



**Crown
Commercial
Service**

INVITATION TO TENDER

FOR

**SUPPORT PROVISION UNDER THE CABINET OFFICE MUTUALS SUPPORT PROGRAMME FOR
CAMBRIDGESHIRE FAMILY PSYCHOLOGICAL SERVICES**

REFERENCE NUMBER: RM4626- L0792

PLEASE NOTE THAT THIS IS A NEW VERSION OF THE DOCUMENTATION



CabinetOffice

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1. DEFINITIONS

“Contract” means the agreement between the Supplier and the Customer achieved via this Procurement based on the Terms and Conditions of Contract set out in Annex C;

“Contract Approval Notice” means, where paragraph 7.8 of this ITT indicates that this is a multi-part contract and consequently clause 3.6 of the attached Contract terms and conditions apply, the notice from the Customer to the Supplier instructing the Supplier to commence work on a subsequent contract part and to produce the relevant Deliverables for that part specified in paragraph 7.8 of this ITT.

“Crown Commercial Service” means a trading fund of the Cabinet Office whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP;

“Customer” means the Cabinet Office.

“Deliverable” means the items and outcomes that must be delivered to the Customer, by the required time (where specified), and meeting any criteria defined under this Contract

“eSourcing Portal” means the online tender management system which is being used by the Crown Commercial Service for this Procurement which can be found at: <https://gpsesourcing.cabinetoffice.gov.uk/sso/jsp/login.jsp>;

“Final Clarification Period” means the time period given to Potential Suppliers to seek clarification on the final Invitation to Tender;

“Initial Clarification Period” means the period between the issue of the draft requirement and the issue of the final Invitation to Tender allowing Potential Suppliers to seek any required clarification.

“Invitation to Tender” or **“ITT”** means this invitation to tender document and all related documents published by the Crown Commercial Service for this Procurement;

“Knowledge Sharing Deliverables” or **“KSDs”** mean the Deliverables described at Section 8 required for the purpose of maximising the transfer of knowledge from this Contract to other developing potential public service mutuals, and who are facing similar challenges.

“Mutuals Information Service” means the Cabinet Office Mutuals Information Service website, accessible at <http://mutuals.cabinetoffice.gov.uk/>;

“Parent Body” means the parent body in which the Potential PSM is currently hosted, and which is described in full at paragraph 5.

“Potential Supplier” means any person that submits a Tender in response to the Invitation to Tender;

“Potential PSM” means the group of public sector employees who aspire to become a Public Service Mutual, which are receiving assistance under this Contract, and which are described in full at paragraph 5.

“Procurement” means the process used to establish a Contract that facilitates the provision of the Services;

“Public Service Mutual” means an organisation which has left the public sector but continues to deliver public services, and which in which employee control plays a significant role in its operation;

“Services” means the services provided to the Customer and Potential PSM via the Contract;

“Successful Completion” means that in the reasonable opinion of the Customer, Deliverables completed by the Supplier are fit for purpose, completed on time and otherwise meet all the criteria defined under this Contract;

“Supplier” means the person or organisation which submits the successful tender, and with whom the Customer concludes the Contract;

“Tender Submission Deadline” means the time and date set out in paragraph 14 for the latest uploading of Tenders; and

“Tender” means the Potential Supplier’s formal offer in response to the Invitation to Tender.

2. INTRODUCTION TO THIS PROCUREMENT

- 2.1 This Procurement is being managed by the Crown Commercial Service on behalf of the Cabinet Office (the “Customer”).

3. TERMS OF PARTICIPATION

- 3.1 In participating in this Procurement, Potential Suppliers agree to the Terms of Participation set out at Annex A.

4. INTRODUCTION TO THE MUTUALS SUPPORT PROGRAMME

- 4.1 The Mutuals Support Programme (MSP) delivers help and support for proposed and existing Public Service Mutuals.

- 4.2 The Customer:

4.2.1 Procures, tailored and bespoke professional advice and support for proposed and existing Public Service Mutuals (such as is being procured within this Procurement). Such procurement is demand led to address problems specific to each different Public Service Mutual, although occasionally, generic advice may be procured to address common problems.

4.2.2 Retains intellectual property so that where appropriate, the advice and support given can be shared, enabling other proposed and existing Public Service Mutuals to benefit.

- 4.3 This programme builds on the Mutuals Information Service (MIS), which was launched on 5 December 2011. The MIS is a web-portal and phone line based triage and case management service for public sector workers interested in setting up Public Service Mutuals, and for existing fledgling Public Service Mutuals interested in going for growth. The MIS refers the cases and issues with the greatest potential to succeed and to benefit the wider Public Service Mutuals agenda to the Customer who (where appropriate) will procure and manage individual professional advice contracts.

- 4.4 Specific objectives of the MSP are:

Primary Objectives –

4.4.1 To provide selected proposed and existing Public Service Mutuals with the support they need (which cannot be accessed through other sources) to overcome the specific and individual barriers identified by the MIS triage service, enabling them to become viable businesses.

4.4.2 Maintain flexibility to enable the MSP to be demand led.

Secondary Objective –

- 4.4.3 To share (via a resource library), as much as possible, the professional advice and support commissioned to avoid duplication, grow the knowledge base and reduce cost.
- 4.5 The proposed outcomes for the MSP are:
 - 4.5.1 Outcome 1: Proposed and existing Public Service Mutuals have the information and advice required to develop into successful enterprises.
 - 4.5.2 Outcome 2: A resource library of advice and support is developed to support others, avoid duplication and reduce cost.
 - 4.5.3 Outcome 3: Customer has detailed evidence and information to inform future policy work.

5. BACKGROUND TO THE REQUIREMENT

- 5.1 Family Psychological Services (“the Potential PSM”), providing children’s social services, is looking to spin out of Cambridgeshire County Council (“the Parent Body”). The Potential PSM will provide an innovative service focused on a range of Multi Systemic Therapy (MST) interventions for families with a young person aged 11 to 17 with serious behavioural problems and at risk of going into care or custody. The Potential PSM has 11 FTE (5 which are local authority employees and 6 have been seconded from Cambridgeshire and Peterborough Foundation NHS Trusts) and a predicted annual turnover of c £1.0m in the first year of operations.
- 5.2 The Potential PSM is looking to improve outcomes for young people as well as deliver savings to the local authority. Developed in the USA, MST is an innovative and alternative model for children’s social work that claims to sustainably reduce levels of entry to care of custody with concurrent cost savings to public expenditure. Evidence based programmes have a well-developed cost benefit ratio that can deliver long term savings in terms of reduced care or custody admission compared to controls. Their aim is to create a more sustainable service that works independently of the Parent Body and over a broader geographical area. The Potential PSM is exploring new ways of financing and commissioning services to ensure a more sustainable service, including social impact bonds and other payment by result schemes.
- 5.3 The Potential PSM is expected spin out by March/April 2016. A scoping paper related to the spin out will be presented to the Council’s Children’s Committee in mid-March 2015. The decision to approve the spin out will need to be made by full Council by 31st of October 2015 as this is a ‘key decision’ in terms of the Council’s constitution. However, the majority of the work will have been completed by this time and the support delivered by the Supplier as part of this Contract will be used to strengthen the case for approval brought forward to the relevant committees. A final go-live date has not yet been agreed but a timetable has been prepared and will be revised according to project milestones, with the Potential PSM aiming to spin out by March/April 2016. **The Supplier is required to complete Part 1 of the support outlined within this Contract by 30th of June 2015. This date is absolutely material to this Contract.**
- 5.4 In 2001, the Parent Body pioneered the first MST Team in Great Britain. Its successes in improving both child and parent outcomes, has led to increasing interest from other local authorities, providing an opportunity to expand operations and grow as the mutual.

- 5.5 The current services provided by the Potential PSM are MST Standard (see para 5.6.1. for further details), MST for Child Abuse and Neglect, and MST for Problem Sexual Behaviour (PSB). They operate under a license from the USA and NHS England. Future services would require a similar license. The exception is MST Child Abuse and Neglect (MST CAN) which will close in July. Consideration of a parental mental health service will form part of the business planning and will be a successor service to MST CAN.
- 5.6 The proposed services to be delivered by the Potential PSM are:
- 5.6.1 **MST Standard:** an evidence-based intervention targeting adolescents with disruptive behaviour aged 10 to 17 in the Cambridgeshire area. While the overarching aim is to prevent the adolescent from entering care or custody, supporting aims include improving parenting capacity so that families can improve their communication, enabling the young person and family to overcome anger and impulsivity, while also supporting the adolescent's association with pro-social peers, and working with the parents and/or young person to address alcohol and substance misuse problems.
 - 5.6.2 **MST PSB:** an evidence-based intervention targeting adolescents who demonstrate sexually harmful behaviour. The Potential PSM is hoping that Cambridgeshire, Bedford Borough and Central Bedfordshire will all continue to fund and refer into the service. Peterborough have expressed interest in spot purchase arrangements for MST PSB.
 - 5.6.3 **Functional Family Therapy (FFT):** an evidence-based systemic therapeutic intervention which supports young people and their families to improve their behaviour and relations respectively and be diverted from care and/or custody. The programme provides strategies for families to become more resilient, adaptive and successful thereby generating long-term impact. FFT is similar in its principles and delivery mechanism to MST, but less intensive, more flexible and adaptable than MST which means it could be more relevant to a wider range of commissioners. There is already contact between the service and the Programme Developer (FFT Associates based in Indiana State University) as well as contacts to FFT sites in the Netherlands and Norway.
 - 5.6.4 **MST Health:** a variation of the MST model targeting young people with chronic and enduring physical conditions such as diabetes. The Potential PSM has started early discussions with the regional renal specialists but need time to nurture and develop this opportunity.
 - 5.6.5 **Implementation consultancy service:** a service to provide support in implementing and embedding of new MST teams across the region and beyond. As part of this service, the Potential PSM will support commissioners to engage in social investment-supported contracts and payment by results mechanisms. This will improve the rigour and efficiency with which services are delivered, improving outcomes, as well as offering new financial mechanisms to commissioners.
- 5.7 Apart from supplying its services to the Parent Body, the Potential PSM has had conversations with Central Bedfordshire and Bedford Borough Councils and the Milton Keynes Clinical Commissioning Group regarding securing ongoing funding for

its provision of services. The original MST PSB service was a four area partnership between Cambridgeshire, Peterborough, Bedford Borough and Central Bedfordshire and was grant-funded on a taper by Department for Education. Peterborough dropped out in 2013. As the grant comes to an end there is a negotiation to be had with Bedford Borough and Central Bedfordshire regarding the long term commissioning of the MST PSB service. The outcomes are good but the full cost of the service is relatively high. The first plan is to agree a commissioning arrangement with the three authorities. A secondary process is taking place to see if either Northamptonshire or Milton Keynes wish to buy into the service and these negotiations are on-going. It may also be possible to sell MST standard cases to any of these authorities rather than MST PSB in order to reduce the risks of under-utilisation. The Potential PSM is also in discussions with Bridges Ventures, a specialist fund manager, to explore the use of Social Impact Bonds in delivering the service in Essex.

- 5.8 The service is currently operating with a shortfall and as an early intervention service requires up-front investment in order to produce desired outcomes. The Supplier will be required to provide support around developing commercial cost-price modelling and appropriate contractual arrangements to protect cashflows once operating independently.
- 5.9 The Potential PSM has a strong senior leadership team who have also attended the Mutuals Success training programme, where an initial business plan has been developed. The existing business plan outlines that there is a growing interest in MST as an early intervention service outside the current local authority.
- 5.10 The Parent Body has given the Potential PSM the permission to explore spinning out. The final decision will be made by the Parent Body in October 2015. Their approval is not envisaged to be problematic and the Potential PSM is keeping Council members informed along the way so any objections can be raised and dealt with over the coming months. The Parent Body have also committed to fund the service into the next budget. Formal permission to spin out will be sought in March/April, with the Potential PSM requiring initial support to secure approval and then prepare and implement a transition plan.

6. PROGRESS TO DATE

- 6.1. The Potential PSM has been investigating the possibility of mutualisation since 2013. During the past few months, the Potential PSM has conducted a thorough process to assess the benefits and disadvantages of mutualisation and has reached the conclusion that the public service mutual delivery model is the best option to sustain the existing services and to expand and develop evidence based practices. Having decided on the delivery model, the Potential PSM will require support for business development, planning and support for the practical and logistical process of spinning out.
- 6.2. The Parent Body has granted the Potential PSM permission to explore the spin-out model and it has also committed to fund the service into the next budget. Formal permission to spin out will be sought in October 2015. To secure this permission, the Potential PSM has engaged with various stakeholders. Senior Management have expressed their support in principle with the spin-out. The Potential PSM has also engaged staff on the possible spin out process. Staff have not expressed opposition but have raised some concerns about pensions and job security. The successful supplier is required to advise on TUPE and pensions and help alleviate some of

these concerns. The Potential PSM is planning further staff engagement meetings over the next few months. Staff have responded positively to the proposal so far. A planning group involving staff will meet in March 2015 for the first time. The Programme Manager and one of the MST supervisors will attend a social entrepreneurship weekend in Cambridge at the end of February 2015 to learn more about developing a business network for the company. There is no request from the successful supplier to support these activities.

- 6.3. The leader of the spin out has experience working with a County Council to fund an MST service using social impact bonds, which is the model that the Potential PSM intends to market to other councils post spin out. Furthermore, the leadership team has experience setting up a Community Interest Company (CIC), which can be beneficial to the spin-out process. Discussions have taken place with the CEO of MST Services in the USA as well as with the leader of the UK Network Partnerships on behalf of NHS England to get support for the spin-out.
- 6.4. The team has conducted significant stakeholder engagement activities to ensure broad support for its spin-out proposal. As a result of these activities, the PSM has secured the support of the Director of Children's services at Cambridgeshire, the MST UK National implementation service and a number of other potential partners/customers including Social Finance Ltd, Evidence Based Social Investment Ltd, Central Bedfordshire Council and Peterborough Council.
- 6.5. The Potential PSM has successfully applied to the Innovation Programme run by the Department for Education ("DfE"). It initially received a seed grant which was used to for business planning, financial modelling and growth strategy. Subsequently, the Potential PSM received a full grant from DfE which covers staff and other operational costs needed by the Potential PSM to be a self-sustaining business within 6 months of the launch. There is no envisaged overlap between the activities funded by DfE and the support services which are part of this Contract. The Supplier is required to refine and adapt the avenues for income generation and growth. The already created initial plan and financial modelling (developed with external advisory support) will be made available to the Supplier. Also, any further information regarding the DfE grant will be shared by the Beneficiary with the Supplier.
- 6.6. The Potential PSM has considered the composition of the Board. As such, the Potential PSM identified that a staff member representing the staff should be part of the Board. However, the Potential PSM requires further assistance with developing governance model and composition of the board in order to reflect the best operating model and emerging model of staff participation and shared ownership. The Potential PSM will require support with recruiting Non-Executive Directors and an Independent Chair to form a Shadow Board before the go live date.
- 6.7. The Potential PSM has currently started discussions regarding the possible rental within the County estate as well as access to shared services. However, the Potential PSM will require support from the Supplier to identify and negotiate any asset leases/licenses (as appropriate) that they need.
- 6.8. The Potential PSM has undertaken limited work around agreeing a pension solution with the Parent Body. The Potential PSM has received support with the Chief Executive of the Cambridgeshire and Peterborough Foundation NHS Trust with respect to the seconded NHS staff and has spoken with the Parent Body's Chief Financial Officer with respect to the local authority staff. However, the Potential PSM has not had direct contact with the NHS or local authority pension schemes. The

assumption is that the Potential PSM will be able to apply for admitted body status into the local government pension scheme (LGPS), allowing existing employees to TUPE across to the Potential PSM. The Supplier will be required to provide advice and guidance for and during the Potential PSM's negotiations with the Parent Body on this. Should the Potential PSM be denied access to the LGPS, the Supplier will be required to work with the Potential PSM in sourcing an alternative pension solution.

7. OBJECTIVES

7.1. The mutualisation support package has the following objectives:

- 7.1.1. To support the completion of a robust business plan that secures formal spin out approval from the Parent Body in October 2015;
- 7.1.2. To support and choose the best legal form, embed employee and service user involvement in governance and set up the Board
- 7.1.3. To support the completion of a transition plan, including appropriate independent financial and legal advice; and
- 7.1.4. To capture and share key learning and experience with other Parent Bodies and children's services considering mutualisation.

8. CORE DELIVERABLES AND SERVICE REQUIREMENTS

Over-arching Requirements

- 8.1. The Supplier will, at all times, perform the Services in accordance with the objectives stated above.
- 8.2. Upon the commencement of the Contract, the Supplier will lead and facilitate a 'kick-off' workshop with the Potential PSM (and the Customer's representative, where possible). Similarly, upon the completion of the Contract, the Supplier will lead and facilitate a closing workshop with the Potential PSM and the Customer's representative, which should include a review of the performance of the Contract and any lessons learned.
- 8.3. By its nature, the Potential PSM is currently in the public sector, hosted within the Parent Body organisation (and depending on the stage of development, will remain under different levels of control exercised by the Parent Body). Although the Parent Body has committed to supporting the Potential PSM, in some cases, tensions may arise between the interests of the Parent Body and the Potential PSM. The Supplier is contracted to provide assistance to the Potential PSM, and will therefore conduct itself, and position its advice accordingly. In the event of problems arising in respect of these tensions, the Supplier will notify the Customer.
- 8.4. The Supplier will, at all times, ensure that it manages actual and perceived conflicts of interest in relation to the provision of the Services.
- 8.5. The Supplier will ensure that, as Deliverables are developed and ultimately delivered, the Potential PSM fully understand how to use and apply them, including ensuring the Potential PSM is able to effectively reuse and/or adapt the Deliverables for future use (where applicable).
- 8.6. The Supplier will ensure that learning and skills are embedded in the Potential PSM (where applicable; for example, this is potentially more relevant to advisory services in areas such as business planning, communications and engagement where the Potential PSM will need to develop relevant skills and understanding, to be able to

benefit from the support in the medium-term; conversely with advisory services such as legal services and due diligence, it may be adequate for the Potential PSM to simply understand the advice, without necessarily having acquired any substantive new skills or capability.).

- 8.7. The Services will predominantly be performed at Cambridgeshire County Council, but travel to other sites may be required on an ad-hoc basis in the Eastern region (i.e. Bedfordshire or Northamptonshire).
- 8.8. The Potential PSM envisages being able to work with the Supplier approximately two days per week; however, this will be amended as deemed necessary on an ad hoc basis.
- 8.9. The Deliverables envisaged under this Contract are divided into multiple parts. The provisions of Clause 3.6 of the terms and conditions of Contract shall therefore apply in respect of each Part identified below. Accordingly, Part 2 and any subsequent Parts are options and the Supplier will only commence work on these Parts when they receive and approval notice from the Customer, referred to in the Contract as a Contract Approval Notice. In the event that the Customer decides not to approve one or more Parts, the Customer will serve a termination notice on the Supplier. This notice will specify any outstanding Deliverables and KSDs that the Supplier must provide, the time period for this provision, and a Contract termination date

Part 1 – Work undertaken in Part 1 will focus around testing and developing existing work completed by the PSM to date and choosing the most appropriate legal and governance form structure for the PSM

8.10. Support Requirement 1: Legal and Governance

8.10.1. The Supplier is required to provide all technical and advisory support necessary, but not including project management support, interim resource or backfill, to select and design the most appropriate mutual legal form and, to develop an appropriate governance structure that suits the needs of the Potential PSM. This support should include – but should not be limited to - the implications of the following:

- 8.10.1.1. Testing the suitability of the Community Interest Company (CIC) and Industrial Providence Society models
- 8.10.1.2. Growth and investment opportunities
- 8.10.1.3. Tax implications for the new entity
- 8.10.1.4. HR (including TUPE)
- 8.10.1.5. Future pension arrangements
- 8.10.1.6. Appropriate procurement routes to determine options for awarding the service contract for the new entity
- 8.10.1.7. Working with staff to ensure their participation in the emerging model and gain shared ownership of the new organisation

8.10.2. The Supplier is required to provide all technical and advisory support necessary to identify and set up the Shadow Board of the PSM before the go live date.

8.10.3. The Potential PSM is expecting that the Parent Body will provide some legal assistance on the internal provider side (i.e. first drafts of leases, service contracts, etc.) rather than technical set up of the company. The legal support needs to be negotiated as it is an internally recharged service and independent advice is necessary to ensure decisions remain in best interests of the Potential PSM.

8.11. Support Requirement 2: Business Planning and Financial

8.11.1. The Supplier is required to provide all technical and advisory support necessary, **but not including** project management support, interim resource or backfill, to develop the initial business plan with accompanying detailed financial modelling (including insurance requirements, TUPE, pension liabilities, VAT) as well as market analysis and strategy. The support will require a strong emphasis on commercial skills transfer. Support should include, but should not be limited to:

8.11.1.1. Due diligence and update of the Potential PSMs existing business plan and financial model (including testing options and developing sustainability and growth strategy), clarifying expected costs as the business separates from the Parent Body

8.11.1.2. In line with 8.11.1.1 pricing advice for existing and new services in order to ensure that costs are covered and to establish market positioning

8.11.2. Consideration should be given for VAT and tax implications, realistic growth projections and strategy to determine future sustainability and accompanying investment strategy, insurance requirements, future services offered by the Potential PSM, asset transfer and building rental, and pensions and TUPE liabilities.

8.11.3. While initial advice on a growth strategy has already been sourced via the Innovation Programme seed grant, the Supplier will be required to refine this strategy and adapt it alongside the planning process.

8.11.4. A key part of this requirement is to ensure appropriate commercial and financial skills transfer to the Potential PSM and, to support any necessary negotiations with the Parent Body to ascertain assumptions in the business plan for, but not limited to, assets, leases and, service contracts.

8.11.5. The Supplier is required to ensure compliance with all regulations, including state aid and the implications of receiving both MSP and Innovation Programme grant. All support should be to the satisfaction of the Potential PSM and the supplier is also required to be flexible to meet the needs of the Potential PSM.

8.12. Support Requirement 3: Transition Planning

- 8.12.1. Building on Support Requirements 1 and 2, the Supplier is required to provide all technical and advisory support necessary, but not including project management support, interim resource or backfill, to support the Potential PSM to develop an initial transition plan to the agreed operational model. This plan will form the basis for seeking formal spin-out approval from the Parent Body by October 31 2015. This should include details of all the activities required to transition to the agreed model, key dependencies, risks, mitigating actions, and any particular HR issues (e.g. future pension arrangements and, managing the TUPE process), legal issues (including any commercial arrangements between the Potential PSM and Parent Body) and financial issues.

Part 2 – Work undertaken in Part 2 will focus on implementation support.

Work on Part 2 will only commence at the Customer's written instruction.

8.13. Support Requirement 4: Transition Implementation

- 8.13.1. The Supplier will provide all technical and advisory support, but not including project management support, interim resource and backfill, to enable the Potential PSM to establish and operate as a new independent entity. Technical and advisory support such as (but not limited to) the following will be required:
- 8.13.2. **Governance development:** developing and operationalising governance arrangements; supporting the recruitment of the Board members of the Potential PSM (Non-Executive Directors and Independent Chair)
- 8.13.3. **Tax:** ensuring regulatory compliance with tax regulations, VAT and state aid
- 8.13.4. **Access to finance:** providing independent support in negotiations with providers of funds to ensure future contracts are in the interests of the Potential PSM
- 8.13.5. **Legal:** Support the negotiations with the Parent Body to establish a contract; support in contract negotiations with potential clients (NHS, Local authority clients)
- 8.13.6. **HR and Pensions:** developing TUPE measures and negotiating terms and conditions, reviewing and advising on TUPE procedures and compliance with TUPE obligations' reviewing employee liability information, risk transfer for TUPE and pension contributions/liabilities with Parent Body. The Supplier should note that it is possible that advice from the Government Actuary Service will be required
- 8.13.7. **Assets and liabilities, back office support:** support to identify and negotiate asset leases/licences/transfers as necessary; support to develop a plan for the transition of back-office support (including any buy-back agreements from the Parent Body). The Supplier should note that discussions regarding the possible rental with the County

estate have just began as well as access to back office shared services.

8.14. The table below provides an outline of the deadline dates of the above Deliverables:

Deliverable	Deadline
Part 1:	
Support Requirement 1: Governance and Legal Structure	30 June 2015***
Support Requirement 2: Business and financial planning	30 June 2015***
Support Requirement 3: Transition Planning	30 June 2015***
KSDs	30 June 2015***
Part 2	
Support Requirement 3: Transition Implementation	November 2015
KSDs	November 2015

*** The 30th of June 2015 deadline with respect to Part 1 of the support services is absolutely material to the Contract.

- 8.15. In deciding whether or not a Deliverable has reached Successful Completion, the Customer shall in the first instance, seek such confirmation from the lead representatives of the Potential PSM. The Customer may also require evidence of the Deliverables.
- 8.16. In the event of any disagreement between the Supplier and the Potential PSM on the Successful Completion of any Deliverables, it will be the Supplier's responsibility to demonstrate how it has provided the support to the required standard.

9. KNOWLEDGE SHARING DELIVERABLES AND SERVICE REQUIREMENTS

- 9.1. The Customer wishes to maximise the transfer of knowledge from this Contract to others developing potential Public Service Mutuals who are facing similar challenges. The Supplier will therefore develop and submit to the Customer, the following Deliverables to fulfil this requirement (together the "Knowledge Sharing Deliverables" or "KSDs"), to include as a minimum:
- 9.1.1. A deliverable that can act as a publishable case study of the project and the support provided, including a summary of 'lessons learnt' during the support, key challenges and how they were overcome. This case study should adhere to the guidance Annex F;
 - 9.1.2. A guide for engaging and obtaining buy-in from children's services stakeholders across the length of the spin-out process; and
 - 9.1.3. An overview of the improvements in the provision of children's services delivered as a result of the spin-out.

- 9.2. Publishable KSDs (such as toolkits) should meet the following requirements:
- 9.2.1. KSDs should assist Potential PSMs in their journey to mutualisation;
 - 9.2.2. KSDs should have maximum relevance and reusability to others seeking to establish a Potential PSM; and
 - 9.2.3. KSDs should be creative, innovative and accessible. The Supplier will therefore wish to give consideration to how engaging the product is, and how simple it is to use for the relevant target audience.
 - 9.2.4. The Supplier should give consideration to KSDs that are already published on the Mutuals Information Service, to minimise duplication and maximise opportunities for building on existing KSDs.
 - 9.2.5. KSDs will be published via the Mutuals Information Service website; the file format and nature of the KSDs should therefore be in a format that is appropriate to this medium;
 - 9.2.6. Context-specific KSDs should ordinarily not be anonymised. However, the Parent Body's and/or Potential PSM's reasonable requests with regard to the handling of sensitive information should be accommodated; and
 - 9.2.7. KSDs with wider general reusability, such as toolkits and/or other reusable resources, may present no value in referring to the specific Parent Body and/or Potential PSM or their circumstances. These should be provided "ready to use", and should include appropriate supporting materials, such as guidance notes.
- 9.3. KSDs that take the form of events, workshops or seminars (if specified above) should meet the following requirements:
- 9.3.1. KSDs should raise awareness of Public Service Mutuals and disseminate learning from the Contract;
 - 9.3.2. KSDs should assist PSMs in their journey to mutualisation;
 - 9.3.3. KSDs should have maximum relevance to others seeking to establish a PSM; and
 - 9.3.4. Any costs associated with venue and hospitality should be proportionate and should be in line with the Customer's strong focus on value for money.
- 9.4. All KSDs will be submitted by the Supplier to the Customer prior to the termination, or expiry, of the Contract.

10. CONTRACT MONITORING

- 10.1. The Supplier must comply with the monitoring arrangements set out in Annex B.

11. CONTRACT CONDITIONS AND TERM

- 11.1. Unless otherwise specified, the Supplier must be available to commence work immediately following contract award.

5.1 The Contract will expire automatically on the earlier of:

5.1.1 Successful Completion of all the Contract Deliverables;

5.1.2 The termination date specified in the Customer termination notice; or

unless it is otherwise extended by the Customer giving written notice to the Supplier, amend the Expiry Date to enable the completion of all Deliverables which were otherwise delayed for unavoidable reasons.

11.2. The Terms and Conditions of Contract will be as set out at Annex C.

12. RESPONSE REQUIRED

12.1. Annex D provides an overview of the requirements of a Tender response.

13. COMMERCIAL PROPOSALS

13.1. The maximum available budget for this Contract is £25,000 for Part 1 and £25,000 for Part 2 (exclusive of VAT, but inclusive of all expenses and disbursements). Part 2 of the Contract will be awarded upon completion of Part 1 and with prior authorisation by the Customer.

13.2. **Potential Suppliers are being evaluated on their price also, in addition to the Quality and Personnel Criteria.** Potential Suppliers should therefore quote a fixed price for the work (excluding VAT but including expenses and disbursements) which does not exceed this cap or contain unacceptably high day rates. Failure to do so will result in the Tender being rejected for non-compliance.

13.3. Potential Suppliers should additionally set out the daily rates for each grade of staff employed within the proposed fixed price. Given its high-profile, and the potential benefits from advising in the context of a high-profile novel initiative, the Customer wishes to see competitive rates.

13.4. The payment profile will be:

Successful Completion of Deliverable	% Payment
Part 1	
Payment upon commencement of Services (usually following Contract signature, but may be following Customer's instruction to start work if that is required by the Contract)	5%
Support Requirement 1: Legal and Governance	18%
Support Requirement 2: Business and Financial Planning	12.5%
Support Requirement 3: Transition Planning	12%
KSDs	2.5%
Part 2	
Payment upon commencement of Services (usually following Contract signature, but may be following Customer's instruction to start work if that is required by the Contract)	5%
Support Requirement 4: Transition Implementation	42.5%

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KSDs	2.5%
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*** These interim payments are aimed at helping to mitigate potential cash-flow issues

Please note that while the overall budget is fixed, limited flexibility may be available within this payment profile, should this otherwise prevent a Potential Supplier participating.

14. EVALUATION CRITERIA

14.1. The criteria against which responses will be evaluated is set out at Annex E.

15. PROCUREMENT TIMETABLE

15.1. The timetable for this Procurement is set out in the table below, however please note that this timetable may be changed by the Crown Commercial Service at any time.

Milestone	Date
Draft requirement (in form of draft ITT) published	Thursday, 5 March 2015
Market engagement period starts	Thursday, 5 March 2015
Deadline for receipt of requests for clarification on the draft requirement (" Initial Clarifications Deadline ")	Monday, 9 March 2015 16:00
Bidder's Teleconference Teleconference Number: +44 (0) 207 979 0005 Code: 2712828	Wednesday, 11 March 2015 9:00 hrs
Invitation to Tender published within eSourcing portal	Wednesday, 11 March 2015, 16:00 hrs
Deadline for receipt of final outstanding requests for clarification (" Final Clarifications Deadline ")	Thursday, 12 March 2015 16:00 hrs
Deadline for the publication of responses to Final Clarification questions	Friday, 13 March 2015 12:00 hrs
Deadline for submission of a Tender (" Tender Submission Deadline ")	Monday, 16 March 2015 19:00 hrs
Notify Potential Supplier of Procurement outcome	Wednesday, 18 March 2015
Contract awarded	Wednesday, 18 March 2015

15.2. A draft version of the requirement (in draft Invitation to Tender format) will be published on the day the advertisement for the opportunity has been published.

15.3. Potential Suppliers should note that this draft is not in its completed form and Crown Commercial Service retains the right to make any necessary amendments before the final Invitation to Tender is issued on the above date.

16. QUESTIONS AND CLARIFICATIONS

- 16.1. Potential Suppliers may raise questions or seek clarification regarding any aspect of this Procurement at any time prior to the Tender Clarification Deadline. Questions must be submitted via e-mail to <https://gpsesourcing.cabinetoffice.gov.uk/sso/jsp/login.jsp>
- 16.2. Potential Suppliers will be able to seek clarification on both the draft Invitation to Tender and the final Invitation to Tender during the periods outlined in paragraph 15.1.
- 16.3. Crown Commercial Service will not enter into exclusive discussions regarding the requirements of this Procurement with Potential Suppliers.
- 16.4. To ensure that all Potential Suppliers have equal access to information regarding this Procurement, the Crown Commercial Service will publish all its responses to questions raised by Potential Suppliers on an anonymous basis.
- 16.5. Responses will be published in a Questions and Answers document to all companies who expressed an interest and were therefore subsequently invited to tender.
- 16.6. At times the Crown Commercial Service may issue communications to the email address for the tender contact provided when the Expression of Interest is submitted to the e-Sourcing portal (as per the instructions within the contract opportunity notice), therefore please ensure that this mailbox is reviewed on a regular basis.

PLEASE ENSURE YOU PRESS THE "SUBMIT ALL DRAFT BIDS BUTTON" BEFORE THE EVENT CLOSURES TO ENSURE YOUR BIDS ARE VISIBLE TO THE EVENT HOST UPON CLOSURE. FAILURE TO DO THIS WILL RESULT IN YOUR BIDS NOT BEING ACCEPTED.

ANNEX A

6. TERMS OF PARTICIPATION

- 16.7. In submitting a Tender, you agree to accept the provisions of this Annex A.
- 16.8. The Crown Commercial Service will run a fair and transparent competitive tendering process, and welcomes submissions from all types of organisations (including partnerships and consortia), including but not limited to small and medium-sized enterprises, third sector organisations, supported and black and minority-ethnic and women-owned businesses.
- 16.9. Where successful, you agree to be bound to deliver the Services in accordance with the Terms and Conditions of Contract set out at Annex C.
- 16.10. Neither the Crown Commercial Service or the Customer will have any liability for cost or expense that Potential Suppliers may incur as a direct or indirect consequence of tendering for the provision of the Services.
- 16.11. Neither the Crown Commercial Service or the Customer binds itself to accept the lowest or any Tender.
- 16.12. Nothing in this Invitation to Tender or any other communication made between (i) the Crown Commercial Service or the Customer and (ii) any other party is to be taken as constituting a contract, agreement or representation between the Customer and any other party (save for the award of Contract made in writing by the Crown Commercial Service), nor as constituting a contract, agreement or representation that any Contract will be offered in accordance with this Invitation to Tender or at all.
- 16.13. It is intended that selection of the Supplier will take place in accordance with the provisions of this ITT but the Crown Commercial Service and / or the Customer reserves the right to terminate, amend or vary the procurement process by notice to all participants in writing.
- 16.14. All Tenders will be evaluated in accordance with the provisions of this ITT; the Tender which achieves the highest overall score will be the winner. If a number of Tenders all achieve the highest score, the winner will be the joint highest scoring Tender with the greatest score in response to Section B, or, if all Tender scores remain equal, Section D, or, if still equal, Section A, or, if still equal, Section C.
- 16.15. All information supplied to you by the Crown Commercial Service and / or the Customer, either in writing or orally, must be treated in confidence and not disclosed to any third party unless and until the information is legitimately in the public domain. You may be asked to complete a non-disclosure agreement.
- 16.16. The Freedom of Information Act 2000, the Code of Practice on Government Information, and the Environmental Information Regulations 2004 ("the FOIA") apply to this Procurement and the Contract. You should be aware of the Crown Commercial Service and the Customer's obligations and responsibilities under FOIA to disclose, on written request, certain recorded information held. Information provided by you in connection with this Procurement, or with any Contract that may be awarded as a result, may therefore have to be disclosed in response to such a request, unless one of the statutory exemptions under the FOIA applies. If you wish to designate information supplied as part of your Tender as confidential, you must provide clear and specific detail as to the precise elements which are confidential, but this alone may not prevent disclosure if in the Crown Commercial Service's reasonable opinion publication is required by applicable legislation.
- 16.17. Any attempt by you or your appointed advisers, to inappropriately influence the contract award process in any way will result in your Tender being disqualified. Any

direct or indirect canvassing by you or your appointed advisers, in relation to this Procurement or any attempt to obtain information from any of the employees or agents of the Crown Commercial Service or the Customer concerning another tendering organisation, may result in disqualification at the discretion of the Crown Commercial Service.

- 6.1 The Potential PSM and/or Parent Body may participate in the evaluation process. In submitting a response to this ITT, you therefore agree, without limitation, to the Customer sharing the content of your Tender with the Potential PSM and/or Parent Body (as deemed appropriate by the Customer).

ANNEX B

1. MONITORING ARRANGEMENTS

- 16.18. During the Term of the Contract, the Supplier will have fortnightly update telephone calls with the Customer's representative.
- 16.19. In addition, the Customer will seek similarly regular feedback from the Potential PSM on the Supplier's performance. Feedback will be sought on general performance, partnership working, extent of capability-building of PSM staff and any other points of relevance.
- 16.20. In the event of a material change to the project timetable (defined as any change to the expected delivery or completion date of a Deliverable), the Supplier will, within [3] Working Days of becoming aware of the change, notify the Customer and provide them with an updated project plan.
- 16.21. At: (i) the commencement of the Contract; and (ii) following the completion of the Contract; the Supplier will be required to provide the following information (agreed with the Potential PSM) for inclusion in the Customer's database:
- 16.21.1. Confirmation of whether the PSM is live or still in development;
 - 16.21.2. The estimate go-live date for the PSM (if relevant); and
 - 16.21.3. Number of staff in the PSM (full-time equivalent or FTE);
 - 16.21.4. Estimated annual turnover; and
 - 16.21.5. Chosen legal form (if known);
- 16.22. Following the completion of the Contract, the Supplier will also be required to complete a Contract Completion Evaluation Template (an example of which is set out at paragraph 3).

2. CONTRACT COMPLETION EVALUATION TEMPLATES

To be completed by the Supplier only:

How successful was the relationship you built up with the Potential PSM? Successful should be interpreted as including not only the extent to which Deliverables were met, but also the extent to which the mutually agreed ways of working contributed positively towards the outcomes; and the level and extent of engagement and participation from the Potential PSM.

(please select) **Very successful** **5** **4** **3** **2** **1** **Not at all successful**

Please comment: (approx 300 words)

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What is your assessment of the Potential PSM's readiness to establish a public service mutual?

(please select) **Totally ready 5 4 3 2 1 Not at all ready**

Please comment: *(approx 300 words)*

Where applicable, in respect of *each* sub-contractor which you identified in your Tender, please confirm the final amount payable under this Contract. Where there is significant (>20%) variance from the estimates provided in the Tender, please also provide a short (max 100 words) statement as to the reasons:

Where applicable, in respect of payments made to sub-contractors, please confirm the percentage (by value) of payments made, which were made in compliance with the 30 day sub-contractor payment obligation (as set out in the terms and conditions of contract). Where this performance falls below 80%, please also provide a short (max 100 words) statement as to the reasons:

Signed on behalf of the Supplier:

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To be completed by the Potential PSM only:

How successfully did the Supplier work in partnership with you, including working flexibly, and ensuring that you fully understood the advice and support being offered?

(please circle) **Very successful 5 4 3 2 1 Not at all successful**

Please comment: *(approx 300 words)*

Where applicable to the Services:

How successfully did the Supplier equip you with the corresponding knowledge, skills and capability to ensure that you can build on this agreed package of support, including in the future adapting and re-using any tools delivered?

(please select) **Very successful 5 4 3 2 1 Not at all successful**

Please comment: *(approx 300 words)*

What is your assessment of your readiness to establish a public service mutual?

(please circle) **Totally ready 5 4 3 2 1 Not at all ready**

Please comment: *(approx 300 words)*

Signed on behalf of the Potential PSM:

ANNEX C

1. TERMS AND CONDITIONS OF CONTRACT

16.23. In this Contract, the following words will have the following meanings:

“Contract”	will mean these terms and conditions, the Specification, the Purchase order, and the Award Letter;
“Award Letter”	means the letter (including any annexes) signed by the Customer which confirms the award of the contract and which may give details of the Services to be supplied by the Supplier to the Customer in accordance with the terms of this Contract;
“Charges”	means the charges for the Services as set out in the Purchase Order or Award Letter (as applicable);
“Contract Approval Notice”	means, where the Award Letter confirms that this is a multi-part contract, the notice sent from the Customer to the Supplier under clause 3.6, instructing the Supplier to commence work on a subsequent Contract part and to supply the relevant Deliverables for that part as set out in the Specification;
“Crown”	means the government of the United Kingdom including, but not limited to, government ministers, government departments, government offices and government agencies;
“Customer”	means the Minister for the Cabinet Office;
“Deliverable”	means the items and outcomes forming part of the Services, identified in the Specification, Purchase Order or Award Letter, that must be completed under this Contract;
“DPA”	means the Data Protection Act 1998;
“Expiry Date”	means the date for expiry of this Contract as set out in the Purchase Order or Award Letter;
“FOIA”	means the Freedom of Information Act 2000;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	any persons specified as such in the Purchase Order or Award Letter (as the case may be), or otherwise notified by the Customer to the Supplier in writing;
“Party/Parties”	the Supplier and/or the Customer (as appropriate);
“Parent Body”	has the meaning attributed to it by the Award Letter.
“Potential PSM”	has the meaning attributed to it by the Award Letter.
“Premises”	will mean have the meaning detailed in the Purchase Order or Award Letter (as applicable) or if such term is not defined it will be the address where the Services are provided;
“Public Service Mutual”	means an organisation which has left the public sector but continues to deliver public services, and which in which employee control plays a significant role in its operation;
“Purchase Order”	means the Customer’s order for Services which has a unique number, and details the Services to be supplied by the Supplier to the Customer in accordance with the terms of this Contract;

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"Relevant Conviction"	means a conviction that is relevant to the nature of the Services, relevant to the work of the Customer, or as otherwise advised by the Customer;
"Request for Information"	will have the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" will apply);
"Services"	means the services to be provided by the Supplier to the Customer under this Contract as specified in the Specification, the Purchase Order or Award Letter;
"Specification"	means any specification for the Services produced by the Supplier and agreed with the Customer; or supplied to the Supplier by the Customer including any specification contained in the Purchase Order or Award Letter and any documents referred to therein which set out the quantity, description, quality and price of the Services;
"Staff"	means all persons employed by the Supplier to perform its obligations under this Contract together with the Supplier's servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Contract;
"Staff Vetting Procedures"	will mean the Customer's procedures for the vetting of personnel as advised to the Supplier by the Customer;
"Successful Completion"	means that in the reasonable opinion of the Customer, Deliverables completed by the Supplier are fit for purpose, completed on time and otherwise meet all the criteria defined under this Contract;
"Supplier"	means the person, firm or company that enters into this Contract with the Customer;
"Term"	will mean the term set out in the Purchase Order or Award Letter unless extended or terminated earlier in accordance with the terms and conditions of this Contract;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

16.24. Where a capitalised word is not defined in this Contract it will have the meaning given to it in the Purchase Order or Award Letter.

16.25. In this Contract unless the context otherwise requires:

- 16.25.1. references to numbered clauses are references to the relevant clause in this Contract;
- 16.25.2. any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 16.25.3. the headings to the clauses of this Contract are for information only and do not affect the interpretation of this Contract;
- 16.25.4. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;

where the word 'including' is used in this Contract, it will be understood as meaning 'including without limitation'.

2. BASIS OF AGREEMENT

- 16.26. The Award Letter constitutes an offer by the Customer to purchase Services from the Supplier in accordance with this Contract.
- 16.27. The Agreement will be deemed to be accepted on the earlier of: (a) the Supplier signing the Award Letter or Purchase Order; or (b) any act by the Supplier consistent with fulfilling the Purchase Order.
- 16.28. In the event and to the extent only of any conflict or inconsistency between the documents establishing the Specification, the following order of precedence will prevail:
- 16.28.1. these terms and conditions;
 - 16.28.2. the Invitation to Tender;
 - 16.28.3. the Tender;
 - 16.28.4. any agreed clarifications.

3. SUPPLY OF SERVICES

- 16.29. In consideration of the amounts due under this Contract, the Supplier will, from the date set out in the Purchase Order or Award Letter; provide the Services to the Customer for the Term, in accordance with the terms and conditions with this Contract.
- 16.30. In providing the Services, the Supplier will:
- 16.30.1. co-operate with the Customer, Parent Body and Potential PSM in all matters relating to the Services, and comply with all the Customer's instructions;
 - 16.30.2. perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 16.30.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
 - 16.30.4. ensure that the Services will conform with all descriptions and specifications set out in the Specification;
 - 16.30.5. comply with all applicable laws; and
 - 16.30.6. provide all equipment, tools and vehicles and such other items as are required to provide the Services.
- 16.31. If the Supplier provides Services from the Customer's premises, on completion of the Services, or termination or expiry of this Contract (whichever is the earlier) the Supplier will vacate the Customer's premises, remove his plant, equipment and unused materials and will clear away from these premises all rubbish arising out of the Services and leave the premises in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the premises or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier or any Staff.
- 16.32. The Customer may inspect and examine the manner in which the Supplier supplies the Services, at the Premises, during normal business hours, on reasonable notice.

- 16.33. Where the Supplier is unable to comply with clause 3.2 of this clause, or where the Supplier receives a complaint from the Parent Body or Potential PSM that clause 3.2 has not been complied with, the Supplier must inform the Customer in writing within five working days of having knowledge of either event.
- 16.34. Where the Services are divided into a number of Deliverables, to be supplied in separate parts, referred to in the award letter as a multi-part contract, if the Supplier has completed the Deliverables for a defined stage or part they will not commence new work on a subsequent stage or part unless they have received a written Contract Approval Notice from the Customer.

4. REPRESENTATIONS AND WARRANTIES

- 16.35. The Supplier warrants that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under this Contract, and that this Contract is executed by a duly authorised representative of the Supplier.

5. VARIATION OF THE SERVICES

- 16.36. The Customer reserves the right to vary the Services required, should this at any time become necessary. In the event of any variation to the scope of the Services, the Charges will be subject to fair and reasonable adjustment to be agreed between the Customer and the Supplier.

6. CHARGES AND PAYMENT

- 16.37. The Charges for the Services will be as set out in the Purchase Order or Award Letter, and will be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the Charges will include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 16.38. The Supplier will invoice the Customer as specified in the Contract. Each invoice will include such supporting information required by the Customer to verify the accuracy of the invoice including but not limited to the relevant Purchase Order number and a breakdown of the Services supplied in the invoice period.
- 16.39. In consideration of the supply of the Services by the Supplier, the Customer will pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order number. Payments may be withheld or reduced by the Customer in the event of unsatisfactory performance without prejudice to the Customer's other rights and remedies under this Contract.
- 16.40. Where the Supplier enters into a sub-contract for the purpose of performing its obligations under this Contract, it will ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 16.41. All amounts stated are exclusive of VAT which will be charged at the prevailing rate. The Customer will, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable on the services supplied.
- 16.42. If there is a dispute as to the amount invoiced the Customer will pay the undisputed amount.
- 16.43. If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer will pay the Supplier interest at a rate which will compensate for

such loss as has been directly caused by the late payment. The interest rate will not be at a rate higher than the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. Any disputed amounts will be resolved through the dispute resolution procedure detailed in clause 40.

- 16.44. The Supplier will not suspend the supply of the Services unless the Supplier is entitled to terminate this Contract for a failure to pay undisputed sums in accordance with clause 15.2.
- 16.45. In the event of termination pursuant to Clause 15.1.1 the Customer and the Supplier will enter into good faith negotiations to agree a reduced payment for any partially completed Deliverables or Milestones. Any such payment will reflect the proportion of work towards completion that the Supplier is able to demonstrate they have performed and any relevant payments already made by the Customer towards the completed Deliverables or Milestones. The Customer will not be liable to pay any severance payment or compensation to the Supplier for the loss of profits suffered as a result of the termination.
- 16.46. Where the Supplier intends to pass travel expenses on to the Customer at cost and up to a maximum cap as stated in the Supplier's Tender, any such expenses necessarily incurred must be in line with the relevant policies of the Customer, with which the Supplier should seek to familiarise itself (the Customer will provide the Supplier with a copies of such policies upon request). The Customer may also require the Supplier to provide proof of purchase. Any expenses that fail to comply with the Customer's policies or that cannot be evidenced with proof of purchase (where required by the Customer), shall be deemed null and void.

7. RECOVERY OF SUMS DUE

- 16.47. If any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of this Contract) under this Contract, that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under this Contract or under any other contract with the Customer or with any department, agency or authority of the Crown. The Supplier will not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

8. PROPERTY

- 16.48. If necessary, the Customer will arrange for the Supplier to be provided with reasonable access to the Premises for the purpose of providing the Services.
- 16.49. All equipment, tools and vehicles brought onto the Premises will be at the Supplier's risk.
- 16.50. Any equipment provided by the Customer or Parent Body for the purpose of this Contract will remain property of the Customer or Parent Body and will only be used for the purpose of carrying out this Contract, and will be returned promptly to the Customer or Parent Body on expiry or termination of this Contract.
- 16.51. The Supplier will reimburse the Customer or Parent Body for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by any Staff. Equipment supplied by the Customer or Parent Body will be deemed to be in a good condition when received by the Supplier unless the Customer or Parent Body is notified otherwise in writing within seven days.

9. KEY PERSONNEL

- 16.52. Any Key Personnel will not be released from supplying the Services without the Contract of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
- 16.53. Any replacements to the Key Personnel will be subject to the agreement of the Customer (not to be unreasonably withheld). Such replacements will be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

10. INSPECTION OF PREMISES

- 16.54. The Supplier is deemed to have inspected the Premises before submitting its tender so as to have understood the nature and extent of the Services to be carried out and is satisfied in relation to all matters connected with the performance of its obligations under this Contract.

11. INSURANCE

- 16.55. The Supplier will effect and maintain (for the Term and for 1 year following the end of the Term), with a reputable insurance company, a policy or policies of insurance providing an adequate level of cover in respect of (i) all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under this Contract; (ii) public liability insurance; and (iii) professional indemnity insurance (where appropriate).
- 16.56. The Supplier will give to the Customer or Parent Body, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 16.57. The insurance may be limited in respect of one claim (but not in any other respect) provided that any such limit will be at least £500,000.

12. INTELLECTUAL PROPERTY RIGHTS

- 16.58. All intellectual property rights in any materials (i) provided by the Customer to the Supplier for the purposes of this Contract will remain the property of the Customer; and (ii) prepared by or for the Supplier solely for delivery of the Services under this Contract, will vest in the Customer. If, and to the extent, that such materials do not vest automatically in the Customer, the Supplier hereby assigns (with full title guarantee and free from all third party rights) all intellectual property rights in such materials to the Customer.
- 16.59. The Supplier hereby grants to the Customer a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any intellectual property rights that the Supplier owns, or has developed, prior to the Commencement Date of this Contract and which the Customer reasonably requires in order to exercise its rights and take the benefit of this Contract including the Services provided.
- 16.60. The Supplier will indemnify, and keep indemnified, the Customer in full against all cost, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier, its employees, agents or subcontractors.

13. ASSIGNMENT AND SUB-CONTRACTING

- 16.61. The Supplier will not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of this Contract or any part thereof. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier will be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 16.62. Where the Supplier enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under this Contract, it will comply with clause 6.4.
- 16.63. Where the Customer has consented to the placing of sub-contracts copies of each sub-contract, will at the request of the Customer, be sent by the Supplier to the Customer as soon as is reasonably practicable.
- 16.64. The Customer may assign, novate, or otherwise dispose of its rights and obligations under this Contract without the consent of the Supplier provided that such assignment, novation or disposal will not increase the burden of the Supplier's obligations under this Contract.

14. TERM

- 16.65. This Contract will take effect on the date specified in the Award Letter or Purchase Order and will expire on the earlier of:

- 14.1.1 Successful Submission of all the Contract Deliverables;
- 14.1.2 The termination date specified in the Customer termination notice; or
- 14.1.3 5pm on the Expiry Date; or

unless it is otherwise extended in accordance with clause 14.2 below, or terminated in accordance with the terms and conditions of this Contract.

- 16.66. The Customer may, by giving written notice to the Supplier, amend the Expiry Date to enable the completion of all Deliverables which were otherwise delayed for unavoidable reasons.

15. TERMINATION

- 16.67. Without prejudice to any other right or remedy it might have, the Customer may terminate this Contract by written notice to the Supplier with immediate effect if:

- 16.67.1. the Customer gives the Supplier 1 month's written notice, unless the Contract is less than 3 months in duration in which case 2 weeks' notice will be given;
- 16.67.2. the Supplier is in material breach of any obligation which is not capable of remedy;
- 16.67.3. the Supplier repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract;
- 16.67.4. the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;

- 16.67.5. the Supplier undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988; or
- 16.67.6. the Supplier becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 15.1.6) in consequence of debt in any jurisdiction.
- 16.68. The Supplier may terminate this Contract if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.69. Termination or expiry of this Contract will not affect the continuing rights under clauses 2, 3.2, 3.3, 8, 11, 16, 24, 25, 26, 30, 32, 38 and 40.
- 16. CONSEQUENCES OF TERMINATION/EXPIRY**
- 16.70. Upon termination or expiry of this Contract, the Supplier will:
- 16.70.1. give all reasonable assistance to the incoming supplier of the Services.
- 16.70.2. return all requested documents, information and data to the Customer as soon as reasonably practicable.
- 16.71. Subject to clause 6, 7 and 16.3, where the Customer terminates the Contract under clause 15 (Termination), the Customer will indemnify the Supplier, up to the total Contract value if evidenced, against any commitments, liabilities or expenditure which represent an unavoidable direct loss to the Supplier by reason of the termination of the Contract, provided that the Supplier takes all reasonable steps to mitigate such loss. The Customer will not be liable to pay any severance payment or compensation to the Supplier for loss of profits suffered as a result of the termination. Where the Supplier holds insurance, the Customer shall only indemnify the Customer for those unavoidable direct costs that are not covered by the insurance available. The Supplier shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Customer, with supporting evidence, of losses reasonably and actually incurred by the Supplier as a result of termination.
- 16.72. In respect to all claims under clause 16.2, the Customer will make one payment in full and final settlement. This payment will not exceed the total of any remaining remuneration due to the Supplier under clause 6 of this Contract.
- 17. VARIATION**
- 16.73. This Contract cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 18. PREVENTION OF CORRUPTION**
- 16.74. The Supplier will not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.
- 16.75. If the Supplier, its Staff or anyone acting on the Supplier's behalf, engages in conduct prohibited by clause 18.1, the Customer may:
-

16.75.1. terminate the Contract and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Contract; or

16.75.2. recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of clause 18.1.

16.76. The Supplier must inform the Customer in writing, within 5 working days of first knowledge, of any evidence that the Parent Body or Potential PSM engages, or intends to engage, in conduct prohibited by clause 18.1.

19. PREVENTION OF FRAUD

16.77. The Supplier will take all reasonable steps, in accordance with good industry practice, to prevent fraud by Staff and the Supplier (including its shareholders, members and directors) in connection with the receipt of monies from the Customer.

16.78. The Supplier will notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

16.79. If the Supplier or its Staff commits fraud in relation to this or any other contract with the Crown (including the Customer) the Customer may:

16.79.1. terminate this Contract and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Contract; or

16.79.2. recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause 19.

16.79.3. The Supplier must inform the Customer in writing, within 5 working days of first knowledge, of any evidence that the Parent Body or Potential PSM engages, or intends to engage, in conduct prohibited by clause 19.1.

20. THIRD PARTY RIGHTS (EXCLUDING RIGHTS UNDER THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999)

16.80. Except as expressly provided elsewhere in this Contract, a person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

16.81. The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Contract are not subject to the consent of any other person.

21. HEALTH AND SAFETY

16.82. The Supplier will promptly notify the Customer, the Parent Body and Potential PSM, of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. If the services are provided at the Customer's premises, the Customer will ensure that the Supplier is promptly notified of any health and safety hazards which may exist or arise at the Premises and which may affect the Supplier in the performance of its obligations under the Contract.

16.83. While on the Customer's or Parent Body's premises, the Supplier will comply with all health and safety measures.

16.84. The Supplier will notify the Customer, Parent Body and Potential PSM immediately in the event of any incident occurring in the performance of its obligations under the

Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

22. DISCRIMINATION

- 16.85. The Supplier will not unlawfully discriminate within the meaning and scope of the Equality Act 2006, the Equality Act 2010, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- 16.86. The Supplier will take all reasonable steps to secure the observance of clause 22.1 by all Staff.

23. ENVIRONMENTAL REQUIREMENTS

- 16.87. The Supplier will provide the Services in accordance with the Parent Body's environmental policy.

24. DATA PROTECTION ACT

- 16.88. The Supplier and all its Staff will comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.
- 16.89. Notwithstanding the general obligation in clause 24.1, where the Supplier is processing Personal Data (as defined by the DPA) as a Data Processor for the Customer (as defined by the DPA) the Supplier will ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA; and
- 16.89.1. provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;
- 16.89.2. promptly notify the Customer of:
- (a) any breach of the security measures to be put in place pursuant to this clause 24; and
 - (b) any request for personal data;
- 16.89.3. ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.

25. INFORMATION ASSURANCE

- 16.90. When handling Customer, Parent Body or Potential PSM data, the Supplier will ensure the security of the data is maintained in line with the protective marking given to that data by the Customer, Parent Body or Potential PSM and by adopting any security procedures specified by the Customer, Parent Body or Potential PSM and set out in the Award Letter or Specification or subsequently agreed with the Parent Body and/or Potential PSM.
- 16.91. The Customer reserves the right to inspect the physical k of the data store or processing, back-up arrangements and review at appropriate intervals to be agreed with the Customer any information assurance processes and procedures in place.

26. OFFICIAL SECRETS ACTS 1911 TO 1989, SECTION 182 OF THE FINANCE ACT 1989

16.92. The Supplier will comply with, and will ensure that its Staff comply with, the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) Section 182 of the Finance Act 1989.

16.93. In the event that the Supplier or its Staff fail to comply with this clause 26, the Customer reserves the right to terminate the Contract by giving notice in writing to the Supplier.

27. FREEDOM OF INFORMATION

16.94. The Supplier acknowledges that the Customer and Parent Body (where relevant) are subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and will provide all necessary assistance to the Customer or Parent Body to enable it to comply with all Information disclosure obligations.

16.95. The Customer may request the Supplier to provide information in its possession in a specific form and the Supplier will respond within 5 Working Days.

16.96. The Customer has absolute discretion, notwithstanding any other provision in this Contract, to determine whether Information is exempt from disclosure.

16.97. The Supplier should not respond to any Request for Information.

16.98. The Supplier acknowledges that (notwithstanding the provisions of this clause 27 and the provisions of clause 33) the Customer or Parent Body may be obliged to disclose information concerning the Supplier or the Services in certain circumstances:

- (a) without consulting the Supplier; or
- (b) following consultation with the Supplier and having taken their views into account;

where clause 27.5(a) applies the Customer will make arrangements, in accordance with any relevant guidance issued under the FOIA, so that reasonable steps are taken, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

16.99. The Supplier will ensure that all Information relevant to this Contract is retained for disclosure and if requested, permit the Customer to inspect it.

28. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

16.100. The Supplier will not make any press announcement or publicise this Contract or any part thereof in any way, except with the prior written consent of the Customer.

16.101. The Supplier will take reasonable steps to ensure that its servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with clause 28.1.

29. SECURITY

16.102. The Customer and Parent Body will be responsible for maintaining the security of their respective premises in accordance with their standard security requirements. While on the Customers or Parent Body's premises the Supplier will comply with all security requirements, and will ensure that all Staff comply with such requirements.

- 16.103. Where the Services are provided from the Supplier's premises, the Supplier will, at their own cost, comply with all security requirements specified by the Customer in writing.

30. SUPPLIER'S STAFF

- 16.104. The Customer may, by giving written notice to the Supplier:
- (a) refuse to admit onto, or withdraw permission to remain on, their premises to any member of the Staff or any person employed or engaged by any member of the Staff;
 - (b) require that a person or Staff is not to become involved in, or is to be removed from involvement in the performance of, the Contract; and
 - (c) require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered.
- 16.105. The Supplier will comply with any clause 30.1 notice.
- 16.106. If requested, the Supplier will provide a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's or Parent Body's premises in connection with this Contract.
- 16.107. The Supplier's Staff will comply with any rules, regulations and requirements specified by the Customer or Parent Body.
- 16.108. If the Supplier fails to comply with clause 30.2 within 1 month of the date of the request unless the Contract is less than 3 months in duration in which case 2 weeks' notice will be given, and in the reasonable opinion of the Customer such failure may be prejudicial to the interests of the Crown then the Customer may terminate the Contract, provided always that such termination will not prejudice or affect any right of action or remedy which will have accrued or will thereafter accrue to the Customer.
- 16.109. The decision of the Customer as to whether any person is to be refused access to the Premises and as to whether the Supplier has failed to comply with clause 30.2 will be final and conclusive.
- 16.110. The Supplier will comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Supplier confirms that all persons employed or engaged by the Supplier were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 16.111. The Customer may require the Supplier to ensure that any person employed in the provision of the Services has undertaken a Criminal Records Bureau check as per the Staff Vetting Procedures. The Supplier will ensure that no person who discloses that he/she has a Relevant Conviction, or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check or through the Criminal Records Bureau check or otherwise) is employed or engaged in the provision of any part of the Services.

31. AUDIT

- 16.112. The Supplier will keep and maintain until 6 years after the end of the Contract, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Customer, and all payments made by the Customer. The Supplier will on request afford the Customer or the Customer's representatives such access to those

records as may be reasonably requested by the Customer in connection with the Contract.

32. TRANSPARENCY

16.113. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not confidential. The Customer will be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

16.114. Notwithstanding any other term of this Contract, the Supplier hereby gives his consent for the Customer to publish the Contract in its entirety, but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted, including from time to time agreed changes to the Contract, to the general public.

33. CONFIDENTIALITY

16.115. (Subject to clause 26 and 27) each Party will keep confidential and not disclose, and will procure that his employees and the employees of any sub-contractor keep confidential and do not disclose, any information of a confidential nature obtained by him (concerning the other Party) by reason of this Contract except information which:

- (a) is in the public domain otherwise than by reason of a breach of this provision;
- (b) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (c) was in a Party's possession without restriction as to its disclosure prior to receiving such information from the other Party;
- (d) is required to be disclosed by law (including under the FOIA and Environmental Information Regulations), or for the purposes of audit or regulatory requirements;
- (e) is necessary for a Party to disclose for the purposes of the performing its obligations under this Contract (but only to the extent it is necessary to do so);
- (f) the other Party has given its specific express prior written consent can be disclosed;
- (g) in the case of the Customer, disclosed to any other government department provided that such government department will comply with confidentiality provisions in respect of such disclosed information which are no less onerous than this clause.

16.116. The provisions of this clause will apply during the continuance of this Contract and after its expiry or termination howsoever arising.

34. FORCE MAJEURE

16.117. Neither Party will have any liability under or be deemed to be in breach of this Contract for any delays or failures in performance of this Contract which result from circumstances beyond the reasonable control of that Party (those circumstances excluding any industrial action occurring within the Supplier's organisation).

16.118. The Party affected by such circumstances will promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and

when they cease to do so. If such circumstances continue for a continuous period of more than six months, either Party may terminate this Contract by written notice to the other Party.

35. ENTIRE AGREEMENT

16.119. This Contract contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into this Contract on the basis of any representation that is not expressly incorporated into this Contract. Nothing in this clause will exclude liability for fraud or fraudulent misrepresentation.

36. WAIVER

16.120. Any waiver or relaxation either partly, or wholly of any of the conditions of the Contract will be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract will not constitute a waiver of any right or remedy arising from any other breach of the Contract.

37. AGENCY, PARTNERSHIP ETC

16.121. This Contract will not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties, or between the Parties, the Parent Body and the Potential PSM, other than the contractual relationship expressly provided for in this Contract. Neither Party will have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

38. REMEDIES CUMULATIVE

16.122. Except as otherwise expressly provided by this Contract, all remedies available to either Party for breach of this Contract (whether under this Contract, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy will not be deemed an election of such remedy to the exclusion of other remedies.

39. SEVERANCE

16.123. If any provision of this Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract, and will not in any way affect any other circumstances of or the validity or enforcement of this Contract.

40. DISPUTE RESOLUTION

16.124. The Parties will attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract. If the dispute cannot be resolved by the Parties within a reasonable period, the dispute may, by agreement between the Parties, be referred to a neutral adviser or mediator ("the Mediator") chosen by agreement between the Parties. If they are unable to agree a Mediator or if the chosen Mediator is unable or unwilling to act either Party will be able to apply an appropriate mediation provider to appoint a Mediator. Within 10 Working Days of appointing the Mediator, the parties will meet with the Mediator to agree a procedure for negotiations.

16.125. All negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings. The

parties agree to be bound by any written agreement once signed by the Parties. If the Parties fail to appoint a Mediator, or fail to reach agreement within one month of the Mediator being appointed, either party may exercise any remedy that it has under this Contract.

41. NOTICES

16.126. Any notice to be given under this Contract will be in writing and will be sent by first class mail or air mail, or by facsimile or e-mail, to the address of the relevant Party set out in the Purchase Order or Award Letter, or such other address or facsimile number as that Party may from time to time notify to the other Party in accordance with this clause.

16.127. Notices sent as above will be deemed effectively given on the day when in ordinary course of the means of transmission, it would first be received by the addressee in normal business hours.

42. GOVERNING LAW AND JURISDICTION

16.128. The validity, construction and performance of this Contract, and all contractual and non contractual matters arising out of it, will be governed by English law and will be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

17. THIRD PARTY RIGHTS (TO BE PROVIDED BY THE SUPPLIER)

17.1. Any reference in this clause 43 to Parent Body and Potential PSM includes their successors and permitted assignees.

17.2. The Customer and Supplier agree that:

17.2.1. Comply with the Contract

17.2.1.1. The Supplier warrants to the Parent Body and Potential PSM that;

17.2.1.1.1. it has complied, and will continue to comply, with all its obligations under this Contract;

17.2.1.1.2. it has used, and will continue to use, all the reasonable skill, care and diligence to be expected of a professional and experienced business advisor undertaking similar business advice in scope and character to the Services provided under this Contract.

17.2.2. Limitation of Liability

17.2.2.1. The Supplier's aggregate liability under this Contract to the Customer, Parent Body and Potential PSM together shall not exceed £5m.

17.2.3. Timetable for the supply of Services

17.2.3.1. Before commencing the supply of Services, the Supplier, the Parent Body and Potential PSM will agree a timetable for the supply.

17.2.3.2. The Supplier, Parent Body and Potential PSM may vary the timetable by agreement.

17.2.3.3. The Supplier will forward a copy of the timetable, including any amendments made, to the Parent Body, Potential PSM and Customer.

17.2.4. Supply of Services

17.2.5. The Supplier grants the Parent Body the right to enforce the Customer's rights under clause 3.3 of this Contract, as if the Parent Body had been named with the Customer.

17.2.6. Professional indemnity insurance

17.2.6.1. The Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clause 11 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer.

17.2.7. Intellectual Property Rights

17.2.7.1. The Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clauses 12.2 and 12.3 of clause 12 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer.

17.2.7.2. The Customer grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clauses 12.2 and 12.3 of clause 12 of this Contract, as if those clauses were drafted with the Parent Body and Potential PSM named in place of the Customer, and as if the Customer had been named instead of the Supplier.

17.2.7.3. The Customer grants the Parent Body and Potential PSM a royalty-free, and non-exclusive licence) to use any materials (i) provided by the Customer to the Supplier for the purposes of this Contract; and (ii) prepared by or for the Supplier solely for delivery of the Services under this Contract.

17.2.8. Consequences of Termination

17.2.8.1. The Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clause 16.1.2 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer.

17.2.9. Health and Safety

17.2.9.1. The Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clause 21 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer.

17.2.10. Environmental Requirements

17.2.10.1. Pursuant to clause 23, the Supplier grants the Parent Body the right to require that the Services are provided in accordance with the Parent Body's environmental policy.

17.2.11. Information Assurance

17.2.11.1. Pursuant to clause 25, the Supplier grants the Parent Body and Potential PSM the right to specify the security procedure that must be adopted when the Supplier handles Parent Body and Potential PSM data.

17.2.12. Freedom of Information

17.2.12.1. The Supplier grants the Parent Body the right to enforce the Customer's rights under clauses 27.1, 27.2, 27.3 and 27.6 of clause 27 of this Contract, as if the Parent Body had been named with the Customer.

17.2.13. Security

17.2.13.1. The Supplier grants the Parent Body the right to enforce the Customer's rights under clauses 29.1 and 29.2 of clause 29 of this Contract, as if the Parent Body had been named with the Customer.

17.2.14. Supplier's Staff

17.2.14.1. The Supplier grants the Parent Body the right to enforce the Customer's rights under clauses 30.1, 30.3, 30.4 and 30.8 of clause 30 of this Contract, as if the Parent Body had been named with the Customer.

17.2.15. Confidentiality

17.2.15.1. (Subject to clauses 26 and 27 of this Contract) the Supplier warrants to the Parent Body and Potential PSM that it will keep confidential and not disclose, and will procure that its employees and the employees of any sub-contractor keep confidential and do not disclose, any information of a confidential nature obtained by it (concerning the Parent Body and Potential PSM) by reason of this Contract except information which:

17.2.15.1.1. is in the public domain otherwise than by reason of a breach of this provision;

17.2.15.1.2. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure

17.2.15.1.3. was in the Supplier's possession without restriction as to its disclosure prior to receiving such information from the Parent Body and Potential PSM;

17.2.15.1.4. is required to be disclosed by law, or for the purposes of audit or regulatory requirements;

17.2.15.1.5. is necessary for the Supplier to disclose for the purposes of the performing its obligations under this Contract (but only to the extent it is necessary to do so); and;

17.2.15.1.6. the Parent Body and Potential PSM has given its specific express prior written consent can be disclosed.

17.2.15.2. The Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clauses 33.1 and 33.2 of clause 33 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer and Supplier as a Party.

17.2.16. Remedies Cumulative

17.2.16.1. In relation to the rights acquired by the Parent Body and Potential PSM under clause 20 alone, the Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clauses 38.1 of clause 38 of this Contract, as if the Parent Body and Potential PSM had been named as a Party.

17.2.17. Dispute Resolution

17.2.17.1. In relation to the third party rights expressly granted under this Contract, the Supplier grants the Parent Body and Potential PSM the right to enforce the Customer's rights under clauses 40.1 and 40.2 of clause 40 of this Contract, as if the Parent Body and Potential PSM had been named with the Customer.

ANNEX D

1. RESPONSE REQUIRED

1.1 Potential Suppliers are requested to provide written submissions addressing the following:

1.2 Background Information:

1.2.1 Basic Supplier and Supply Chain Information: Potential Suppliers should provide a statement confirming:

1.2.1.1 Name, telephone number and email address for a single point of contact for their tender.

1.2.1.2 whether the Services shall be provided entirely by themselves, or whether they shall be acting as a prime contractor with a proportion of the Services delivered by third-parties.

1.2.1.3 whether the Potential Supplier is an SME and/or VCSE organisation as defined in paragraph 2 of this Annex D.

1.2.1.4 where applicable, whether any sub-contractors identified above are SME and/or VCSE organisations as defined in paragraph 2 of this Annex D.

1.2.1.5 where applicable, the estimated value or proportion of the price which will be paid to *each* sub-contractor.

For the avoidance of doubt, the nature of the responses to these questions shall not impact a tender's evaluation outcome; the information will be used to track our reach into and impact on different sectors of the market.

1.3 Conflicts of Interest Check

1.3.1 Conflicts of interest: Potential Suppliers must disclose the results of their conflict of interests check. In the event of an actual or perceived conflict, they must set out the measures that are, and will be put in place to manage this conflict to the satisfaction of the Customer.

(Pass / Fail Question)

17.3. Section A – Approach and Understanding

17.3.1. Understanding of the issues;

17.3.2. Approach to fulfilling the requirements; and

17.3.3. A project plan (we acknowledge that timescales and the detail of the project plan may shift after work commences, but would broadly expect the plan to be reflective of the overall activities, risks and dependencies).

(Quality Criterion = x1)

17.4. Section B – Team

17.4.1. Team structure and experience to include

17.4.1.1. For each individual proposed:

17.4.1.1.1. A short explanation why they are proposed;
and,

17.4.1.1.2. A concise list of *relevant project specific experience* and accompanying dates (e.g. “financial modelling lead on spinning out of NewCo from parent Council (Apr 2012 – Apr 2013)”; NOT “consultant on NewCo spin-out”), a statement as to their grade / seniority, and a summary of their role within the team.

17.4.1.2. An organogram of the team (including estimated number of days work to be completed by each member).

17.4.1.3. Due to the multiple Mutuals Support Programme and Delivering Differently for Young People Contracts being issued in a short space of time, how you would manage delivery of work across multiple contracts with potentially similar teams.

To maximise possible scores, Potential Suppliers should demonstrate highly relevant project-specific experience, such as (but not limited to) complex transformations, mutualisation *etc.*

(Personnel Criterion; Weighting = x2)

17.5. Section C – KSDs

17.5.1. Format and content of required KSD(s), including any accompanying materials *etc.*

17.5.2. Where the Contract is multi-part (*i.e.* the ITT states that Clause 3.6 of the terms and conditions of Contract apply), Potential Suppliers should set out clearly to which Parts the proposed KSDs relate.

(Quality Criterion = x0.5)

17.6. Section D - Commercial

17.6.1. Potential Suppliers should provide their total fixed price and an accompanying price breakdown. As a minimum, this must include a breakdown of costs by deliverable (including separately for KSDs), day rates for each individual proposed and any expenses.

(Commercial Criterion; Weighting = x1.5)

17.7. Your attention is drawn to the following page limit restrictions:

17.7.1. Section A – **three** A4 pages plus **one** A4 page project plan;

17.7.2. Section B – **three** A4 pages plus **one** A4 page team organogram;

17.7.3. Section C – **one** A4 page;

17.7.4. Section D – no more than **one** A4 page.

17.7.5. Responses under the Background Information and Conflicts of Interest Check should be included as separate annexes and will not count towards the page limit.

- 17.8. Potential Suppliers are advised that the presentation and professionalism of their Tender may impact their scores where relevant (e.g. the requirement includes tendering support or marketing).

18. DEFINITIONS OF SME AND VCSE

Definitions

Small & Medium-sized Enterprises (SMEs)

Enterprise category	Headcount (FTE)	Turnover	or	Balance sheet total
medium-sized	< 250	≤ € 50 million		≤ € 43 m
small	< 50	≤ € 10 million		≤ € 10 m
micro	< 10	≤ € 2 million		≤ € 2 m

NB. These ceilings apply to the figures for individual firms only. A firm which is part of larger grouping may need to include employee/turnover/balance sheet data from that grouping too. Further guidance can be found at:

http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

Voluntary, Community and Social Enterprise Sector organisations (VCSEs)

The VCSE sector comprises of “Non-governmental organisations that are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives”. This includes a diverse range of organisations, however these can broadly be categorised as:

Charities - organisations which are established for exclusively charitable purposes in accordance with the law of England and Wales. Most charities with an annual income of over £5,000 have to register with the Charity Commission (PP&ST has details of the Charities register for you to check);

Voluntary and Community organisations - independent organisations, which are established for purposes that add value to the community as a whole, or a significant section of the community, and which are not permitted by their constitution to make a profit for private distribution. Voluntary organisations do not include local government or other statutory authorities;

Social Enterprises – businesses with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or community, rather than being driven by the need to maximise profit for shareholders and owners.

NB There is some overlap between these categories – some voluntary and community organisations are also charities, and some organisations are classified as both a charity and a social enterprise.

ANNEX E

1. ASSESSMENT OF TENDERS

- 18.1. Each criterion will be assessed as a whole in accordance with the relevant scoring mechanism below. To receive higher marks, you should ensure that you provide all of the evidence requested.
- 18.2. All Potential Suppliers must score at least a mark of 2 against every scored requirement.

2. QUALITY CRITERION

Score	Criteria for awarding score
0	Proposal <i>completely</i> fails to meet required standard or does not provide a proposal.
1	Proposal <i>significantly</i> fails to meet the standards required and/or contains significant shortcomings.
2	Proposal meets required standard in <i>some</i> respects but otherwise falls short of achieving expected standard in a number of material respects.
3	Proposal meets the required standard in <i>most</i> material respects, but is lacking or inconsistent in others.
4	Proposal meets the required standard in <i>all</i> material respects.
5	Proposal meets the required standard in <i>all</i> material respects and <i>exceeds some</i> of the material requirements.
6	Proposal <i>exceeds most</i> of the material requirements.

3. COMMERCIAL CRITERION (if used)

Mark	Definition
0	Unacceptable. Proposal exceeds available budget and/or includes unacceptably high day rates.
2, 4, 6	Proposal complies with core budgetary requirements and offers acceptable day rates. Tenders will be scored within this band relative to each other's proposed prices.

4. PERSONNEL CRITERION

0	Skills, knowledge, expertise and/or resource levels <i>completely</i> fail to meet required standard.
1	Skills, knowledge, expertise and/or resource levels <i>significantly</i> fail to meet the standards required and/or contain significant shortcomings.
2	Skills, knowledge, expertise and resource levels meet required standard in <i>some</i> respects but otherwise fall short of achieving expected standard in a number of material respects.

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3	Skills, knowledge, expertise and resource levels meet the required standard in <i>most</i> material respects, but are lacking or inconsistent in others.
4	Skills, knowledge, expertise and resource levels meet the required standard in <i>all</i> material respects.
5	Skills, knowledge, expertise and resource levels meet the required standard in <i>all</i> material respects and <i>exceed some</i> of the material requirements.
6	Skills, knowledge, expertise and resource levels <i>exceed most</i> of the material requirements.

CASE STUDY GUIDANCE

The completed case study should not contain the names and details of Potential PSM leads or Parent Body contacts (unless contacts have agreed to their details being provided).

The Supplier should be aware that this should be used as a guide to the content and should not be seen as a comprehensive list of issues to be covered, nor a template for the layout or format of the KSD – as such please adapt this to a suitable (publishable) format and feel free to include any additional headings where appropriate.

[Insert type of services e.g. adult social care] service(s) spinning out of [insert name of Parent Body]: Lessons Learned Case study [insert month and year]

1. Introduction and Background to the Potential PSM

This section should include:

- *A brief overview of the Potential PSM i.e. service(s) they deliver*
- *What type of parent body they are looking to spin out of e.g. Local Authority*
- *Any other useful and relevant information*

2. Context and rationale for becoming a Potential PSM

This section should include:

- *The key drivers for the service(s) to spin out*
- *Further opportunities and benefits for the service(s) once spun out e.g. do the market dynamics confirm there is considerable demand for a better solution for the delivery of the service(s)*
- *Benefit to Local Authority commissioners upon the service(s) spinning out*
- *Benefit to the Local Community upon the service(s) spinning out*

3. Challenges and barriers faced during the delivery of the contract

This section should also contain the solutions surfaced to overcome/mitigate the challenges and barriers

4. Lessons Learnt

This section should contain the key lessons learned by the Potential PSM on their journey to develop the PSM

5. Next steps and key messages

This section should include:

- *The next steps for the Potential PSM following completion of the MSP contract*
- *Issues the Potential PSM will need to consider in terms of immediate and medium term priorities*
- *Key messages and words of advice for those Potential Mutuals spinning out similar services*