5 for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Order Contract Period; and
  - 1.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.

## **Joint Schedule 6 (Key Subcontractors)**

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- 1.5 If requested by CCS and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
  - 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by CCS and/or the Buyer.
- 1.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for CCS and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Buyer respectively;
  - 1.6.3 a provision enabling CCS and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Buyer;
  - 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the DPS Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
    - (c) the obligation not to embarrass CCS or the Buyer or otherwise bring CCS or the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on CCS and the Buyer under Clauses 10.4 (When CCS or the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
  - 1.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of CCS and the Buyer.



## Joint Schedule 10 (Rectification Plan) [Template]

Request for [Revised] Rectification Plan			
Details of the Default:	[Guidance: Explain the Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add] date (minimum 10 days from request)]		
Signed by Buyer :		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Default	[add] cause]		
Anticipated impact assessment:	[add] impact]		
Actual effect of Default:	[add] effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Default	[X] Working Days		
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	[...]	[date]	
Signed by the Supplier:		Date:	

Review of Rectification Plan (Buyer)			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

## Joint Schedule 11 (Processing Data)

### Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**“Processor Personnel”** all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

### Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
  - (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;

## Joint Schedule 11 (Processing Data)

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- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Personal Data Breach;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that :
    - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
      - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
      - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
  - (d) not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

## Joint Schedule 11 (Processing Data)

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- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
    - (ii) the Data Subject has enforceable rights and effective legal remedies;
    - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
    - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
  - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 7 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Personal Data Breach.
8. The Processor's obligation to notify under paragraph 6 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:

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- (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
  - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing;
  - (b) obtain the written consent of the Controller;
  - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
  - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an

applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

### **Where the Parties are Joint Controllers of Personal Data**

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11.

### **Independent Controllers of Personal Data**

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 8 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
22. The Parties shall only provide Personal Data to each other:
  - (a) to the extent necessary to perform their respective obligations under the Contract;
  - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
  - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational

measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
  - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
  - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - (b) implement any measures necessary to restore the security of any compromised Personal Data;
  - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.



## **Joint Schedule 11 (Processing Data)**

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27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 27 of this Joint Schedule 11.

## Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

***This Annex applies to the provision of the English Housing Survey only. The English Private Landlord Survey, Market Value Survey and the production of local level modelled statistics will be subject to a separate Annex.***

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: **data.protection@levellingup.gov.uk**
- 1.2 The contact details of the Supplier's Data Protection Officer are **dpo@natcen.ac.uk**
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Relevant Authority is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• Address and Postcode of the households invited to take part in the English Housing Survey;</li><li>• Address references codes such as the Unique Property Reference Number, Unique Address Reference Number, and Unique Delivery Point Reference Number and Council Tax Band of the addresses selected to be approach to take part in the survey;</li><li>• Contact details - email address (only of the participants who have agreed to taking part in the physical inspection, or to take part in follow up research, or have requested to receive their token of appreciation in electronic format,) and telephone number;</li></ul>

	<ul style="list-style-type: none"> <li>• date of birth; ethnicity; religion; sexual orientation; self-reported limiting disability or long-term illness; name (as given by the respondent) of the members of the household; and,</li> <li>• for those taken part in the physical survey, a small number of images of the exterior of the dwelling.</li> <li>• Dwelling level Experian Consumer View and Mosaic data.</li> </ul> <p><b>The Supplier is Controller and the Relevant Authority is Processor</b></p> <p>not applicable</p> <p><b>The Parties are Joint Controllers</b></p> <p>not applicable</p> <p><b>The Parties are Independent Controllers of Personal Data</b></p> <p>not applicable</p>				
Duration of the Processing	1 June 2022 to 31 December 2026 ( <i>initial period</i> ) Option to be extended until 31 December 2027				
Nature and purposes of the Processing	<p>The lawful basis under UK GDPR for processing personal data of this contract is public task, The Supplier will process personal data for the purposes detailed below to deliver the English Housing Survey. Data processing arrangements for the associated research (the English Private Landlords Survey; the Market Value Survey and Local Level Stock Modelling) and other workstreams to be added to the contract in the future have not yet been agreed. Details on those will be added as addenda to this schedule when they are finalised and before data processing takes place.</p> <p>Unless specified otherwise, personal data will be stored in the UK.</p> <table border="1"> <thead> <tr> <th>Purpose</th><th>Nature of processing</th></tr> </thead> <tbody> <tr> <td>To select and invite the participants to take part in the survey</td><td>Extract, structure and store addresses of the selected sample; match them to external data sources to complete the sampling and subsampling process; use the address information to send out the letters inviting the participants to take part in the survey. The initial extraction and structuring</td></tr> </tbody> </table>	Purpose	Nature of processing	To select and invite the participants to take part in the survey	Extract, structure and store addresses of the selected sample; match them to external data sources to complete the sampling and subsampling process; use the address information to send out the letters inviting the participants to take part in the survey. The initial extraction and structuring
Purpose	Nature of processing				
To select and invite the participants to take part in the survey	Extract, structure and store addresses of the selected sample; match them to external data sources to complete the sampling and subsampling process; use the address information to send out the letters inviting the participants to take part in the survey. The initial extraction and structuring				

		<p>of the sampled addresses are carried out by the Suppliers subcontractors in Spain. That subcontractor has access only to the addresses.</p> <p>Use the address of participants who have agreed to take part in follow up research, together with other contact information, to invite them to take part in follow up research. If any follow up research to be carried out by NatCen requires sending out emails in bulk, that will be carried out by the Supplier's subcontractor based in the Republic of Ireland.</p>
	<p>To carry out the interview and physical surveys</p>	<p>Load addresses onto the Computer-assisted Interviewing Program (CAPI) and physical survey programs.</p> <p>Operate the programs to:</p> <ul style="list-style-type: none"> <li>• enable the interviewers and physical surveyors to contact the participants;</li> <li>• enable the interviewers and physical surveyors to address the participants;</li> <li>• ask the questions applicable to individual participants;</li> <li>• arrange for the physical inspection of the home of the participants;</li> <li>• operate the digital interface between interview and physical surveys</li> <li>• if a telephone interview is necessary, to contact respondents to carry out the EHS interview.</li> </ul>

**Joint Schedule 11 (Processing Data)**

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	To send the token of appreciation to participants after they have taken part in the survey	Operate the incentives system to send out the tokens of appreciation to respondents.
	To check the data for accuracy, plausibility and consistency and carry out other data validation.	Operate the personal data through the CAPI and other data edit programs of both the interview and physical surveys.
	To produce modelled and derived data items for analysis.	Operate the personal data through the modelling and variable derivation programs.
	To produce the address and other datasets which can be used for data linking; data analysis; aggregated, anonymised statistical reporting of findings (for example home ownership by ethnicity); methodology development and development of new research.	Operate the personal data through data processing, admin and analysis programs.
	To enhance the analytical potential of the survey	With the agreement of individual participants, link the survey data to admin to other data sources purely for relevant research and statistical production.
	To recontact respondents to carry out quality checks on all stages of the survey process or to invite them to take part in relevant follow up research	Retrieve, structure and store contact information of the respondents who have agreed to be followed up; if required, match them to external data sources; use the contact information to approach the respondents.
	Destruction of the data	
Type of Personal Data	<ul style="list-style-type: none"> <li>Address and Postcode of the households invited to take part in the English Housing Survey;</li> <li>Address references codes such as the Unique Property Reference Number, Unique Address Reference Number, and Unique Delivery Point Reference Number and Council Tax Band of the addresses selected to be approach to take part in the survey;</li> <li>Contact details - email address (only of the participants who have agreed to taking part in the physical inspection, /or to take part in follow up research, or have requested to receive</li> </ul>	

	<p>their token of appreciation in electronic format,) and telephone number;</p> <ul style="list-style-type: none"> <li>• date of birth; ethnicity; religion; sexual orientation; self-reported limiting disability or long-term illness; name (as given by the respondent) of the member of the household; and,</li> <li>• for those taken part in the physical survey, a small number of images of the exterior of the dwelling.</li> <li>• Dwelling level Experian Consumer View and Mosaic data.</li> </ul>
Categories of Data Subject	<p>Participants selected to take part in the English Housing Survey. (Address, Postcode and address reference codes are the only personal data we have on the selected participants who have decided not to take part in the survey or who the supplier is unable to make contact to invite to take part in the survey.)</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>The Supplier-side retention period for the personal data relating to a particular fieldwork year is two years and six months after the start of fieldwork for that fieldwork year. For example, the Supplier will retain the personal data relating to the 2022-23 survey until 31 October 2024. On or before that date, the Supplier and, if applicable, its subcontractors will:</p> <ul style="list-style-type: none"> <li>• return the data or, if specified by the Customer, extract and return the data items required by the Customer;</li> <li>• destroy all the versions held by the Supplier and its subcontractors; and</li> <li>• confirm the destruction of the data in writing.</li> </ul>

## **Annex 2 - Joint Controller Agreement**

Not applicable

## Joint Schedule 12 (Supply Chain Visibility)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Contracts Finder"</b>	the Government's publishing portal for public sector procurement opportunities;
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of this Schedule 12; and
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

### 2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Relevant Authority in the format and frequency as reasonably specified by the Relevant Authority; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.



- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

### **3. Visibility of Supply Chain Spend**

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “SME Management Information Reports”) to the Relevant Authority which incorporates the data described in the Supply Chain Information Report Template which is:
  - (a) the total contract revenue received directly on the Contract;
  - (b) the total value of sub-contracted revenues under the Contract  
(including revenues for non-SMEs/non-VCSEs); and
  - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Relevant Authority from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Relevant Authority issuing a replacement version. The Relevant Authority agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.

**Annex 1**

**Supply Chain Information Report template**

## **Order Schedule 1 (Transparency Reports)**

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the DPS Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

## **Annex A: List of Transparency Reports**

<b>Title</b>	<b>Content</b>	<b>Format</b>	<b>Frequency</b>
Performance	Progress/achievement against the Key Performance Indicators for the Contract	Word/Excel	Quarterly
Key Subcontractors	Details of all supply chain spend above £10,000 (excluding VAT)	Word/Excel	Quarterly
Modern Slavery Assessment Tool (MSAT)	In the event that a Modern Slavery Assessment Tool (MSAT) is completed prior to Contract commencement, the Supplier must approve sharing the information with the Customer.	Excel	Within three months of contract commencement
Modern Slavery Assessment Tool (MSAT)	In the event that the Customer (or another organisation) instructs the Supplier to complete a Modern Slavery Assessment Tool (MSAT) during the Contract term, the Supplier must approve sharing the information with the Customer.	Excel	Within two Weeks of completion

## Order Schedule 2 (Staff Transfer)

### 1. Definitions

1.1 In this Schedule, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Acquired Rights Directive"</b>	<p>1 the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;</p> <p>2</p>
<b>"Employee Liability"</b>	<p>3 all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <p>a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;</p>
	<p>b) unfair, wrongful or constructive dismissal compensation;</p>
	<p>c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;</p>
	<p>d) compensation for less favourable treatment of part-time workers or fixed term employees;</p>
	<p>e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions;</p>

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	f) employment claims whether in tort, contract or statute or otherwise;
	g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
<b>"Former Supplier"</b>	a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor);
<b>"New Fair Deal"</b>	the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for Staff Pensions: Staff Transfer from Central Government"</i> issued in October 2013 including: <ul style="list-style-type: none"><li>(i) any amendments to that document immediately prior to the Relevant Transfer Date; and</li><li>(ii) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</li></ul>
<b>"Old Fair Deal"</b>	HM Treasury Guidance <i>"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"</i> issued in June 1999 including the supplementary guidance <i>"Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues"</i> issued in June 2004;
<b>"Partial Termination"</b>	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract);
<b>"Relevant Transfer"</b>	a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there

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	is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
<b>"Staffing Information"</b>	<p>in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:</p> <p>(a) their ages, dates of commencement of employment or engagement, gender and place of work;</p>
	(b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
	(c) the identity of the employer or relevant contracting Party;
	(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
	(e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
	(f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
	(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
	(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
	(i) copies of all relevant documents and materials relating to such information, including copies of

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	relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
	(j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;
<b>"Supplier's Final Supplier Personnel List"</b>	a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Supplier's Provisional Supplier Personnel List"</b>	a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
<b>"Term"</b>	the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;
<b>"Transferring Buyer Employees"</b>	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
<b>"Transferring Former Supplier Employees"</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.

**2. INTERPRETATION**

- 2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.
- 2.2 The provisions of Paragraphs 2.1 and 2.6 of Part A, Paragraph 3.1 of Part B, Paragraphs 1.5, 1.7 and 1.9 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together "Third Party Provisions") confer benefits on third parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.



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- 2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Order Contract has no right under the CRTPA to enforce any term of this Order Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 2.5 Any amendments or modifications to this Order Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

### **3. Staff Transfer and the application of the Parts of this Schedule**

#### **3.1 The Parties agree that:**

- (a) where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, this Schedule (Staff Transfer) shall apply as follows:
  - (a) where the Relevant Transfer involves the transfer of Transferring Buyer Employees, Part A and Part D of this Schedule (Staff Transfer) shall apply;
  - (b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B and Part D of this Schedule (Staff Transfer) shall apply;
  - (c) where the Relevant Transfer involves the transfer of Transferring Buyer Employees and Transferring Former Supplier Employees, Parts A, B and D of this Schedule (Staff Transfer) shall apply; and
  - (d) Part C of this Schedule (Staff Transfer) shall not apply;
- (b) where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of this Schedule (Staff Transfer) shall apply, Part D of this Schedule (Staff Transfer) may apply and Parts A and B of this Schedule (Staff Transfer) shall not apply; and
- (c) Part E of this Schedule (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services.

## **PART A: STAFF TRANSFER AT THE START DATE OUTSOURCING FROM THE BUYER**

### **1. What is a relevant transfer**

#### **1.1 The Buyer and the Supplier agree that:**

1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-contractor and each such Transferring Buyer Employee.

1.2 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).

### **2. Indemnities the Buyer must give**

2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:

2.1.1 any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;

2.1.2 the breach or non-observance by the Buyer before the Relevant Transfer Date of:

(a) any collective agreement applicable to the Transferring Buyer Employees; and/or

(b) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;

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- 2.1.3 any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
  - 2.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
  - 2.1.5 a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date;
  - 2.1.6 any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
  - 2.1.7 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

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- 2.2.1 arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2 arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Buyer as a Transferring Buyer Employee claims, or it is determined in relation to any person who is not identified by the Buyer as a Transferring Buyer Employee, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 2.3.1 the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing; and
  - 2.3.2 the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Supplier and/or any Subcontractor.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that a Subcontractor shall, immediately release the person from his/her employment or alleged employment;
- 2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:
  - 2.5.1 no such offer of employment has been made;
  - 2.5.2 such offer has been made but not accepted; or
  - 2.5.3 the situation has not otherwise been resolved,the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law and subject also to Paragraph 2.7, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the

Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

**2.7 The indemnity in Paragraph 2.6:**

**2.7.1 shall not apply to:**

**(a) any claim for:**

- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or**
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees;**

**in any case in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or**

**(b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and**

**2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer within 6 months of the Start Date**

**2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Buyer nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the relevant Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.**

**3. Indemnities the Supplier must give and its obligations**

**3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:**

**3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;**

**3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:**

- (a) any collective agreement applicable to the Transferring Buyer Employees; and/or**

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- (b) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees in respect of the period from (and including) the Relevant Transfer Date;

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- 3.1.8 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Sub-contractor to comply with its obligations under paragraph 2.8 above.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier.
- 4. Information the Supplier must provide**
- 4.1 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 5. Cabinet Office requirements**
- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

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5.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:

5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

5.2.2 Old Fair Deal; and/or

5.2.3 The New Fair Deal.

5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

**6. Pensions**

6.1 The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:

6.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and

6.1.2 Part D: Pensions (and its Annexes) to this Schedule.



## **PART B: STAFF TRANSFER AT THE START DATE**

### **TRANSFER FROM A FORMER SUPPLIER**

#### **1. What is a relevant transfer**

##### **1.1 The Buyer and the Supplier agree that:**

- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

##### **1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.**

#### **2. Indemnities given by the Former Supplier**

##### **2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:**

- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

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- (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
  - 2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Subcontractor as appropriate may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
  - 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on

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or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2 arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Former Supplier as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 2.3.1 the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer and in writing and, where required by the Buyer, notify the relevant Former Supplier in writing; and
  - 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law, within 15 Working Days of receipt of notice from the Supplier and/or the Subcontractor (as appropriate).
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, , or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:
  - 2.5.1 no such offer of employment has been made;
  - 2.5.2 such offer has been made but not accepted; or
  - 2.5.3 the situation has not otherwise been resolved,the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;
- 2.6 Subject to the Supplier and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law and subject also to Paragraph 2.7, the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5

provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

**2.7 The indemnity in Paragraph 2.6:**

2.7.1 shall not apply to:

(a) any claim for:

(i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees;

in any case in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or

(b) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Subcontractor (as appropriate) to the Buyer and, if applicable, the Former Supplier, within 6 months of the Start Date.

2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Subcontractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under applicable Law.

**3. Indemnities the Supplier must give and its obligations**

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer and/or the Former Supplier against any Employee Liabilities arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:

(a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or

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- (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

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- 3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
  - 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
  - 3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

**4. Information the Supplier must give**

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and any Subcontractor in writing such information as is

necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

## **5. Cabinet Office requirements**

5.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

5.1.2 Old Fair Deal; and/or

5.1.3 The New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

## **6. Limits on the Former Supplier's obligations**

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## **7. Pensions**

7.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with:

7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; ; and

7.1.2 Part D: Pensions (and its Annexes) to this Schedule.

## **PART C: NO STAFF TRANSFER ON THE START DATE**

### **1. What happens if there is a staff transfer**

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 If any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, notify the Former Supplier in writing; and
  - 1.2.2 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Supplier or the Subcontractor (as appropriate) or take such other reasonable steps as the Buyer or Former Supplier (as the case may be) it considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Buyer and/or the Former Supplier), the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the 15 Working Day period referred to in Paragraph 1.2.2:
  - 1.4.1 no such offer of employment has been made;
  - 1.4.2 such offer has been made but not accepted; or
  - 1.4.3 the situation has not otherwise been resolved;the Supplier may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 1.5 Subject to the Supplier and/or the relevant Subcontractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.8 the Buyer shall:
  - 1.5.1 indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4



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- provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and
- 1.5.2 procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.6 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.7 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.8 The indemnities in Paragraph 1.5:
- 1.8.1 shall not apply to:
- (a) any claim for:
- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
- 1.8.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any

Subcontractor to the Buyer and, if applicable, Former Supplier within 6 months of the Start Date.

- 1.9 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

## **2. Limits on the Former Supplier's obligations**

Where in this Part C the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## PART D: PENSIONS

### 1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes to this Part D:

<b>"Actuary"</b>	a Fellow of the Institute and Faculty of Actuaries;
<b>"Admission Agreement"</b>	either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement (as defined in Annex D3: LGPS), as the context requires;
<b>"Best Direction" Value</b>	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
<b>"Broadly Comparable"</b>	(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or
	(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department, and <b>"Broad Comparability"</b> shall be construed accordingly;
<b>"CSPS"</b>	the schemes as defined in Annex D1 to this Part D;
<b>"Direction Letter/Determination"</b>	has the meaning in Annex D2 to this Part D;
<b>"Fair Deal Eligible Employees"</b>	each of the CSPS Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include

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	any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D);
<b>"Fair Deal Employees"</b>	any of:
	(a) Transferring Buyer Employees;
	(b) Transferring Former Supplier Employees;
	(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C;
	(d) where the Supplier or a Subcontractor was the Former Supplier, the employees of the Supplier (or Subcontractor);
	who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Buyer;
<b>"Fund Actuary"</b>	a Fund Actuary as defined in Annex D3 to this Part D;
<b>"LGPS"</b>	the scheme as defined in Annex D3 to this Part D;
<b>"NHSPS"</b>	the schemes as defined in Annex D2 to this Part D;
<b>"Statutory Schemes"</b>	means the CSPA, NHSPS or LGPS.

**2. Supplier obligations to participate in the pension schemes**

2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.

2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/

Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

**2.3 The Supplier undertakes:**

2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/ Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a Subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

**3. Supplier obligation to provide information**

**3.1 The Supplier undertakes to the Buyer:**

3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and

3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed);

3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of the relevant Contract.

#### **4. Indemnities the Supplier must give**

4.1 The Supplier shall indemnify and keep indemnified CCS, the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;

4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;

4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

(a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract; or

(b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of the relevant Contract; and/or

4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

4.2 The indemnities in this Part D and its Annexes:

4.2.1 shall survive termination of the relevant Contract; and

4.2.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

#### **5. What happens if there is a dispute**

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Buyer and/or the Supplier or (ii) between their respective

actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer and/or the Supplier be referred to an independent Actuary:

- 5.1.1 who will act as an expert and not as an arbitrator;
  - 5.1.2 whose decision will be final and binding on the CCS and/or the Buyer and/or the Supplier; and
  - 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.
- 5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

## **6. Other people's rights**

- 6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

## **7. What happens if there is a breach of this Part D**

- 7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
  - 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

## **8. Transferring Fair Deal Employees**

- 8.1 Save on expiry or termination of the relevant Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of

employment) the Supplier shall or shall procure that any relevant Sub-contractor shall:

- 8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
- 8.1.2 consult with about, and inform those Fair Deal Eligible Employees of the pension provisions relating to that transfer; and
- 8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the **"New Employer"**) complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

## **9. What happens to pensions if this Contract ends**

- 9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of the relevant Contract.
- 9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

## **10. Broadly Comparable Pension Schemes on the Relevant Transfer Date**

- 10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2 Such Broadly Comparable pension scheme must be:
  - 10.2.1 established by the Relevant Transfer Date;
  - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;



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- 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
  - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 10.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
  - 10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and
  - 10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the

previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

- 10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract:

- 10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with paragraph 10.3.3 but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and
- 10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

## **11. Broadly Comparable Pension Scheme in Other Circumstances**

- 11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2 Such Broadly Comparable pension scheme must be:
- 11.2.1 established by the date of cessation of participation in the Statutory Scheme;
  - 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);
  - 11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 11.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
  - 11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with

- the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and
- 11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or

the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

## **12. Right of Set-off**

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under the relevant Contract an amount equal to:

12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or

12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under the relevant Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

## Annex D1:

### Civil Service Pensions Schemes (CSPS)

#### 1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"CSPS Admission Agreement"</b>	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
<b>"CSPS Eligible Employee"</b>	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
<b>"CSPS Fair Deal Employee"</b>	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
<b>"CSPS"</b>	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

#### 2. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance

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with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.

- 2.2 If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of paragraph 11 of Part D.

## Annex D2: NHS Pension Schemes

### 1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<p><b>"Direction Letter/Determination"</b></p>	<p>an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Fair Deal Employees;</p>
<p><b>"NHS Broadly Comparable Employees"</b></p>	<p>each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <ul style="list-style-type: none"> <li>(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or</li> <li>(b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),</li> </ul> <p>but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are</p>



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	Broadly Comparable to those provided under the NHSPS.
<b>"NHSPS Eligible Employees"</b>	any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.
<b>"NHSPS Fair Deal Employees"</b>	other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:
	(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
	(b) their employment with a Former Supplier who provides access to the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),
	and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).
	For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/Determination or other NHSPS "access" facility but who has never been employed directly by the Buyer, an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Fair Deal Employee;

<b>"NHS Body"</b>	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
<b>"NHS Pensions"</b>	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
<b>"NHSPS"</b>	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;
<b>"NHS Pension Scheme Regulations"</b>	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
<b>"NHS Premature Retirement Rights"</b>	rights to which any NHS Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
<b>"Pension Benefits"</b>	any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme.

## **2. Membership of the NHS Pension Scheme**

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.
- 2.2 Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Supplier must ensure that:
  - (a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
  - (b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Subcontractors (if any) will) Subcontractor provide any guarantee, bond or indemnity required by NHS Pensions in relation to a Direction Letter/Determination.

### **3. Continuation of early retirement rights after transfer**

- 3.1 From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

### **4. NHS Broadly Comparable Employees**

- 4.1 The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

### **5. What the buyer can do if the Supplier breaches its pension obligations**

- 5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractor) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.
- 5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer to offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of paragraph 11 of Part D.

### **6. Compensation when pension scheme access can't be provided**

- 6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:
- 6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or
  - 6.1.2 a Broadly Comparable pension scheme,
- the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.

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- 6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract.

**7. Indemnities that a Supplier must give**

- 7.1 The Supplier must indemnify and keep indemnified the CCS, the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

## Annex D3:

### Local Government Pension Schemes (LGPS)

#### 1. Definitions

In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"2013 Regulations"</b>	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
<b>"Administering Buyer"</b>	in relation to the Fund [insert name], the relevant Administering Buyer of that Fund for the purposes of the 2013 Regulations;
<b>"Fund Actuary"</b>	the actuary to a Fund appointed by the Administering Buyer of that Fund;
<b>"Fund"</b>	[insert name], a pension fund within the LGPS;
<b>"Initial Contribution Rate"</b>	[XX %] of pensionable pay (as defined in the 2013 Regulations);]
<b>"LGPS"</b>	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
<b>"LGPS Admission Agreement"</b>	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
<b>"LGPS Admission Body"</b>	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
<b>"LGPS Eligible Employees"</b>	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement;
<b>"LGPS Fair Deal Employees"</b>	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; ;

<b>"LGPS Regulations"</b>	the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.
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## **2. Supplier to become an LGPS Admission Body**

- 2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.
- 2.2 Any LGPS Fair Deal Employees who:
- 2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and
  - 2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.
- 2.3 The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Buyer in relation to an LGPS Admission Agreement.

## **3. Broadly Comparable Scheme**

- 3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with paragraph 2.1 because the Administering Buyer will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of paragraph 10 of Part D.

- 3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of paragraph 11 of Part D.

#### **4. Discretionary Benefits**

Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

#### **5. LGPS RISK SHARING**

- 5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of the relevant Contract the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the “Excess Amount”) shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of the relevant Contract, the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the “Refund Amount”) where:
- A = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
- B = the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
- 5.3 Subject to paragraphs 5.4 to 5.10, where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by



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the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.

**5.4 The Supplier and any Subcontractors shall at all times be responsible for the following costs:**

- 5.4.1 any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
- 5.4.2 any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
- 5.4.3 any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
- 5.4.4 any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
- 5.4.5 any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
- 5.4.6 any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);
- 5.4.7 to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;
- 5.4.8 any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Buyer under Regulation 70 of the 2013 Regulations;

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- 5.4.9 the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
  - 5.4.10 any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the **"Exit Credit"**), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
  - 5.7.1 of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
  - 5.7.2 of being informed by the Administering Buyer of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under paragraph 5.7 above, the Buyer shall either:
  - 5.8.1 notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
  - 5.8.2 request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
  - 5.8.3 request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the

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amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.

- 5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.
- 5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12 This paragraph 5 shall survive termination of the relevant Contract.

## **Annex D4: Other Schemes**

- Not used.

## Part E: Staff Transfer on Exit

### 1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
  - 1.1.3 the date which is 12 Months before the end of the Term; and
  - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),
- it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of the Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

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- 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Staff (including pensions and any payments connected with the termination of employment);
- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;

and shall promptly notify, and procure that each Subcontractor shall promptly notify, the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or relevant Subcontractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer such information as the Buyer may reasonably require relating to the manner in which the Services are organised, which shall include:
  - 1.6.1 the numbers of employees engaged in providing the Services;
  - 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
  - 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
  - 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer

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Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
- 1.7.2 details of cumulative pay for tax and pension purposes;
- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

**2. Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of the relevant Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Buyer and the Supplier agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including)

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the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
- 2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring on or before the Service Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
  - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and



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- (b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
  - 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
  - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
  - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
  - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

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- 2.5 If any person who is not identified in the Supplier's Final Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing; and
  - 2.5.2 the Supplier may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor.
- 2.6 If such offer of is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, Buyer shall procure that the Replacement Supplier shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release the person from his/her employment or alleged employment;
- 2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer has been made:
  - 2.7.2 such offer has been made but not accepted; or
  - 2.7.3 the situation has not otherwise been resolved
- the Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor (as appropriate) that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person;
- 2.8 Subject to the Replacement Supplier's and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 and in accordance with all applicable proper employment procedures set out in applicable Law and subject to Paragraph 2.9 below, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
- 2.9.1 shall not apply to:
    - (a) any claim for:
      - (i) discrimination, including on the grounds of sex, race, disability, age, gender

reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

In any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor, or

- (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Subcontractor to the Supplier within 6 months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.

2.11 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

(b) the Supplier and/or any Subcontractor; and

(c) the Replacement Supplier and/or the Replacement Subcontractor.

2.12 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The

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Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

2.13.1 any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;

2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:

(a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or

(b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

2.13.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the

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- Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
- 2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

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- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

## Order Schedule 3 (Continuous Improvement)

### 1. Buyer's Rights

- 1.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.

### 2. Supplier's Obligations

- 2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
  - 2.3.1 identifying the emergence of relevant new and evolving technologies;
  - 2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 2.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 2.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.

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- 2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 2.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
- 2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
  - 2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.12 At any time during the Contract Period of the Order Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.



**Order Schedule 5 (Pricing Details)**

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**Order Schedule 5 (Pricing Details)**

<REDACTED>

## **Order Schedule 7 (Key Supplier Staff)**

- 1.1 The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and

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- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## **Annex 1- Key Roles**

<REDACTED>

# Order Schedule 8 (Business Continuity and Disaster Recovery)

## 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"BCDR Plan"</b>	has the meaning given to it in Paragraph 2.2 of this Schedule;
<b>"Business Continuity Plan"</b>	has the meaning given to it in Paragraph 2.3.2 of this Schedule;
<b>"Disaster Recovery Deliverables"</b>	the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>"Disaster Recovery Plan"</b>	has the meaning given to it in Paragraph 2.3.3 of this Schedule;
<b>"Disaster Recovery System"</b>	the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>"Related Supplier"</b>	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
<b>"Review Report"</b>	has the meaning given to it in Paragraph 6.2 of this Schedule; and
<b>"Supplier's Proposals"</b>	has the meaning given to it in Paragraph 6.3 of this Schedule;

## 2. BCDR Plan

- 2.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 2.2 At least ninety (90) Working Days after the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "BCDR Plan"), which shall detail the processes and arrangements that the Supplier shall follow to:

- 2.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
  - 2.2.2 the recovery of the Deliverables in the event of a Disaster
- 2.3 The BCDR Plan shall be divided into three sections:
  - 2.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
  - 2.3.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
  - 2.3.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").
- 2.4 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

### 3. General Principles of the BCDR Plan (Section 1)

- 3.1 Section 1 of the BCDR Plan shall:
  - 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
  - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
  - 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
  - 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
  - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
  - 3.1.6 contain a risk analysis, including:
    - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
    - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;

- (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - (d) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
  - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

#### **4. Business Continuity (Section 2)**

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:

- 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
  - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
  - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

## **5. Disaster Recovery (Section 3)**

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
  - 5.2.1 loss of access to the Buyer Premises;
  - 5.2.2 loss of utilities to the Buyer Premises;
  - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
  - 5.2.4 loss of a Subcontractor;
  - 5.2.5 emergency notification and escalation process;
  - 5.2.6 contact lists;
  - 5.2.7 staff training and awareness;
  - 5.2.8 BCDR Plan testing;
  - 5.2.9 post implementation review process;
  - 5.2.10 any applicable Performance Indicators with respect to the provision of the disaster recovery services and details of any agreed relaxation



to the Performance Indicators or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;

5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.2.13 testing and management arrangements.

## 6. Review and changing the BCDR Plan

6.1 The Supplier shall review the BCDR Plan:

6.1.1 on a regular basis and as a minimum once every six (6) Months;

6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and

6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.

6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a **"Review Report"**) setting out the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.

6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its

submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## **7. Testing the BCDR Plan**

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
  - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

## **8. Invoking the BCDR Plan**

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

## **9. Circumstances beyond your control**

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## Order Schedule 9 (Security)

### Part A: Short Form Security Requirements

#### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Breach of Security"**

the occurrence of:

- a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;

**"Security Management Plan"**

the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time;

#### 2. Complying with security requirements and updates to them

- 2.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

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- 2.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.3 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.5 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

**3. Security Standards**

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
  - 3.2.1 is in accordance with the Law and this Contract;
  - 3.2.2 as a minimum demonstrates Good Industry Practice;
  - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

## **4. Security Management Plan**

### **4.1 Introduction**

- 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

### **4.2 Content of the Security Management Plan**

- 4.2.1 The Security Management Plan shall:

- (a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- (b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and

- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

#### **4.3 Development of the Security Management Plan**

- 4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

#### **4.4 Amendment of the Security Management Plan**

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
  - (a) emerging changes in Good Industry Practice;
  - (b) any change or proposed change to the Deliverables and/or associated processes;
  - (c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;

- (d) any new perceived or changed security threats; and
  - (e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:
  - (a) suggested improvements to the effectiveness of the Security Management Plan;
  - (b) updates to the risk assessments; and
  - (c) suggested improvements in measuring the effectiveness of controls.
- 4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **5. Security breach**

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:
  - 5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:
    - (a) minimise the extent of actual or potential harm caused by any Breach of Security;
    - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
    - (c) prevent an equivalent breach in the future exploiting the same cause failure; and



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- (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

## Order Schedule 10 (Exit Management)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the DPS Application or Order Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
<b>"Registers"</b>	the register and configuration database referred to in Paragraph 2.2 of this Schedule;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;

<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of this Schedule;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

## 2. Supplier must always be prepared for contract exit

- 2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
  - 2.2 During the Contract Period, the Supplier shall promptly:
    - 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
    - 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables
- ("Registers").**

**2.3 The Supplier shall:**

2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and

2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

**3. Assisting re-competition for Deliverables**

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

**4. Exit Plan**

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

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- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
  - 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
  - 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
  - 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
  - 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
  - 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
  - 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
  - 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
  - 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
  - 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 The Supplier shall:
- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
    - (a) every six (6) months throughout the Contract Period; and
    - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
    - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;

- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## **5. Termination Assistance**

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
  - 5.1.1 the nature of the Termination Assistance required; and
  - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.3 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
  - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
  - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
  - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
  - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
  - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 vacate any Buyer Premises;
  - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely

responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## **8. Assets, Sub-contracts and Software**

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or

8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

8.2.2 which, if any, of:

- (a) the Exclusive Assets that are not Transferable Assets; and
- (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),



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in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
  - 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
  - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
  - 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
  - 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other

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people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

**9. No charges**

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

**10. Dividing the bills**

- 10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## Order Schedule 14 (Service Levels)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Order Form;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Credit Cap"</b>	has the meaning given to it in the Order Form;
<b>"Service Level Failure"</b>	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
<b>"Service Level Performance Measure"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
<b>"Service Level Threshold"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

### 2. What happens if you don't meet the Service Levels

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:
- 2.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or

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### 2.4.2 the Service Level Failure:

- (a) exceeds the relevant Service Level Threshold;
- (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
- (c) results in the corruption or loss of any Government Data; and/or
- (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or

### 2.4.3 the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (CCS and Buyer Termination Rights).

## 2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

### 2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;

### 2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and

### 2.5.3 there is no change to the Service Credit Cap.

## 3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

### 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

### 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

## **Part A: Service Levels and Service Credits**

### **1. Service Levels**

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any Service Level Performance Measure; or

1.2 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

### **2. Service Credits**

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

## Annex A to Part A: Services Levels & Service Credits Table

The Buyer will measure the quality of the Supplier's delivery using the following key performance indicators (KPIs).

KPI	Service Area	Description	Service Level
1	EHS response	Achieve an average of 4,250 EHS interview surveys a quarter over every two quarters of a survey year.	<ul style="list-style-type: none"> <li>• Good = 4,250 or more,</li> <li>• Approaching Good = 4,160 to 4,249</li> <li>• Requires Improvement = 4,150 to 4,159</li> <li>• Inadequate = fewer than 4,150</li> </ul>
2	EHS innovations	Apply findings from the development work so that at least 13,600 of the achieved number of interview surveys will be carried out on the telephone or online by the end of 2024-25.	<ul style="list-style-type: none"> <li>• Good = 13,600 or more, Approaching Good = 10,000-13,599,</li> <li>• Requires Improvement = 8,500-9,999,</li> <li>• Inadequate = below 8,500</li> </ul>
3	EPLS response	Achieved sample of 10,000 or more responses from landlords and agents per wave of survey	<ul style="list-style-type: none"> <li>• Good = 10,000 or more; Approaching good = 9,000 or more;</li> <li>• Requires improvement = 8,000 or more;</li> <li>• Inadequate = fewer than 8,000</li> </ul>
4	Delivery of EHS data and annual reports	Number of analysis datasets and the final draft of the reports delivered by the scheduled or, where applicable, the revised delivery date.	<ul style="list-style-type: none"> <li>• Good = all;</li> <li>• Approaching Good = 1 delivery in a quarter missed the scheduled or revised date;</li> <li>• Requires Improvement = 2 deliveries in a quarter missed the scheduled or revised date;</li> <li>• Inadequate = 3 or more deliveries in a quarter missed the scheduled or revised date</li> </ul>
5	Social value	In accordance with the Guide to Using the Social Value Model <sup>1</sup> . the Buyer and Supplier will agree relevant and proportionate social value KPIs related to the Social Value Themes and Policy Areas set out in Section 10 of the Statement of Requirements. The KPIs will use the standardised Reporting Metrics specified in the Social Value Model Quick Reference Table <sup>2</sup> .	To be agreed within the first quarter of the Contract period. The targets will be relevant and proportionate to the subject matter of the Contract.

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/940827/Guide-to-using-the-Social-Value-Model-Edn-1.1-3-Dec-20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940827/Guide-to-using-the-Social-Value-Model-Edn-1.1-3-Dec-20.pdf)

<sup>2</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf)

**Order Schedule 14 (Service Levels)**

Order Ref: CPD4120156

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The table below provides an overview of the Service Credits regime.

**Service Level Criterion: Response To The English Housing Survey**

Key Indicator	Service Level Performance Measure	Service Level Threshold	Service Level Threshold	Service Credits per interview not achieved per band			
				Year 1 (Service Credit calculated as 20% of unit cost of interview for Band 1 / 40% for Band 2 / increasing incrementally to 100% of unit cost per interview for Band 5)	Year 2 (Same calculation as Year 1. Unit cost higher due to indexation)	Year 3 (Same calculation as Years 1 & 2. Unit cost higher due to indexation)	Year 4 (Same calculation as Years 1-3. Unit cost calculated as an average of face-to-face; telephone and online surveys)
Number of interview surveys achieved at the end of each fieldwork year	At least 16,950 interview surveys achieved at the end of each fieldwork year.	When the number of interview surveys achieved at the end of each fieldwork year falls below 16,195 as a shortfall to that extent would negatively affect the EHS' ability to produce reliable regional findings.	The Buyer will accrue Service Credits per interview survey not achieved at the end of each survey year. The number of interviews not achieved will be grouped into the following bands:				
			5. 16,450 to 16,549 (401st to 500th interview short of 16,950)	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			4. 16,550 to 16,649 (301st to 400th interview short of 16,950)	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			3. 16,650 to 16,749 (201st to 300th interview short of 16,950)	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			2. 16,750 to 16,849 (101st to 200th interviews short of 16,950)	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			1. 16,850 to 16,949 (1st 100 interviews short of 16,950)	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			0. 16,950 to 17,000	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>

*The Buyer will not accrue Service Credits when the Supplier has achieved the number of interviews covered in Band 0. The Service Credits per interview will increase progressively up the bands. For example, if the Supplier delivers 102 interviews short of 16.950, the service credits amount to (<REDACTED>\*100)+(<REDACTED>\*2) = <REDACTED>.*

**Order Schedule 14 (Service Levels)**

Order Ref: CPD4120156

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**Service Level Criterion: Data Delivery**

Key Indicator	Service Level Performance Measure	Service Level Threshold	Service Level Threshold	Service Credits for each day late. <i>As the Buyer cannot accommodate a delay of more than 10 working days from the agreed delivery date, anything delivered later than that is deemed a Critical Service Level failure.</i>			
				Year 1 (Service Credit calculated from weekly service credit agreed for Contract 2, uplifted to 2022 prices. Service Credit doubles each day until Day 10.)	Year 2 (will use same calculation as Year 1, uplifted to account for indexation)	Year 3 (will use same calculation as Years 1 & 2, uplifted to account for indexation)	Year 4 (will use same calculation as Years 1-3, uplifted to account for indexation)
Delivery of the data files required for the Headline Report	Quality assured data files delivered by all the dates agreed between the Buyer and the Supplier (the agreed delivery date) to the timetable agreed at the end of January.	When any of the data files required for the Headline Report is late by six working days from the agreed delivery date.	The Buyer will accrue Service Credits if the Supplier is late in delivering any data file required for the Headline Report by the following days from the agreed delivery date:				
			7th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			8th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			9th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			10th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>

*Service credits would be applied once to the whole data delivery process not separately for each datafile.*

*Service credits apply to final data deliveries only, not interim deliveries.*

*The credits listed are mutually exclusive, not cumulative.*

*Quality assured data files delivered by all the dates agreed between the Buyer and the Supplier (the agreed delivery date) to the timetable agreed at the end of January - and assuming late delivery is not due to delays in supplier inputs to the delivery.*



**Order Schedule 14 (Service Levels)**

Order Ref: CPD4120156

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**Service Level Criterion: Analysis and Reporting**

Key Indicator	Service Level Performance Measure	Service Level Threshold	Service Level Threshold	Service Credits for each day late. <i>As the Buyer cannot accommodate a delay of more than 10 working days from the agreed delivery date, anything delivered later than that is deemed a Critical Service Level failure.</i>			
				Year 1 (Service Credit calculated from weekly service credit agreed for Contract 2, uplifted to 2022 prices. Service Credit doubles each day until Day 10.)	Year 2 (will use same calculation as Year 1, uplifted to account for indexation)	Year 3 (will use same calculation as Years 1 & 2, uplifted to account for indexation)	Year 4 (will use same calculation as Years 1-3, uplifted to account for indexation)
Delivery of the final draft of the annual reports and fact sheets	The final drafts of all the annual reports and fact sheets delivered on or before the agreed delivery date (which is four weeks before the publication date).	When at least one annual report or fact sheet is late by six working days from the agreed delivery date.	The Buyer will accrue Service Credits if the Supplier is late in delivering any annual report or fact sheet by the following days from the agreed delivery date:				
			7th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			8th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			9th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>
			10th working day	<REDACTED>	<REDACTED>	<REDACTED>	<REDACTED>

*Service credits would be applied once to the whole reporting process not separately for each report.*

*Service credits apply to final reports only, not interim deliveries.*

*The credits listed are mutually exclusive, not cumulative.*

*Quality assured reports delivered by all the dates agreed between the Buyer and the Supplier (the agreed delivery date) to the timetable agreed at the end of January - and assuming late delivery is not due to delays in supplier inputs to the delivery.*

## Part B: Performance Monitoring

### 3. Performance Monitoring and Performance Review

- 3.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 3.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 3.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
  - 3.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
  - 3.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
  - 3.2.3 details of any Critical Service Level Failures;
  - 3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 3.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
  - 3.2.6 such other details as the Buyer may reasonably require from time to time.
- 3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
  - 3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
  - 3.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
  - 3.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

**Order Schedule 14 (Service Levels)**

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- 3.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 3.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

**4. Satisfaction Surveys**

- 4.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

## Order Schedule 15 (Order Contract Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Operational Board"</b>	the board established in accordance with paragraph 2.1 of this Schedule;
<b>"Project Manager"</b>	the manager appointed in accordance with paragraph 2.1 of this Schedule;

### 2. Project Management

2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.

2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### 3. Role of the Supplier Contract Manager

3.1 The Supplier's Contract Manager shall be:

- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
- 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be the delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
- 3.1.3 able to cancel any delegation and recommence the position himself; and
- 3.1.4 replaced only after the Buyer has received notification of the proposed change.

3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

## **Order Schedule 15 (Order Contract Management)**

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- 3.3 Receipt of communication from the Supplier's Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

### **4. Role of the Operational Board**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

### **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Order Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
- 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Order Contract which the Buyer and the Supplier have identified.

## **Annex: Contract Boards**

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

- Weekly progress meetings to be held between the Buyer and Supplier Contract Managers to discuss all operational matters - except reporting;
- Weekly progress meetings held during February to June each year between the Buyer's Head of English Housing Survey and the Supplier's Research Directors to discuss reporting;
- Monthly meetings on high level progress issues to be held between the Buyer's Head of English Housing Survey/Contract Manager and the Suppliers' Research Director and overall Project Director.
- Quarterly progress meetings attended by members of the Buyer's project team, the Supplier and all of the key sub-contractors.

## **Order Schedule 20 (Order Specification)**

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Order Contract

**Attached as:**

Order Schedule 20. Statement of Requirements v6.1

Order Schedule 20. Annex A to Statement of Requirements <REACTED>



Department for Levelling Up,  
Housing & Communities

## **Statement of Requirements**

Contract Reference: CPD4120156

Provision of English Housing Survey and Associated Research

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OFFICIAL



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## OFFICIAL

# **1. PURPOSE**

- 1.1 The Department for Levelling Up, Housing and Communities (DLUHC), herein referred to as the “Customer” requires a Supplier to deliver the 2022-23 to 2025-26 English Housing Surveys and associated research.
- 1.2 The English Housing Survey (EHS) is DLUHC’s flagship survey of people’s housing circumstances and the condition and energy efficiency of homes in England. It provides evidence to support many government and departmental priorities, including home ownership; the Social Housing White Paper; renters reform; building safety; levelling up; net zero; fuel poverty (BEIS); fire safety (Home Office); and race disparity (Cabinet Office). It has National Statistics status and is one of the longest running government surveys (it was first run in 1967).
- 1.3 The EHS is a study composed of a core survey and several associated components. The core survey consists of a face-to-face interview survey and a physical inspection of the home of a sample of the respondents to the interview survey. The associated components for this contract include: two surveys of private landlords; a study to assess the market value of homes in England; and the production of local level modelled statistics on housing quality, dwelling condition and energy efficiency.

# **2. BACKGROUND TO THE CUSTOMER**

- 2.1 DLUHC supports communities across the country to thrive, making them great places to live and work.
- 2.2 We are at the heart of the government’s agenda to level up all parts of the country, and the national and local response to the coronavirus (COVID-19) pandemic.
- 2.3 Our work includes investing in local areas to drive growth and jobs, delivering the homes our country needs, supporting our community and faith groups, and overseeing the local government, planning and building safety systems.
- 2.4 We have four priority outcomes:
  - 2.4.1 Raise productivity and empower places so that everyone across the country can benefit from levelling up (cross-cutting outcome with the following contributing government departments: Departments for Business, Energy and Industrial Strategy; Education; Transport; Work and Pension; Culture, Media and Sports; Environment, Food and Rural Affairs; International Trade)
  - 2.4.2 More, better quality, safer, greener and more affordable homes

- 2.4.3 End rough sleeping through more effective prevention and crisis intervention services, and reduce homelessness by enabling local authorities to fully meet their statutory duties (cross-cutting outcome with the following contributing government departments: Departments for Education; Work and Pensions; Department of Health and Social Care; Home Office; and Ministry of Justice)
  - 2.4.4 A sustainable and resilient local government sector that delivers priority services and empowers communities
- 2.5 More details about DLUHC's priorities can be found in the outcome delivery plan: <https://www.gov.uk/government/publications/ministry-of-housing-communities-and-local-government-outcome-delivery-plan>.

### **3. BACKGROUND TO THE REQUIREMENT**

- 3.1 The EHS, as we know it now, was launched in April 2008 bringing together two former housing surveys – the English House Condition Survey and the Survey of English Housing. A key objective of the survey is to monitor change over time. While this limits the scope for any changes to the methodology, which might undermine consistency and continuity, the COVID-19 pandemic has forced methodological changes upon the EHS (e.g., when interviewers and surveyors were unable to go into people's homes). The Customer is keen to learn from these changes to ensure that the EHS is flexible and fit for the future. The approach to deliver the outputs for this Contract are not expected to replicate what has been carried out in the past. The Customer encourages the Supplier to mobilise their expertise and proven track record fully in implementing innovation in the delivery of the services.
- 3.2 The Customer requires the Contract to:
  - 3.2.1 develop and implement innovations to future-proof the EHS survey;
  - 3.2.2 improve the EHS' veracity and efficacy;
  - 3.2.3 enhance consistency, accessibility and timeliness of statistical outputs on housing and stock condition by increasing the number of associated components and improving the co-ordination of the components;
  - 3.2.4 secure wider social, economic and environmental benefits.
- 3.3 The key indicators of the success of the Contract are:
  - 3.3.1 An enhanced core EHS which is larger in terms of the achieved sample size and collects a wider range of data with improvements to or no compromise on the current level of statistical rigour, coverage and bias.

- 3.3.2 Year-on-year improvement to the methodology and/or process of the core EHS, moving the survey away from a strictly face-to-face methodology and offering respondents choice in how they would like to take part in the interview survey (e.g. on the telephone, face-to-face or self-completion online) and the physical inspection (e.g. with a surveyor in the home or via an app-based physical survey where the respondent uses an app to show various aspects of the dwelling to an off-site surveyor using a video link). It is the Customer's view that this will widen the appeal of the survey, increase response among groups currently under-represented in face-to-face surveys and bring cost savings.
- 3.3.3 An increase in the range and accessibility of associated research and enhancement to their consistency with each other.
- 3.3.4 Engender wider social, economic or environmental benefits.

## 4. DEFINITIONS

Expression or Acronym	Definition
DPS	Means Dynamic Purchase System
EHS	means English Housing Survey
EPLS	means English Private Landlord Survey
MVS	means Market Value Survey
QA	means quality assurance
TDP	means Tenancy Deposit Protection
The Customer / DLUHC	Means the Department for Levelling Up, Housing and Communities
The Supplier	means the organisation DLUHC is contracting with, including any subcontractors, partner organisations or consortium members

## 5. THE REQUIREMENT

- 5.1 The Customer requires a Supplier to deliver the 2022-23 to 2025-26 English Housing Surveys. The Contract will initially cover three survey years (2022-23 to 2024-25), with the option to extend the Contract to cover an additional survey year (2025-26) in accordance with the provisions of set out in the Call-Off Contract. Any extension will be subject to the Supplier successfully meeting the Service Levels set out in DPS Order Schedule 14 – Service Levels.
- 5.2 In addition to the core English Housing Survey, the Supplier will also be required, over the course of the Contract, to deliver:
- 5.2.1 two English Private Landlord Surveys;
  - 5.2.2 one Market Value Survey;
  - 5.2.3 a methodology to produce local level modelled statistics on housing quality and dwelling condition, produce the first release of those statistics and train analysts in DLUHC to produce the statistics going forward; and
  - 5.2.4 the Social Value and sustainability elements described in Section 10.
- 5.3 The Customer has structured the Contract in this way to enable the Supplier time to invest in the development of systems and staff resources to build up a body of expertise over the Contract period. It is expected that this will bring benefits in terms of cost efficiencies, response rates and data quality. The Supplier shall also be required to demonstrate Continuous Improvement in accordance with DPS Order Schedule 3 – Continuous Improvement
- 5.4 The Supplier may meet the Contract's objectives through either subcontracting, partnering or consortium arrangements. The Supplier and any of its subcontractors, partner organisations or consortium members making a significant contribution to the survey process will be required to work in a flexible way with the Customer's project team to deliver a quality and timely end product. Project management arrangements are set out in Section 7 of this Statement of Requirements.
- 5.5 The Customer requires the Supplier to be responsible for the full process and submit a plan for delivering the components covered in the remainder of this Statement of Requirements. The Customer is keen to ensure that the EHS is flexible and fit for the future. The approach to deliver the outputs for this Contract are not expected to replicate what has been carried out in the past.
- 5.6 Funding for the Contract is subject to any spending review/approvals and the Customer reserves the right to amend the scope and/or duration of the Contract in accordance the provisions of clause 24 of the CCS Core Terms (Changing The Contract)and/or clause 10 of the CCS Core Terms (Ending the Contract) to meet the available funding.

## English Housing Survey

- 5.7 The Supplier is required to run the English Housing Survey for three fieldwork years (plus a fourth year if the Customer decides to take up that option) to an agreed timetable and budget, ensuring effective co-ordination and quality control between the survey components. Fieldwork is expected to start as near to the start of July 2022.
- 5.8 As a National Statistics series, the survey must continue to be run to high professional standards and be fully compliant with the Code of Practice for Statistics<sup>1</sup>. The Office of Statistics Regulation reviews the survey methodology and dissemination processes periodically and it is essential that the Customer, in collaboration with the Supplier, can clearly demonstrate the survey's statistical integrity. The requirements of the EHS are set out in four groups in the remainder of this section: operational requirements and expected outputs; documentation requirements; methodology requirements and innovations.

### English Housing Survey, operational requirements and expected outputs

- 5.9 The Supplier must deliver 17,000 household interviews with a median length of 50 minutes and 8,000 physical surveys of properties with a median length of 70 minutes each year (7,740 occupied dwellings and 260 vacant dwellings). (The median length of the household interview assumes face-to-face data collection with no data linking.)
- 5.10 The Supplier select a probability sample which is unclustered when any two years of survey data are combined. The Customer has proposed this design to enable robust analysis of key populations of interest (e.g., low income private renters, regional analysis, residents of high-rise flats).
- 5.11 The Supplier will be responsible for the processes below. The Supplier will design and implement an efficient survey process which ensures the quality of the survey data but minimises costs of data collection and processing as well as to develop and implement innovations designed to future-proof the EHS and improve its veracity and efficacy.
- 5.11.1 **Sampling** - Determine the detailed sampling strategy in agreement with the Customer, set up the sampling frame, draw the sample for each of the component surveys and ensure that each sampled address is tracked through all survey stages in each year.

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<sup>1</sup> <https://code.statisticsauthority.gov.uk/>

- 5.11.2 **Weighting** - Record all necessary information required for the calculation of weighting variables; carry out non-response/non-contact analysis; calculate appropriate weights for the accurate weighting of results to agree national and regional control totals for both dwellings and households.
- 5.11.3 **Fieldwork** - Organise the survey to maximise survey response and minimise non-response bias and missing data in order to enable the EHS to produce unbiased statistics which conform to the level of statistical precision and rigour expected of a National Statistics series. The Supplier must achieve a response rate of at least 50% in the course of delivering the target number of household interviews (17,000) and physical surveys of properties (8,000, including 260 vacant dwellings) each year.
- 5.11.4 **Recruit the field force** – The Supplier will be responsible for all aspects of the recruitment of the Interviewers and physical surveyors, including all the contractual arrangements and carrying out Disclosure and Barring Service ( DBS ) checks on the applicants. Applicants with unspent conviction for fraud, violence, theft, child abuse in any form cannot work on the EHS.
- 5.11.5 **Manage the field force** - Manage the interviewers and physical surveyors and design/administer their training, ensuring that both groups of field workers are trained to a high standard before they begin working on the English Housing Survey. It is expected that the model for training interviewers and physical surveyors described in the EHS Technical Report (web link at 5.16) will be retained although further efficiencies will be sought wherever practicable.
- 5.11.6 **Data capture software** - Program the data capture instruments required for the interview survey and physical inspection and document the data capture process. The household interview survey includes “core” topics and a system of rotating modules. The core topics generally remain in the survey from one year to the next while the rotating modules appear on the survey from time to time. A few changes to questions in the core topics should be expected each year. The Customer will discuss this with the Supplier at the earliest opportunity. The content of the physical survey is expected to remain largely unchanged, save for minor updates to reflect technological changes in building materials or energy efficiency methods. Design and run the automated data collection systems required to upload data collected in the field onto the system for processing the data downstream of data collection.

- 5.11.7 **Data checks** - Validate the data using a series of consistency and plausibility checks, to ensure that the data bases delivered to the Customer are consistent, complete, contain accurate information within acceptable limits and in the format specified by the Customer. The Supplier will need to carry out the checks between separate components within the interview survey or physical inspection as well as between the interview survey and physical inspection. The Supplier also needs to demonstrate the validation process through documentary evidence.
- 5.11.8 **Derived variables production** - Set up and run a series of programs and models to generate derived measures/variables post-fieldwork similar in scale and range to the items listed in the derived variable documentation (web link at 5.16). Some of those variables will require a range of data items from the interview survey and physical inspection in combination.
- 5.11.9 **Reporting** - Produce, for each EHS carried out in the Contract, 6-8 topical reports and fact sheets (together with supporting annex tables) and update the time series Live Tables for publication on gov.uk. The Customer's reporting and dissemination strategy is reviewed annually, and the Supplier will be required to work flexibly with the Customer in meeting this element of the requirement. The Customer wishes to make topical reports and fact sheets from each survey available as early as possible after the publication of the Headline Report (produced in-house by the Customer). Reporting is expected to follow the current timetable with the topical reports, fact sheets and Live Tables published seven months after the publication of the Headline Report. Thus, the topical reports, fact sheets and Live Tables of the 2022-23 EHS will be published in July 2024.
- 5.11.10 **Data set production** - Produce quality assured clean analysis datasets of both the interview and physical surveys, including the derived variables, for each year of the survey. Some files will also be required on a two year rolling basis. Each database will comprise several separate data files ready for immediate use with the software package IBM SPSS Statistics and delivered electronically. Given the current developments in data analysis and presentation/dashboard software, it is possible that the Customer may require the Supplier to deliver the datasets in a format compatible with programming languages or software such as R, SQL or Power BI. The Customer will give the Supplier written notice of any changes in the format of the delivered data eight months before the delivery for the first dataset in the new format. Data must be delivered securely, in a manner that complies with UK GDPR (e.g., via secure File Transfer Portal). Delivery of the datasets to the agreed timetable is essential for the production of the headline and topical reports, fact sheets and Live Tables.



- 5.11.11 **Data archiving** - Produce a version of the analysis datasets and user documentation for the Customer to deposit at the UK Data Archive (or similar data depository). The delivery of a more disclosive file containing Postcodes and Census Lower Super Output Area codes for sending to the Archive's Secure Data Service will also be required. The archive version of the datasets should be compliant with the Government Statistical Service data disclosure guidance in place at the time of the creation of the datasets.
- 5.11.12 **Management data** - Deliver management data files containing all the key information relating to the progress and outcomes of each of the surveys carried out in the Contract. The management datasets should contain all the relevant information necessary for survey accountability, database management, weighting, and any follow up surveys outside of the EHS contract. The Customer also requires the Supplier to compile and deliver address files on all the cases selected for each year of the survey.
- 5.11.13 **Analytical support** - Provide ad hoc analytical support for the Customer on a call-off basis. This might include, for example, developing new derived variables, analysis beyond the scope of the annual reports and fact sheets, or exploring new operational or analysis opportunities or innovations. (see Section 8 for details on the type and volume of the support required).
- 5.11.14 **Technical support** - Provide expert technical support to the Customer in a flexible and collaborative way in the development, conduct and analysis of the EHS, including the physical survey. This will require a comprehensive understanding of the full range of technical and professional issues relating to the successful conduct of a national level household and stock condition survey.
- 5.11.15 **Progress reporting** - Provide the Customer with regular updates on all stages of survey progress and work with them in optimising the survey process.

## English Housing Survey, documentation requirements

5.12 The documentation requirements for the Supplier are as follows:

5.12.1 Fieldwork progress reports are required weekly during the fieldwork period to keep the Customer's contract manager up to date on response rates for all stages of fieldwork. Each month, the Supplier will also need to provide a dashboard summarising progress against the Key Performance and other indicators (e.g., response rates, number of achieved surveys etc.).

5.12.2 An annual technical report covering the interview and physical surveys describing the survey methodology and outlining any changes from the previous year. It will also include a set of standard errors for a subset of key variables and will follow much the same format as the current Technical Report (see web link at 5.16).

5.12.3 Full, indexed documentation of the interview survey, showing question wording, routing, variable names, value labels and file location for each variable. This needs to be readily useable and navigable by the Customer's analysts and be updated annually to show all changes on a cumulative basis. The Customer would welcome views from the Supplier on how to simplify the current documentation (see web link at 5.16).

5.12.4 Reference and instruction manuals made available to the interviewers and physical surveyors.

5.12.5 Documentation for the physical survey in the form of an annotated questionnaire showing the variable names assigned to each question on the form.

5.12.6 A data dictionary containing information on all the derived variables in the datasets delivered to the Customer (see web link at 5.16).

5.13 The Supplier must provide copies of the following programs, syntax scripts and documentation in a format compatible with the Customer's IT system and analysis platform.

5.13.1 The main computer assisted personal interviewing programs (and equivalent for web or telephone based interviews) developed specifically for the EHS each year.

5.13.2 The annual weighting programs (and documentation).

5.13.3 Any syntax set up to create derived variables with properly annotated comments to explain the underpinning logic.

- 5.13.4 Any bespoke models developed under this contract to create complex derived measures for analysis. This includes those used to generate complex stock related measures described in the Technical Report (web link at 5.16).
- 5.13.5 Any syntax for producing the annex tables of each year's topical reports and fact sheets and for updating each year's Live Tables. The syntax should contain properly annotated comments to explain the underpinning logic.

## **English Housing Survey, methodological requirements**

- 5.14 No significant changes to the probability sample design or weighting methodology are envisaged and maintaining a consistent approach will be an important consideration. Full documentation on the EHS sampling and weighting processes as well as the syntax will be available to the Supplier. The Supplier is, however, encouraged to put forward alternative approaches if they consider improvements can be made.
- 5.15 The data collection methodology comprises a household interview using computer-assisted interviewing followed by a separate physical inspection of the property for a subset of these cases, including a sample of properties found to be vacant by the interviewer. The Customer expects that the current inter-face between the interview and surveys will be largely retained. This approach was developed on the working assumption that interviewers are better placed to deliver a high response rate in the critical first contact with householders. The Customer has also assumed that some form of automatic appointment system, as used on the current EHS, whereby interviewers make a timed appointment for a surveyor's visit, will continue since it has proved operationally successful.

- 5.16 The Supplier must familiarise themselves with the publicly available information provided in the table below and the material provided in Annex A [REDACTED]. Those documents contain all the information needed to understand the full EHS process and content.

Technical Report	<a href="https://www.gov.uk/government/collections/english-housing-survey-technical-advice#technical-reports">https://www.gov.uk/government/collections/english-housing-survey-technical-advice#technical-reports</a>
Questionnaire and Physical Survey Documentation	<a href="https://www.gov.uk/government/publications/english-housing-survey-2019-to-2020-questionnaire-and-physical-survey-form">https://www.gov.uk/government/publications/english-housing-survey-2019-to-2020-questionnaire-and-physical-survey-form</a>
Derived variable documentation	<a href="http://doc.ukdataservice.ac.uk/doc/8669/mrdoc/pdf/8669_dictionary_of_derived_variables_15and16.pdf">http://doc.ukdataservice.ac.uk/doc/8669/mrdoc/pdf/8669_dictionary_of_derived_variables_15and16.pdf</a>
Headline and Topic Reports	<a href="https://www.gov.uk/government/collections/english-housing-survey#2019-to-2020">https://www.gov.uk/government/collections/english-housing-survey#2019-to-2020</a>
Time series data tables (Live Tables)	<a href="https://www.gov.uk/government/collections/english-housing-survey-live-tables">https://www.gov.uk/government/collections/english-housing-survey-live-tables</a>
Quality Report	<a href="https://www.gov.uk/government/collections/english-housing-survey-technical-advice#quality-report">https://www.gov.uk/government/collections/english-housing-survey-technical-advice#quality-report</a>
Methodology Reports	<a href="https://www.gov.uk/government/collections/english-housing-survey-technical-advice#methodology-reports">https://www.gov.uk/government/collections/english-housing-survey-technical-advice#methodology-reports</a>

- 5.17 Copies of the programs, including the computer-assisted interview program written in Blaise and the digitised version of the physical survey form, syntax and models used in the current contract will be available with supporting documentation to the Supplier for ongoing use on the EHS where appropriate.

## English Housing Survey, innovation requirements

- 5.18 The Supplier is required to comply with DPS Order Schedule 3 (Continuous Improvement). The Customer requires the Supplier to innovate throughout the Contract so that, by the third year of the Contract at the latest, the survey will begin to move away from a strictly face-to-face methodology and offer respondents a choice in how they would like to take part in the interview survey (e.g. on the telephone, face-to-face or self-completion online) and the physical survey (e.g. with a surveyor in the home or via an app-based physical survey where the respondent uses an app to show various aspects of the dwelling to an off-site surveyor using a video link).
- 5.19 The Customer is currently trialling a web-based design of the EHS for self-completion online and an app-based physical survey. The methodology of the trial is available in Annex A [REDACTED]. Findings from the trial and any associated documentation/programmes will be shared with the Supplier as soon as they are available.

- 5.20 The median length of the interview survey, excluding the time for the interviewer to gain consent to the physical survey or to carry out administration tasks is currently 37 minutes. The current median length of the physical survey is about 70 minutes. The Customer intends to enlarge the scope of the interview survey to capture the widened remit of DLUHC. The Customer expects that this would increase the median length of the interview to 50 minutes assuming that the interview is carried out face-to-face with no data linking. In accordance with its continuous aim to develop in line with the latest data innovations, the Supplier may propose applying innovations such as data matching (e.g., of data on income or mortgages) and other design features to its data collection approach to reduce the length of the interview and/or physical survey while maintaining the scope of the data collected. The Customer welcomes innovative approaches, to be implemented in compliance with DPS Order Schedule 3 (Continuous Improvement), even if they need testing and will not be able to be implemented in the first year of the Contract.
- 5.21 Physical survey data are currently collected using a digital pen and paper printed with the Anoto Pattern designed to be used with a digital pen. While this works well, this may not be best long-term solution given technological developments. The Customer is receptive to the introduction of new cost effective data capture technology for the physical survey if it can deliver data of comparable quality to the current method based on using digital pens. In 2018, the Customer commissioned the current EHS supplier to explore whether a tablet PC can be used instead of a digital pen. The results of this review are available at Annex A [REDACTED]. In summary, the review found that it would be possible to move to a tablet PC with little impact on data quality, but that there were costs associated with changing mode. The Supplier will need to explain how they will account for and cover those costs as part of its approach. As any new technology would need to be fully field tested before introduction, the Customer expects that the digital pen technology will continue to be used for at least the first year of the Contract. The current data capture equipment and all associated software will be available to the Supplier.
- 5.22 A high level timetable for introducing innovations onto EHS is as follows. The Customer welcomes proposals for an earlier introduction of any of the innovations. Suppliers proposing an earlier launch of an innovation must support their proposal with evidence on the feasibility and implement it in accordance with DPS Order Schedule 3 (Continuous Improvement).
- 2022-23: Deliver development work on mixed-mode data collection and, if proposed, tablet PC (building on work currently underway or completed) and explore data linking and other design options as a way of shortening the length of the questionnaire while maintaining the scope of the data collected and/or improving data accuracy). Data collection on the EHS is to be carried out using the current methodology, i.e., face-to-face in-home interview and on-site physical survey of the interior and exterior of the dwelling.

- 2023-24: Develop and implement testing of mixed-mode data collection and data linking. Based on this testing, the Customer will decide on the design of the mixed-mode approach and data linking to be undertaken from Year 3. Data collection on the EHS is to be carried out using the current methodology, i.e., face-to-face in-home interview and on-site physical survey of the interior and exterior of the dwelling.
- 2024-25: Deliver phased introduction of the innovations subject to the development work carried out between 2021-22 and 2023-24 to enable data collection of 13,600 of the 17,000 interview surveys to be carried out on the telephone or online.
- 2025-26: Implement all innovations found to be feasible based on the development work carried out between 2021-22 and 2023-24 and establish new survey format.

## The English Private Landlord Survey

- 5.23 Two English Private Landlord Surveys (EPLS) are also required to be delivered by the Supplier under the Contract. The EPLS is a national online survey of about 10,000 landlords and letting agents who own and/or manage privately rented properties in England.
- 5.24 The EPLS methodology will largely mirror the methodology used in the 2018 and 2021 (currently in the field) surveys and, in preparing their approach, the Supplier should familiarise themselves with the following, publicly available information:

Technical Report	<a href="https://www.gov.uk/government/publications/english-private-landlord-survey-2018-technical-report">https://www.gov.uk/government/publications/english-private-landlord-survey-2018-technical-report</a>
Questionnaire	<a href="https://www.gov.uk/government/publications/english-private-landlord-survey-2018-questionnaire">https://www.gov.uk/government/publications/english-private-landlord-survey-2018-questionnaire</a>
Reports	<a href="https://www.gov.uk/government/publications/english-private-landlord-survey-2018-main-report">https://www.gov.uk/government/publications/english-private-landlord-survey-2018-main-report</a>

- 5.25 The EPLS is currently categorised as Official Statistics and, as such, the survey will be expected to adhere to high standards set out in the Code of Practice for Statistics<sup>2</sup>.

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<sup>2</sup> <https://code.statisticsauthority.gov.uk/>

- 5.26 The EPLS sample is drawn from landlords and letting agents registered with one of the three government-backed Tenancy Deposit Protection (TDP) schemes in England. The Supplier will design the sampling methodology and generate a representative sample of landlords and agents using the TDP data as a sample frame. The Supplier should draw a sufficient sample to aim for an achieved sample of 10,000 responses.
- 5.27 The Supplier will assist with questionnaire development, including ensuring questions are worded in the best possible way to respond to main research questions, and cognitive testing of new and key questions, to ensure that the questionnaire is understandable and will deliver robust and sensible data.
- 5.28 As the EPLS is an online survey, the Supplier will program the survey such that responses are secure and only those chosen for the sample will be able to complete it. The online survey should offer help screens where necessary and should be properly routed. Links to the survey should be delivered to the Customer in advance of fieldwork so they are able to test it, make suggestions, and sign off.
- 5.29 The Supplier will analyse the survey data, produce tables on key descriptive statistics for publication, and write a Headline Report to specification, which includes an infographic page, along with graphs and charts within the report. Where relevant, the Supplier will compare descriptive statistics from this wave of data to that in the previous (2018) survey and test the significance of any apparent changes. Annex tables will be delivered alongside the Headline report. The Supplier will draft a Technical report which details the methodology of the sampling, survey, QA and analysis.
- 5.30 The Supplier will create derived variables to specification, quality assure the resulting dataset, and design several survey weights that will scale up survey responses to the population of the TDP landlords and agents, and the population of deposits within the TPD data. Datasets for each year of survey will be delivered to the Customer for further analysis and publications. A dataset will also be made public by way of deposit on the UK Data Archive or similar, and a separate dataset appropriate for publication (i.e., controlling for any potential disclosure and ensuring any verbatim responses are coded and removed) must be supplied.
- 5.31 Alongside the dataset, the Supplier will produce fully indexed documentation for the interview survey, showing questionnaire wording, routing, variable names and value labels for each variable as well as a dictionary of the derived variables.
- 5.32 The Supplier shall be required to consider continuous improvement proposals fully in accordance with DPS Order Schedule 3 (Continuous Improvement).

## Market Value Survey

- 5.33 One Market Value Survey (MVS) is also required to be delivered by the Supplier under the Contract. The MVS is a desk-based exercise undertaken to provide valuations on the dwellings included in the physical inspections component of two consecutive years of the EHS. The valuations will be carried out by trained valuation experts using physical inspection data collected on the EHS. The Supplier will provide two valuations for each dwelling, assuming vacant possession: the value based on the condition of the dwelling as recorded on the EHS; and the value assuming all defects have been rectified. The Supplier will carry out the Market Value Survey in 2023 using data from the 2018-19 and 2019-20 EHS.
- 5.34 The MVS was last run in 2015. It is expected that the 2023 survey will follow much the same format. As such, the Supplier must read the technical report from the 2015 survey to inform their approach: [http://doc.ukdataservice.ac.uk/doc/8068/mrdoc/pdf/8068\\_mvs\\_technical\\_report\\_2015.pdf](http://doc.ukdataservice.ac.uk/doc/8068/mrdoc/pdf/8068_mvs_technical_report_2015.pdf)
- 5.35 The key outputs for the MVS will be a dataset containing the valuations (in a format which can be linked to the main EHS data) and a technical report describing the survey methodology. It is expected that the technical report will cover much the same material as the 2015 technical report (see link above). To support the delivery of continuous improvement, the technical report will contain recommendations for improving the MVS going forward.
- 5.36 The Supplier shall ensure that they provide the required valuation expertise to deliver the MVS and shall demonstrate this through its supply chain arrangements.

## Local level modelled statistics on housing quality, dwelling condition and energy efficiency

- 5.37 The Supplier will develop statistical modelling using EHS and other data to produce Local Authority level modelled statistics on housing quality, dwelling condition and energy efficiency.
- 5.38 The modelled statistics will be produced once over the course of the Contract. The Customer's intention is that once the modelling methodology is established, and first year's figures have been published, the Customer's analysts will apply the methodology to produce subsequent estimates on an annual basis. It is therefore crucial that the Supplier delivers training and development to enable this, and the provision of clear documentation which enables the modelling to be reproduced.
- 5.39 The Supplier will produce data tables containing the following information for each Local Authority in England:
- 5.39.1 Number and proportion of decent/non-decent homes;
  - 5.39.2 Number and proportion of homes with a Housing Health and Safety Rating System (HHSRS) Category 1 Hazard; and



- 5.39.3 Mean Standard Assessment Procedure (SAP) Rating or Energy Efficiency Rating (EER) Band of the homes and the number and proportion of homes in each of the EER Bands.
- 5.40 The Supplier will provide tables by tenure and dwelling type. The purpose of these tables is to provide the Customer and each Local Authority with a summary of the quality, condition and energy efficiency of their housing stock.
- 5.41 The outputs for the modelling will include:
- 5.41.1 Statistical tables for all local authorities in England;
  - 5.41.2 Syntax/code of modelling in a format that will enable the work to be reproduced for future years;
  - 5.41.3 A technical report on the modelling methodology with sufficient details and presented in a format that will enable the Customer's analysts to reproduce the modelling going forward; and
  - 5.41.4 Training of the Customer's analysts to enable them to run the modelling independently.
- 5.42 The estimates to be produced will need to be in line with the outcome of the review of the Decent Homes Standard and the Housing Health and Safety Rating System (HHSRS) as well as the version of the Standard Assessment Procedure (SAP) revised to align with the final version Building Regulations Part L<sup>3,4</sup>.
- 5.43 The Customer aims to publish the first modelled estimates as early as possible. The outcome of the Decent Homes Standard and HHSRS Reviews and the version of SAP aligned to the forthcoming Building Regulation Part L are due to emerge in Summer, October and Summer 2022 respectively; the modelled statistics may, therefore, need to be produced and published in stages. As the Customer's analysts will be responsible for producing the estimates from the second year, the training of the Customer's analysts may also need to take place in stages.
- 5.44 The Supplier will develop the Local Authority level modelling in collaboration with the Customer's analysts. This strand of work will be supported by a technical group of experts and analysts separate from the main EHS (e.g., from the Office for National Statistics), who will be able to advise on/facilitate access to data sources. The group will also provide challenge and scrutiny.
- 5.45 To support the delivery of continuous improvement, the technical report will contain recommendations for improving the modelling going forward.

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<sup>3</sup> <https://www.gov.uk/guidance/decent-homes-standard-review>

<sup>4</sup> <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-outcomes-of-the-scoping-review/outcomes-of-report-on-housing-health-and-safety-rating-system-hhsrs-scoping-review>

## **6. KEY MILETONES AND DELIVERABLES**

- 6.1 The Supplier will meet the key milestones and deliverables, as set out in this section. Full details on the approach to delivery must be set out in the Supplier's Project Implementation Plan. The Supplier must provide a timetable for all stages of the work with delivery dates for all the outputs listed below for each EHS survey year and for the other strands of work (i.e., the MVS, EPLS and Local Authority level stock modelling). The Supplier will demonstrate how they will ensure these key delivery targets are met and ensure that time is built into the timetable for development and innovation. Each strand of work must be timetabled separately. In the event of the same members of the project team delivering multiple strands of work, this should be reflected and clearly accounted for in the timetable and resource plan.
- 6.2 The priority is the timely delivery of the EHS, with fieldwork starting as near to the start of July 2022 as possible, and the early delivery of the local level modelling. The Supplier must therefore mobilise following the commencement of the Contract and be ready to commence fieldwork as near to the start of July as possible. There is flexibility on the other strands of work within the broad timelines outline above, and the timetable must allow sufficient time for the methodology to be developed, tested and quality assured, and for projects to be properly set up.
- 6.3 The Customer will provide the Supplier with programs and documentation related to the delivering the current EHS. The Supplier must engage directly with the incumbent Supplier in order to deliver a smooth transition. The incumbent Supplier will be available to answer specific queries raised by the Supplier. In the event that the Supplier requires further support from the incumbent Supplier, this must be managed independently of the Customer.
- 6.4 The milestones of the EHS and the associated projects are set out below.

Milestone or deliverable	Timeframe or delivery date				
	2022-23	2023-24	2024-25	2025-26	2026-27
EHS -fieldwork	July 2022 to March 2023	April 2023 to March 2024	April 2024 to March 2025	April 2025 to March 2026	
EHS - innovation development	July 2022 – March 2026				
EHS - launch innovations			From April 2024		
EHS –delivery of raw data, weights and derived variables required for the headline report		Mid July – end October 2023	Mid July – end October 2024	Mid July – end October 2025	Mid July – end October 2026
EHS - delivery of remaining derived variables		November 2023 – mid February 2024	November 2024 – mid February 2025	November 2025 – mid February 2026	November 2026 – mid February 2027
EHS - annual reporting		January – June 2024	January – June 2025	January – June 2026	January – June 2027
EHS - delivery of data for the UK Data Archive		April – August 2024	April – August 2025	April – August 2026	April – August 2027
English Private Landlords Survey		April 2023 to March 2024		April 2025 to March 2026	
Market Value Survey		April 2023 to March 2024			
Local level modelled statistics	October 2022- March 2023				
Implement exit plan				From April 2025 to end of contract	

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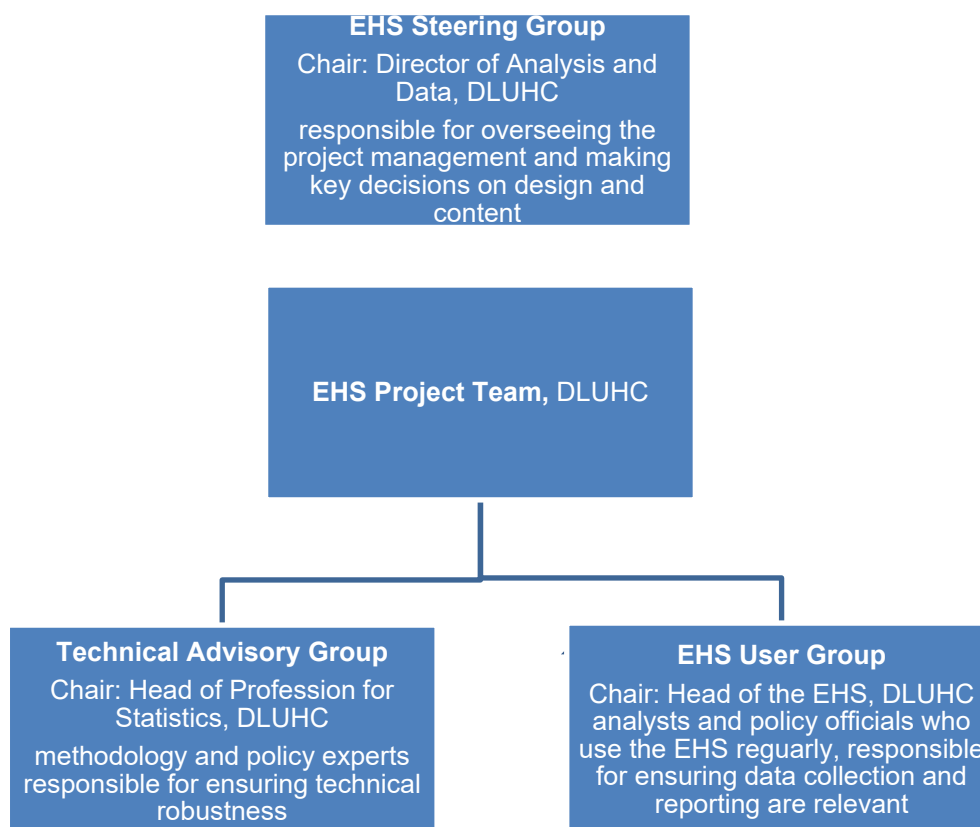
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## **7. MANAGEMENT INFORMATION/REPORTING**

- 7.1 The Customer will have a dedicated Contract Manager, responsible for ensuring all strands of work are delivered on time and to the required standard by the Supplier. The Supplier will be required to:
- 7.1.1 Attend weekly catch ups with the Contract Manager to discuss progress and plan short and medium term actions.
  - 7.1.2 Provide weekly reports on the number of interviews and physical surveys achieved during the fieldwork period to keep the Customer up to date on response rates for all stages of fieldwork.
  - 7.1.3 Deliver a monthly progress dashboard showing: response rate against targets; milestones achieved; key issues and actions; forward look into priorities and timelines; and overall risk rating.
  - 7.1.4 Attend monthly meetings between the Intelligent Customer Team (the EHS contract manager, the Head of the EHS and, when applicable, project lead/s of the MVS, ELPS and local level modelling) and contractor-side research director and project lead to review the progress, discuss high level matters, including the reporting and monitoring on financial distress', continuous improvement initiatives and review the risk register.
  - 7.1.5 Attend quarterly project management meeting attended by the full Customer and Supplier-side teams to review progress, discuss and plan actions, and review risks. The Customer welcomes the introduction of other new ways of working. The Customer and the Supplier will discuss all aspects of improvement during the quarterly Contract meetings as well as ad hoc meetings organised to review the annual reports and other key deliverables or processes. Progress against the Key Performance Indicators (KPIs) set out in Section 14, Quality Assurance Check Points (Annex A) [REDACTED] and social value commitments will be reviewed quarterly, and issues will be raised at this meeting.

7.1.6 Risks will be regularly reviewed and updated as necessary. The Customer will address risks to performance and/or performance issues through discussion with the Supplier at the monitoring and reporting points above and in accordance with the Rectification provisions of the Contract. If appropriate and warranted, the Customer will withhold payment to the Supplier in accordance with clause 3.3.7 of the CCS Core Terms and Conditions.

7.2 The Contract will be supported by wider governance, as set out below.



## 8. VOLUMES

8.1 The output volumes the Customer expects the Supplier to deliver are as follow.

### 8.1.1 English Housing Survey

Outputs	Volume	Change compared with the current or most recent contract
Productive household interviews	17,000 a year	Increase of 3,700 interviews
Median length of the household interview excluding the time for the interviewer to gain consent to the physical survey or to carry out administration tasks	50 minutes (assuming face-to-face data collection with no data linking); the Customer welcomes the introduction of innovations such as data matching and other design features to reduce the length of the questionnaire while maintaining the scope of the data collected	Increase of 13 minutes
Productive physical surveys	8,000 a year (7,740 occupied dwellings and 260 vacant dwellings)	Increase of 1,800 dwellings (1,740 occupied dwellings and 60 vacant dwellings)
Median length of the physical survey	70 minutes, the Customer welcomes the introduction of innovations such as data matching and other design features to reduce the length of the physical survey while maintaining the scope of the data collected	No change
Weights and complex variables derived from the checked and edited version of the raw data	7 weights and 480 derived variables a year made available in a format compatible with DLUHC's IT system and analysis platform	No change

Checked and edited version of the raw and derived variable datasets. Given the wide scope of the EHS, the Customer expects the Supplier to group the raw and derived data items into several thematic datasets.	Each year's household data are currently supplied in just over 40 thematic raw datasets and 3 derived variables datasets. Each year's physical data are currently supplied in 54 thematic raw datasets and 17 derived variables datasets. The dataset needs to be in a format compatible with DLUHC's IT system and analysis platform	No change
A version of the checked and edited raw and derived variable datasets processed in line with the guidance on disclosure control issued by the Government Statistical Service at the time of processing for delivery to the UK Data Archive.	The household data are currently supplied in about 20 thematic raw datasets and 5 derived variables datasets. The physical data are currently supplied in 44 thematic raw datasets and 12 derived variables datasets. The Supplier also provides a dataset containing the Postcode and the Census Lower Super Output Area code of achieved sample. The datasets need to be in a format compatible with the IT system and analysis platform of the UK Data Archive and DLUHC	No change
Annual reports and factsheets	<p>A combination of 6-8 reports and fact sheets in total a year.</p> <p>Key report features:</p> <ul style="list-style-type: none"> <li>• 20 A4 pages of commentary, charts and figures</li> <li>• 1 A4 page of infographics with captions</li> <li>• annex tables in electronic format</li> </ul> <p>Key factsheet features:</p> <ul style="list-style-type: none"> <li>• 2 A4 pages of infographics with captions</li> <li>• annex tables in electronic format</li> </ul>	No change

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Annual update of the live tables	145 tables made available in a format compatible with DLUHC's IT system and analysis platform	No change
Syntax/codes for recreating the analyses for producing the annual reports, factsheets and Live Tables	All the syntax/code required for reproducing the analyses in a format compatible with DLUHC's IT system and analysis platform	No change
Technical report	The Customer expects the report to include details about: sampling; data collection instruments; fieldwork process; survey response; data processing; weighting; description of sampling errors; and sampling errors of about 20 key variables by tenure with design factors and 95% confidence intervals.	No change
Call-off analytical support	230 days, about 70% at consultant/senior researcher and below and 30% at principal consultant/research director and above	No change

### 8.1.2 English Private Landlord Survey

Outputs	Volume	Change compared with the current or most recent contract
Productive surveys	10,000 per survey year	Increase of approximately 1,500 on 2018 results. Same as target for 2021 survey.
Average length of the online survey	Less than 20 minutes per landlord survey; less than 15 minutes per agent survey	No change
Weights and complex variables derived from the checked and edited version of the raw data	Six weights per survey (scaled and gross weights for landlords, registrants and tenancies); 40 derived variables per survey	No change

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Checked and edited version of the raw and derived variable datasets.	One dataset per survey wave made available in a format compatible with DLUHC's IT system and analysis platform	No change
A version of the checked and edited raw and derived variable datasets processed in line with the guidance on disclosure control issued by the Government Statistical Service at the time of processing for delivery to the UK Data Archive.	One dataset per survey wave made available in a format compatible with the IT system and analysis platform of the UK Data Archive and DLUHC	No change
Substantive report(s)	One headline report per wave of the survey	No change
Syntax/codes for recreating the analyses for producing the substantive reports	If applicable, all the syntax/code required for reproducing the analyses in a format compatible with DLUHC's IT system and analysis platform	No change
Technical report	One technical report per wave of the survey	No change

### 8.1.3 Market Value Survey

Outputs	Volume	Change compared with the current or most recent contract
Dwelling valuations	Two valuations on each of the 12,286 dwellings in scope	No change
Checked and edited version of the dataset containing the valuations and other data items required for analysis	One dataset in a format compatible with DLUHC's IT system and analysis platform containing the valuations and about 50 other data items used in the valuation and required to analysing the data.	No change

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A version of the checked and edited dataset processed in line with the guidance on disclosure control issued by the Government Statistical Service at the time of processing for delivery to the UK Data Archive.	One dataset in a format compatible with DLUHC's IT system and analysis platform containing the valuations and about 50 other data items used in the valuation and required to analysing the data.	No change
Technical report	One technical report containing sufficient details and recommendations to enable the survey to be replicated with, if applicable, lessons learnt.	No change

#### 8.1.4 Local level modelled statistics on housing quality and dwelling condition

Outputs	Volume	Change compared with the current or most recent contract
Modelled estimates	<p>The modelled data items listed in below for each of the local authorities included in the Local Authority Housing Data Collection published on Gov.uk<sup>5</sup>:</p> <ul style="list-style-type: none"> <li>• number and proportion of decent/non-decent homes;</li> <li>• number and proportion of homes with a Housing Health and Safety Rating System (HHSRS) Category 1 Hazard; and</li> <li>• Mean Energy Efficiency (EER) or Standard Assessment Procedure (SAP) rating of the homes and the number and proportion of homes in each of the EER Bands.</li> </ul>	Not applicable

<sup>5</sup> <https://www.gov.uk/government/collections/local-authority-housing-data>

Checked and edited dataset of the modelled estimates	One dataset in a format compatible with DLUHC's IT system and analysis platform.	Not applicable
Syntax/code for the modelling	All the syntax/code required for reproducing the modelling made available in a format compatible with DLUHC's IT system and analysis platform.	Not applicable
Technical report	One technical report containing sufficient details and recommendations to enable the work to be replicated with, if applicable, lessons learnt.	Not applicable
Training for DLUHC analysts	At least one session containing sufficient details and documentation to enable DLUHC analysts to produce the modelled estimates using the DLUHC's analysis platform for future years.	Not applicable

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## 9. CONTINUOUS IMPROVEMENT

- 9.1 The Supplier will be required to continue to improve the way in which the required Services are to be delivered throughout the Contract duration. The Suppliers obligations are set out in this Statement of Requirements and in DPS Order Schedule 3 (Continuous Improvement)

## 10. SOCIAL VALUE, SUSTAINABILITY AND OTHER POLICY CONSIDERATIONS

- 10.1 The Customer will apply the 'Public Services (Social Value) Act 2012' to secure wider social, economic and environmental benefits from the Contract. Of the social value policy themes set out the Quick Reference Table<sup>6</sup>, the Customer considers the following policy areas as the most relevant to the EHS contract and the Supplier will be required to deliver social benefits related to them under the Contract:

### 10.1.1 Theme 2: Tackling economic inequality

Policy area 2.1: Entrepreneurship, growth and business creation

- Understanding of the level of Small, Medium and Large organisations and Voluntary, Community and Social Enterprises and Mutual participation in the contract supply chain.
- Identification of opportunities to grow supplier diversity in the contract supply chain or in the location/community where the contract is performed, including SME and VCSE participation and new business creation.
- Engagement activities for potential new suppliers to the contract supply chain, prior to awarding subcontracts.  
Illustrative examples: advertising upcoming opportunities in accessible media; raising awareness of future opportunities to target audiences; meet the buyer events; awareness raising by guidance or events of how to tender effectively for public supply chain contracts.

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<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf)

- Measures to make the supply chain working environment conducive to a diverse range of suppliers and growing businesses, including but not limited to:
  - structuring the supply chain selection process in a way that ensures fairness (e.g., anti-corruption) and encourages participation by new and growing businesses.
  - advertising supply chain opportunities openly and to ensure they are accessible to new and growing businesses, including advertising subcontracting opportunities on Contracts Finder.
  - ensuring accessibility for disabled business owners and employees.
  - prompt payment.

#### Policy area 2.2: Employment

- Understanding of employment and skills issues, and of the skills and employment shortages of high growth sectors relating to the contract.
- Implementation of recruitment practices and employment conditions, such as the five foundational principles of quality work set out in the Good Work Plan.
- Creation of employment opportunities particularly for those who face barriers to employment.
- Promotion of awareness of careers and recruitment opportunities relating to known skills shortages or in high growth sectors relating to the subject matter of the contract.
- Support for the contract workforce by providing career advice and providing opportunities for staff working on the contract with in-work progression career development into known skills shortages or high growth areas.
- Offer of opportunities for work experience or similar activities under the contract.

### Policy area 2.3: Education and training

- Understanding of employment and skills issues, and of the education and training issues relating to the contract.
- Support for educational attainment relevant to the contract, including training schemes that address skills gaps and result in recognised qualifications.
- Activities to support relevant sector related skills growth and sustainability in the contract workforce.
- Delivery of apprenticeships, traineeships and T Level industry placement opportunities (Level 2, 3 and 4+) in relation to the contract.

### 10.1.2 Theme 3: Fighting Climate Change

#### Policy area 4.2: Influence environmental protection and improvement

- Understanding of how to influence staff, suppliers, customers, communities and/or any other appropriate stakeholders through the delivery of the contract to support environmental protection and improvement.
- Activities to reconnect people with the environment and increase awareness of ways to protect and enhance it.

10.2 The Supplier must include a timed project plan and process, including how the commitment will be implemented and by when. The Supplier will monitor, measure and report on the commitments/the impact of their proposals. The Supplier should include but not be limited to: a timed action plan; metrics tools/processes used to gather data; reporting feedback; and improvement transparency.

10.3 In addition to delivery social value, the Supplier must demonstrate the action to be taken to identify and manage the risks of modern slavery in the delivery of the Contract, including within the supply chain. This must be maintained throughout the duration of the Contract term.

## **11. QUALITY**

- 11.1 The EHS involves a high level of inter-dependencies between the survey components. Delays in one area could have serious repercussions on progress in other areas of the survey. The Supplier is required to put in place contingency/back up plans for dealing with unexpected events, for example, loss of key personnel through sickness or resignation; delays in starting or completing fieldwork; unexpected data quality issues; failure of subcontractors; IT failures etc. The Customer will, in particular, wish to see contingency plans in place to ensure the fieldwork can start as agreed in 2022 and that key delivery dates are safeguarded.
- 11.2 Effective quality control procedures are vital to secure the high quality results required by the Customer and to meet the following quality standards:
  - 11.2.1 EHS outputs: standards set for National Statistics and ISO20252, ISO9001 (or equivalent)
  - 11.2.2 English Private Landlord Survey outputs: standards set for Official Statistics and ISO20252, ISO9001 (or equivalent)
  - 11.2.3 Market Value Survey outputs: standards equivalent to the survey carried out in 2015 and ISO20252, ISO9001 (or equivalent)
  - 11.2.4 Local level modelling: ISO20252, ISO9001 (or equivalent)
- 11.3 The Supplier is required to assure that adequate procedures are in place to ensure the integrity of the data bases including the logging of sampling and fieldwork outcomes. Other issues would include, for example, ensuring that correct address details and data items are passed between different stages of the survey and between the projects included in the contract using security procedures and safeguards deemed to be the best practice at the time the work is carried out. As part of their approach, the Supplier must describe how they will quality assure the work and provide an outline quality plan to meet the strict contract management needs described.
- 11.4 The cyber security controls required will be in accordance with those set out in DPS Schedule 9.

## **12. PRICE**

- 12.1 Prices must be set out in the Price Schedule. They must exclude VAT and include all other expenses relating to Contract delivery.

## **13. STAFF AND CUSTOMER SERVICE**

- 13.1 The Supplier shall provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service.
- 13.2 The Supplier's staff assigned to the Contract shall have the relevant qualifications and experience to deliver the Contract to the required standard.
- 13.3 The Supplier shall ensure that staff understand the Customer's vision and objectives and will provide excellent customer service to the Customer throughout the duration of the Contract.
- 13.4 Running the EHS and the other projects included in the contract demands a high level of expertise across a range of disciplines covering research, statistics, surveying, sampling, administration and IT. The Supplier may use sub-contracting arrangements to provide the necessary range of expertise and resources. The Supplier must manage any such arrangements in accordance with all sub-contracting provisions set out in Joint Schedule 6 – Key Subcontractors.
- 13.5 The Supplier will be required to bring together a team with both a high level of managerial expertise and specific professional skills relevant to the different aspects of the surveys. These specific skills will include:
  - 13.5.1 an ability to plan and manage several inter-disciplinary activities to time and budget;
  - 13.5.2 an ability to work flexibly and responsively to address emerging requirements and issues;
  - 13.5.3 high level IT and data base management skills to develop appropriate survey management and validation processes;
  - 13.5.4 the ability to handle complex datasets and to ensure their integrity and consistency;
  - 13.5.5 statistical expertise to develop an appropriate sampling and weighting strategy;
  - 13.5.6 survey design skills (including use of computer assisted personal interviewing techniques) to set up the required survey instrument for the interview survey;
  - 13.5.7 the ability to train and manage a suitably skilled field force of interviewers effectively;
  - 13.5.8 the ability to train and manage a professional field force of surveyors effectively;
  - 13.5.9 the ability to bring innovative thinking to all aspects of the survey process;



- 13.5.10 high level analytical and report writing skills so that outputs suitable for end users with no in-depth knowledge of the survey like the reports referred to in 5.7 can be produced requiring minimum re-drafting by the Customer;
  - 13.5.11 a sound knowledge of issues relating to the condition and quality of the housing stock, including measuring energy efficiency;
  - 13.5.12 expertise in data modelling for implementing and running several bespoke models to derive secondary variables and modelled estimates for analysis; and
  - 13.5.13 a general understanding of the relationship between the findings of the survey and the Customer's priorities.
- 13.6 The Supplier shall ensure this range of expertise is provided on a consistent basis over the lifetime of the project and will have nominated staff who would:
- 13.6.1 have overall responsibility for the project management and would report to the main steering group; and
  - 13.6.2 have responsibility for each of the main project areas.

## **14. SERVICE LEVELS AND PERFORMANCE**

- 14.1 In line with the key indicators of the success outlined in Paragraph 3.3, the Customer will measure the quality of the Supplier's delivery by the key performance indicators (KPIs) set out in DPS Order Schedule 14 (Service Levels).
- 14.2 The Customer will apply the service credit regime to manage performance as set out in DPS Order Schedule 14 (Service Levels). The regime will focus on fieldwork performance and the delivery of EHS data/reports (the aspects of performance covered in KPIs 1 and 4). The Customer and Supplier will finalise the unit value of the Service Credits and the formula for calculating the credits details contract mobilisation. .
- 14.3 The Customer will review the service credit regime annually in parallel with its consideration of the Supplier's annual Continuous Improvement Plan to determine if any changes are necessitated. Any such changes shall be agreed with the Supplier in accordance with Clause 24 (Changing the Contract).
- 14.4 The Customer will also use Quality Indicators along the lines of the 55 Quality Assurance Check Points of the current contract (Annex A) [REDACTED] to monitor work at operational level.

## 15. EXIT MANAGEMENT

- 15.1 The Supplier must provide an Exit Plan and comply with the provisions for Exit Management as set out in DPS Order Schedule 10 (Exit Management)..
- 15.2 The Supplier's Exit Plan must set out a detailed strategy for exiting the Contract, including an exit which is brought about by poor performance or the need to break the Contract in due to the circumstances set out in Paragraph 5.6). In case the Customer were to have accrued Service Credits at the time of exit, the Exit Plan will set out the process for settling the final Service Credits due.

## 16. SECURITY AND CONFIDENTIALITY REQUIREMENTS

- 16.1 The Supplier, including any subcontractors, partner organisations or consortium members will be responsible for upholding the requirements of the following: Data Protection Act 2018; the UK General Data Protection Regulation (UK GDPR); Freedom of Information Act; Code of Practice for Statistics; National Statistician's Quality Review<sup>7</sup>, Office for National Statistics' Disclosure Control for Tables produced from surveys<sup>8</sup>; Office for National Statistics' Disclosure Control for Microdata produced from surveys<sup>9</sup>; and UK Statistics Authority's guidance on using the General Data Protection Regulation for statistical purposes<sup>10</sup>.
- 16.2 No information which could be used to identify individuals or companies is revealed to anyone except the Customer's research team or, with the agreement of the Customer, to another appointed contractor.
- 16.3 The Supplier, including any subcontractors, partner organisations or consortium members will be responsible for ensuring that all appropriate provisions and consents are in place to enable the Customer to deposit the data arising from this contract with the UK Data Archive. The Supplier, including any subcontractors, partner organisations or consortium members will also be responsible for checking the anonymised datasets for risk of disclosure and to take action to minimise the risk.

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<sup>7</sup><https://gss.civilservice.gov.uk/policy-store/privacy-and-data-confidentiality-methods-a-national-statisticians-quality-review-nsqr/>

<sup>8</sup><https://gss.civilservice.gov.uk/policy-store/gssgsr-disclosure-control-guidance-for-tables-produced-from-surveys/>

<sup>9</sup><https://gss.civilservice.gov.uk/policy-store/gssgsr-disclosure-control-guidance-for-microdata-produced-from-social-surveys/>

<sup>10</sup><https://gss.civilservice.gov.uk/policy-store/uk-statistics-authority-guidance-on-the-general-data-protection-regulation-gdpr/>

- 16.4 Respondents' address details may be used in subsequent stages of the survey and/or further data matching exercises. The Supplier, including any subcontractors, partner organisations or consortium members will be required to ensure these requirements can be met and that householders are advised of these proposed uses as appropriate and all necessary consent questions are in place to enable recontact.
- 16.5 All information provided or assembled in connection with the survey must be safeguarded at all times and returned to the Customer on completion of the project.

## **17. PAYMENT AND INVOICING**

- 17.1 Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.
- 17.2 Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.
- 17.3 Invoices should be submitted to: Department for Levelling Up, Housing and Communities, FSSD, High Trees, Hillfield Road, Hemel Hempstead, Herefordshire, HP2 4XN or by email to [clginvoices@communities.gov.uk](mailto:clginvoices@communities.gov.uk).
- 17.4 Invoices must quote the Customer's contract number and purchase order number (to be confirmed) and an appropriate description of work completed. Failure to do so may result in a delay in payment for which the Customer cannot be held responsible.
- 17.5 The Supplier may only invoice for work completed.
- 17.6 Invoices must also quote the Customer's vendor number. If the Supplier has not received a vendor number, the Supplier should complete a SAP7B form (available on request) and send it to the Customer's Commercial Representative.

## **18. CONTRACT MANAGEMENT**

- 18.1 Section 7 sets out the contract management interface and the documents for supporting that. Attendance at Contract Review meetings shall be at the Supplier's own expense.

## **19. LOCATION**

- 19.1 The Supplier will carry out the services required of each component of the work streams at the required or optimal location. For example, data collection of the EHS will be carried out in respondent's homes or, if applicable, on the telephone or online. Desk-based work will be carried out at an adequately equipped location meeting the security requirements of the contract.

## **20. LIST OF DOCUMENTS WITHIN ANNEX A [REDACTED]**

- 20.1 List of the quality assurance check points.
- 20.2 Results of the pilot to test the feasibility of using tablet PCs to capture the physical survey data.
- 20.3 Methodology work currently underway to assess the feasibility of an online self-completion EHS interview survey and an app-based physical survey.
- 20.4 2019 Surveyor Quality Study Report



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# Core Terms - DPS

## 1. Definitions used in the contract

Interpret this Contract using Joint Schedule 1 (Definitions).

## 2. How the contract works

- 2.1 The Supplier is eligible for the award of Order Contracts during the DPS Contract Period.
- 2.2 CCS does not guarantee the Supplier any exclusivity, quantity or value of work under the DPS Contract.
- 2.3 CCS has paid one penny to the Supplier legally to form the DPS Contract. The Supplier acknowledges this payment.
- 2.4 If the Buyer decides to buy Deliverables under the DPS Contract it must use DPS Schedule 7 (Order Procedure) and must state its requirements using DPS Schedule 6 (Order Form Template and Order Schedules). If allowed by the Regulations, the Buyer can:
- (a) make changes to DPS Schedule 6 (Order Form Template and Order Schedules);
  - (b) create new Order Schedules;
  - (c) exclude optional template Order Schedules; and/or
  - (d) use Special Terms in the Order Form to add or change terms.
- 2.5 Each Order Contract:
- (a) is a separate Contract from the DPS Contract;
  - (b) is between a Supplier and a Buyer;
  - (c) includes Core Terms, Schedules and any other changes or items in the completed Order Form; and
  - (d) survives the termination of the DPS Contract.
- 2.6 Where the Supplier is approached by any Other Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this DPS Contract before accepting their order.
- 2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.
- 2.8 The Supplier will not be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
- (a) verify the accuracy of the Due Diligence Information; or
  - (b) properly perform its own adequate checks.
- 2.9 CCS and the Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the

procurement of Deliverables are and remain true and accurate.

- 2.11 An Order Contract can only be created using the electronic procedures described in the FTS Notice as required by the Regulations.
- 2.12 A Supplier can only receive Orders under the DPS Contract while it meets the basic access requirements for the DPS stated in the FTS Notice. CCS can audit whether a Supplier meets the basic access requirements at any point during the DPS Contract Period.

## **3. What needs to be delivered**

### **3.1 All deliverables**

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the DPS Application and, in relation to an Order Contract, the Order Tender (if there is one);
- (b) to a professional standard;
- (c) using reasonable skill and care;
- (d) using Good Industry Practice;
- (e) using its own policies, processes and internal quality control measures as long as they do not conflict with the Contract;
- (f) on the dates agreed; and
- (g) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

### **3.2 Goods clauses**

3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.

3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.

3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and

undamaged.

- 3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- 3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they do not conform with Clause 3. If the Supplier does not do this it will pay the Buyer's costs including repair or re-supply by a third party.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of an Order Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.
- 4.2 CCS must invoice the Supplier for the Management Levy and the Supplier must pay it using the process in DPS Schedule 5 (Management Levy and Information).



#### 4.3 All Charges and the Management Levy:

- (a) exclude VAT, which is payable on provision of a valid VAT invoice; and
- (b) include all costs connected with the Supply of Deliverables.

#### 4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.

#### 4.5 A Supplier invoice is only valid if it:

- (a) includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer;
- (b) includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and
- (c) does not include any Management Levy (the Supplier must not charge the Buyer in any way for the Management Levy).

#### 4.6 The Buyer must accept and process for payment an undisputed Electronic Invoice received from the Supplier.

#### 4.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

#### 4.8 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, CCS or the Buyer can publish the details of the late payment or non-payment.

#### 4.9 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables, then CCS or the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

#### 4.10 If CCS or the Buyer uses Clause 4.9 then the DPS Pricing (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.

#### 4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

## 5. The buyer's obligations to the supplier

#### 5.1 If Supplier Non-Performance arises from an Authority Cause:

- (a) neither CCS or the Buyer can terminate a Contract under Clause 10.4.1;
- (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability and Deduction under this Contract;
- (c) the Supplier is entitled to additional time needed to make the Delivery; and
- (d) the Supplier cannot suspend the ongoing supply of Deliverables.

5.2 Clause 5.1 only applies if the Supplier:

- (a) gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware;
- (b) demonstrates that the Supplier Non-Performance would not have occurred but for the Authority Cause; and
- (c) mitigated the impact of the Authority Cause.

## **6. Record keeping and reporting**

6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract:

- (a) during the Contract Period;
- (b) for 7 years after the End Date; and
- (c) in accordance with UK GDPR, including but not limited to the records and accounts stated in the definition of Audit in Joint Schedule 1.

6.3 The Relevant Authority or an Auditor can Audit the Supplier.

6.4 During an Audit, the Supplier must:

- (a) allow the Relevant Authority or any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit; and
- (b) provide information to the Relevant Authority or to the Auditor and reasonable co-operation at their request.

6.5 Where the Audit of the Supplier is carried out by an Auditor, the Auditor shall be entitled to share any information obtained during the Audit with the Relevant Authority.

6.6 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

- (a) tell the Relevant Authority and give reasons;
- (b) propose corrective action; and
- (c) provide a deadline for completing the corrective action.

6.7 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:

- (a) the methodology of the review;

- (b) the sampling techniques applied;
- (c) details of any issues; and
- (d) any remedial action taken.

6.8 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

## **7. Supplier staff**

7.1 The Supplier Staff involved in the performance of each Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice and the Security Policy; and
- (c) comply with all conduct requirements when on the Buyer's Premises.

7.2 Where a Buyer decides one of the Supplier's Staff is not suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.

7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

## **8. Rights and protection**

8.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform each Contract;
- (b) each Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract;
- (f) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract;
- (g) it is not impacted by an Insolvency Event; and
- (h) it will comply with each Order Contract.

8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

- 8.3 The Supplier indemnifies both CCS and every Buyer against each of the following:
- (a) wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
  - (b) non-payment by the Supplier of any Tax or National Insurance.
- 8.4 All claims indemnified under this Contract must use Clause 26.
- 8.5 The description of any provision of this Contract as a warranty does not prevent CCS or a Buyer from exercising any termination right that it may have for breach of that clause by the Supplier.
- 8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify CCS and every Buyer.
- 8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **9. Intellectual Property Rights (IPRs)**

- 9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:
- (a) receive and use the Deliverables; and
  - (b) make use of the deliverables provided by a Replacement Supplier.
- 9.2 Any New IPR created under a Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.
- 9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.
- 9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
  - (b) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the functionality or performance of the Deliverables.

- 9.7 In spite of any other provisions of a Contract and for the avoidance of doubt, award of a Contract by the Buyer and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Supplier acknowledges that any authorisation by the Buyer under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific IPR involved.

## **10. Ending the contract or any subcontract**

### **10.1 Contract Period**

- 10.1.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.
- 10.1.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

### **10.2 Ending the contract without a reason**

- 10.2.1 CCS has the right to terminate the DPS Contract at any time without reason by giving the Supplier at least 30 days' notice.
- 10.2.2 Each Buyer has the right to terminate their Order Contract at any time without reason by giving the Supplier not less than 90 days' written notice.

### **10.3 Rectification plan process**

- 10.3.1 If there is a Default, the Relevant Authority may, without limiting its other rights, request that the Supplier provide a Rectification Plan.
- 10.3.2 When the Relevant Authority receives a requested Rectification Plan it can either:
- (a) reject the Rectification Plan or revised Rectification Plan, giving reasons; or
  - (b) accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties.
- 10.3.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:
- (a) must give reasonable grounds for its decision; and
  - (b) may request that the Supplier provides a revised Rectification Plan within 5 Working Days.
- 10.3.4 If the Relevant Authority rejects any Rectification Plan, including any revised Rectification Plan, the Relevant Authority does not have to request a revised Rectification Plan before exercising its right to terminate its Contract under Clause 10.4.3(a).

### **10.4 When CCS or the buyer can end a contract**

- 10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) there is a Supplier Insolvency Event;
- (b) there is a Default that is not corrected in line with an accepted Rectification Plan;
- (c) the Supplier does not provide a Rectification Plan within 10 days of the request;
- (d) there is any material Default of the Contract;
- (e) there is any material Default of any Joint Controller Agreement relating to any Contract;
- (f) there is a Default of Clauses 2.10, 9, 14, 15, 27, 32 or DPS Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract;
- (g) there is a consistent repeated failure to meet the Performance Indicators in DPS Schedule 4 (DPS Management);
- (h) there is a Change of Control of the Supplier which is not pre-approved by the Relevant Authority in writing;
- (i) if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded; or
- (j) the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them.

10.4.2 CCS may terminate the DPS Contract if a Buyer terminates an Order Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If any of the following non-fault based events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) the Relevant Authority rejects a Rectification Plan;
- (b) there is a Variation which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes);
- (c) if there is a declaration of ineffectiveness in respect of any Variation; or
- (d) any of the events in 73 (1) (a) or (c) of the Regulations happen.

## 10.5 When the supplier can end the contract

The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate an Order Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

## 10.6 What happens if the contract ends

10.6.1 Where a Party terminates a Contract under any of Clauses 10.2.1, 10.2.2, 10.4.1, 10.4.2, 10.4.3, 10.5 or 20.2 or a Contract expires all of the following apply:

- (a) The Buyer's payment obligations under the terminated Contract stop immediately.
- (b) Accumulated rights of the Parties are not affected.
- (c) The Supplier must promptly repay to the Buyer any and all Charges the Buyer has paid in advance in respect of Deliverables not provided by the Supplier as at the End Date.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.

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- (e) The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.6.2 In addition to the consequences of termination listed in Clause 10.6.1, where the Relevant Authority terminates a Contract under Clause 10.4.1 the Supplier is also responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.6.3 In addition to the consequences of termination listed in Clause 10.6.1, if either the Relevant Authority terminates a Contract under Clause 10.2.1 or 10.2.2 or a Supplier terminates an Order Contract under Clause 10.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier; and
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated.

10.6.4 In addition to the consequences of termination listed in Clause 10.6.1, where a Party terminates under Clause 20.2 each Party must cover its own Losses.

10.6.5 The following Clauses survive the termination or expiry of each Contract: 3.2.10, 4.2, 6, 7.5, 9, 11, 12.2, 14, 15, 16, 17, 18, 31.3, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

## **10.7 Partially ending and suspending the contract**

10.7.1 Where CCS has the right to terminate the DPS Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Order Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Order Contracts that have already been signed.

10.7.2 Where CCS has the right to terminate a DPS Contract it is entitled to terminate all or part of it.

10.7.3 Where the Buyer has the right to terminate an Order Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.7.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.7.5 The Parties must agree any necessary Variation required by Clause 10.7 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 10.2.

10.7.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.7.

## **10.8 When subcontracts can be ended**

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which is not pre-approved by the Relevant Authority in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4; or
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority.

## **11. How much you can be held responsible for**

11.1 Each Party's total aggregate liability in each Contract Year under this DPS Contract (whether in tort, contract or otherwise) is no more than £1,000,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Order Contract (whether in tort, contract or otherwise) is no more than one hundred and twenty five percent (125%) of the Estimated Yearly Charges unless specified in the Order Form.

11.3 No Party is liable to the other for:

- (a) any indirect Losses; or
- (b) Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by Law;
- (d) its obligation to pay the required Management Levy or Default Management Levy.

11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3(b), 9.5, 31.3 or Order Schedule 2 (Staff Transfer) of a Contract.

11.6 In spite of Clauses 11.1, 11.2 but subject to Clauses 11.3 and 11.4, the Supplier's aggregate liability in each and any Contract Year under each Contract under Clause 14.8 shall in no event exceed the Data Protection Liability Cap.

11.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or



in connection with each Contract, including any indemnities.

- 11.8 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:
- (a) Deductions; and
  - (b) any items specified in Clauses 11.5 or 11.6.
- 11.9 If more than one Supplier is party to a Contract, each Supplier Party is jointly and severally liable for their obligations under that Contract.

## **12. Obeying the law**

- 12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).
- 12.2 To the extent that it arises as a result of a Default by the Supplier, the Supplier indemnifies the Relevant Authority against any fine or penalty incurred by the Relevant Authority pursuant to Law and any costs incurred by the Relevant Authority in defending any proceedings which result in such fine or penalty.
- 12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

## **13. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

## **14. Data protection**

- 14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).
- 14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.
- 14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.
- 14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.
- 14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant

Authority may either or both:

- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
- (b) restore the Government Data itself or using a third party.

14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless CCS or the Buyer is at fault.

14.8 The Supplier:

- (a) must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request;
- (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- (d) securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it; and
- (e) indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

## 15. What you must keep confidential

15.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) except as expressly set out in the Contract at Clauses 15.2 to 15.4 or elsewhere in the Contract, not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent; and
- (c) immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the Disclosing Party's

Confidential Information;

- (f) on a confidential basis, to its auditors;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis; or
- (h) to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 In spite of Clause 15.1, the Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 In spite of Clause 15.1, CCS or the Buyer may disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament; or
- (e) under Clauses 4.7 and 16.

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

## **16. When you can share information**

16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.

16.2 Within five (5) Working Days of the Buyer's request the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:

- (a) publish the Transparency Information;
- (b) comply with any Freedom of Information Act (FOIA) request; and/or
- (c) comply with any Environmental Information Regulations (EIR) request.

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under

Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision in its absolute discretion.

## **17. Invalid parts of the contract**

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it is valid or enforceable.

## **18. No other terms apply**

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements, agreements and any course of dealings made between the Parties, whether written or oral, in relation to its subject matter. No other provisions apply.

## **19. Other people's rights in a contract**

No third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

- (a) provides a Force Majeure Notice to the other Party; and
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either Party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

## **21. Relationships created by the contract**

No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **22. Giving up contract rights**

A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **23. Transferring responsibilities**

23.1 The Supplier cannot assign, novate or transfer a Contract or any part of a Contract without the Relevant Authority's written consent.

23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Central

Government Body, public or private sector body which performs the functions of the Relevant Authority.

- 23.3 When CCS or the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that CCS or the Buyer specifies.
- 23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 If CCS or the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
- (a) their name;
  - (b) the scope of their appointment; and
  - (c) the duration of their appointment.

## **24. Changing the contract**

- 24.1 Either Party can request a Variation which is only effective if agreed in writing and signed by both Parties.
- 24.2 The Supplier must provide an Impact Assessment either:
- (a) with the Variation Form, where the Supplier requests the Variation; or
  - (b) within the time limits included in a Variation Form requested by CCS or the Buyer.
- 24.3 If the Variation cannot be agreed or resolved by the Parties, CCS or the Buyer can either:
- (a) agree that the Contract continues without the Variation; or
  - (b) terminate the affected Contract, unless in the case of an Order Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; or
  - (c) refer the Dispute to be resolved using Clause 34 (Resolving Disputes).
- 24.4 CCS and the Buyer are not required to accept a Variation request made by the Supplier.
- 24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the DPS Pricing or the Charges.
- 24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give CCS and the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, DPS Pricing or a Contract and provide evidence:

- (a) that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
- (b) of how it has affected the Supplier's costs.

- 24.7 Any change in the DPS Pricing or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.
- 24.8 For 101(5) of the Regulations, if the Court declares any Variation ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of the Contract as they existed immediately prior to that Variation and as if the Parties had never entered into that Variation.

## **25. How to communicate about the contract**

- 25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they are delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.
- 25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address indicated on the Platform.
- 25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.
- 25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **26. Dealing with claims**

- 26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.
- 26.2 At the Indemnifier's cost the Beneficiary must both:
- (a) allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
  - (b) give the Indemnifier reasonable assistance with the claim if requested.
- 26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.
- 26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.
- 26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- (a) the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
- (b) the amount the Indemnifier paid the Beneficiary for the Claim.

## **27. Preventing fraud, bribery and corruption**

27.1 The Supplier must not during any Contract Period:

- (a) commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or
- (b) do or allow anything which would cause CCS or the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

27.2 The Supplier must during the Contract Period:

- (a) create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- (b) keep full records to show it has complied with its obligations under Clause 27 and give copies to CCS or the Buyer on request; and
- (c) if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

27.3 The Supplier must immediately notify CCS and the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- (a) been investigated or prosecuted for an alleged Prohibited Act;
- (b) been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
- (c) received a request or demand for any undue financial or other advantage of any kind related to a Contract; or
- (d) suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act.

27.4 If the Supplier notifies CCS or the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

27.5 In any notice the Supplier gives under Clause 27.3 it must specify the:

- (a) Prohibited Act;
- (b) identity of the Party who it thinks has committed the Prohibited Act; and
- (c) action it has decided to take.

## **28. Equality, diversity and human rights**

28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:

- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- (b) any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law.

28.2 The Supplier must take all necessary steps, and inform CCS or the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

## **29. Health and safety**

29.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable Law regarding health and safety; and
- (b) the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they are aware of at the Buyer Premises that relate to the performance of a Contract.

## **30. Environment**

30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **31. Tax**

31.1 The Supplier must not breach any Tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Buyer cannot terminate a Contract where the Supplier has not paid a minor Tax or social security contribution.

31.2 Where the Charges payable under a Contract with the Buyer are or are likely to exceed £5 million at any



point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify CCS and the Buyer of it within 5 Working Days including:

- (a) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
- (b) other information relating to the Occasion of Tax Non-Compliance that CCS and the Buyer may reasonably need.

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under an Order Contract, the Supplier must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers is not good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements; and
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## **32. Conflict of interest**

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to CCS and each Buyer if a Conflict of Interest happens or is expected to happen.

32.3 CCS and each Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

### **33. Reporting a breach of the contract**

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to CCS or the Buyer any actual or suspected breach of:

- (a) Law;
- (b) Clause 12.1; or
- (c) Clauses 27 to 32.

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.

### **34. Resolving disputes**

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- (a) determine the Dispute;
- (b) grant interim remedies; and/or
- (c) grant any other provisional or protective relief.

34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

### **35. Which law applies**

This Contract and any Disputes arising out of, or connected to it, are governed by English law.

## Joint Schedule 5 (Corporate Social Responsibility)

### 1. What we expect from our Suppliers

- 1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.  
([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-13\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf))
- 1.2 CCS expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, CCS expects its suppliers and subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

### 2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### 3. Modern Slavery, Child Labour and Inhumane Treatment

**"Modern Slavery Helpline"** means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Supplier:
  - 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.

- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world.
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

#### **4. Income Security**

##### **4.1 The Supplier shall:**

- 4.1.1 ensure that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
- 4.1.3 ensure that all workers are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.4 not make deductions from wages:
  - (a) as a disciplinary measure

- (b) except where permitted by law; or
- (c) without expressed permission of the worker concerned;
- 4.1.5 record all disciplinary measures taken against Supplier Staff; and
- 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

## **5. Working Hours**

### **5.1 The Supplier shall:**

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 ensure that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime is used responsibly, taking into account:
  - (a) the extent;
  - (b) frequency; and
  - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

- 5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
- 5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
  - 5.3.1 this is allowed by national law;
  - 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
  - 5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and
  - 5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

## **6. Sustainability**

- 6.1 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

**Order Schedule 4 (Order Tender)**

Order Ref: CPD4120156

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