**DPS Schedule 6 (Letter of Appointment Template and Order Schedules)**

**Letter of Appointment**

This Letter of Appointment is issued in accordance with the provisions of the DPS Contract (------) between Cabinet Office and the Agency, dated -------.

Capitalised terms and expressions used in this letter have the same meanings as in the Order Incorporated Terms unless the context otherwise requires.

ORDER:

|  |  |
| --- | --- |
| **Order Number:** | CCCS23A03 |
| **From:** | Cabinet Office |
| **To:** | Live Group |

|  |  |
| --- | --- |
| **Order Start Date:** | 17th July 2023 |
| **Order Expiry Date:** | 16th February 2025 |
| **Order Initial Period:** | Nineteen Months |
| **Order Optional Extension Period:** | There are two options to extend in twelve month increments (19 months + 12 months + 12 months) |

|  |  |
| --- | --- |
| **Goods or Services required:** | Goods or Services required are set out in DPS Schedule 1 of the DPS Agreement and the relevant Brief and are to be delivered in line with the accepted Proposal as detailed at Annex A of this Letter.  Subsequent calls for Goods or Services shall be priced and agreed using the Statement of Works form as per Annex B of this Letter of Appointment. |

|  |  |
| --- | --- |
| **Key Staff:** | **For the Client:**  Redacted Text Under FOIA Section 40, Personal Information  **For the Agency:** Redacted Text Under FOIA Section 40, Personal Information |
| **Guarantor(s)** | Not Applicable |

|  |  |
| --- | --- |
| **Order Contract Charges (including any applicable discount(s), but excluding VAT):** | The maximum contract value including any extension options is £6,000,000.00. |
| **Liability** | **See Clause 11 of the Core Terms**  **Estimated Year 1 Charges:** |
| **Additional Insurance Requirements** | Not applicable |
| **Client billing address for invoicing:** | Redacted Text Under FOIA Section 40, Personal Information |

|  |  |
| --- | --- |
| **Special Terms** | **Special Term 1 –** The definitions set out in Part A of Annex 1 to this Letter of Appointment shall apply to the Contract and shall supplement Schedule 1 (Definitions). |
|  | **Special Term 2 –** The Authority grants the Supplier the Sponsorship Rights set out in Part B of Annex 1 to this Letter of Appointment. |
|  | **Special Term 3** – In addition to the provisions in Clause 9 of the Core Terms, the provisions in Paragraph 5 of Part B of Annex 1 to this Letter of Appointment shall apply to the ownership and licensing of the Sponsorship Rights IPRs (as defined in Part A of Annex 1 to this Letter of Appointment);  and  Clause 9.4 is deleted and replaced with the following:  9.4 Neither Party has the right to use the other Party’s IPRs, including any use of the other Party’s names, logos or trademarks, except as provided in Clause 9, Part B of Annex 1 to the Letter of Appointment or otherwise agreed in writing. |
|  | **Special Term 3 –** The terms set out in Part C of Annex 1 to this Letter of Appointment are incorporated into the Contract. |
|  | **Special Term 4** – Where the Supplier wishes to enter into a contract with a Public Sector Organisation for the hire of an Exhibition Stand at an Event, the Supplier shall Contract with the Public Sector Organisation on the terms set out in Part D of Annex 1 to this Letter of Appointment. |

PROGRESS REPORT FREQUENCY

* Monthly progress report against agreed project plan.
* Monthly analytic reports from the content library during the hosting period
* Monthly budget reports and ad hoc reports if any over spend is identified
* Weekly sponsorship updates
* Daily registration updates from launch
* Attendance reports the day following each event
* Registration reports one week after each events
* Report on popularity of sessions approximately 3 months prior to launch
* Report on the session bookings weekly from launch

PROGRESS MEETING FREQUENCY

* The inception meeting must take place within four weeks of Contract Award.
* Formal quarterly meetings on the first Working Day of each quarter
* Participation in monthly planning meetings with the Programme Board
* Weekly meetings with the Programme Lead from April to the events

The senior project staff must be available to attend an agreed schedule of regular update meetings pre-and post-event, please state in your proposal how many meetings are included. The schedule of meetings should be agreed within two weeks of the inception meeting and reviewed regularly. These may be held virtually or face-to-face.

## You should present new ways of working to Cabinet Office during quarterly Contract review meetings.

## All meetings will take place virtually or at 70 Whitehall, London or a location close to Westminster. It may be possible for all face-to-face and some meetings may take place remotely. This can be agreed on a meeting by meeting basis.

KEY SUBCONTRACTOR(S)

Redacted Text Under FOIA Section 43, Commercial Interests

Redacted Text Under FOIA Section 40, Personal Information

COMMERCIALLY SENSITIVE INFORMATION

Not Applicable

SOCIAL VALUE COMMITMENT

The Agency agrees, in providing the Goods or Services and performing its obligations under the Order Contract, that it will comply with the social value commitments in Order Schedule 4 (Order Proposal)

ORDER INCORPORATED TERMS

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

1. This Letter of Appointment including the Order Special Terms and Order Special Schedules.
2. *Joint Schedule 1 (Definitions and Interpretation) RM6124*
3. *The following Schedules in equal order of precedence:*

* *Joint Schedules for RM6124*
  + *Joint Schedule 2 (Variation Form)*
  + *Joint Schedule 3 (Insurance Requirements)*
  + *Joint Schedule 4 (Commercially Sensitive Information)*
  + *Joint Schedule 6 (Key Subcontractors)*
  + *Joint Schedule 10 (Rectification Plan)*
  + *Joint Schedule 11 (Processing Data)*
  + *Joint Schedule 12 (Supply Chain Visibility)*
* *Order Schedules for* CCCS23A03 
  + *Order Schedule 1 (Transparency Reports)*
  + *Order Schedule 2 (Staff Transfer)*
  + *Order Schedule 3 (Continuous Improvement)*
  + *Order Schedule 5 (Pricing Details)*
  + *Order Schedule 6 (ICT Services)*
  + *Order Schedule 7 (Key Supplier Staff)*
  + *Order Schedule 8 (Business Continuity and Disaster Recovery)*
  + *Order Schedule 9 (Security)*
  + *Order Schedule 10 (Exit Management)*
  + *Order Schedule 13 (Implementation Plan and Testing)*
  + *Order Schedule 15 (Order Contract Management)*
  + *Order Schedule 18 (Background Checks)*
  + *Order Schedule 20 (Order Specification)*

1. CCS Core Terms
2. *Joint Schedule 5 (Corporate Social Responsibility) RM6124*
3. *Order Schedule 4* (Proposal) as long as any parts of the Order Proposal that offer a better commercial position for the Client (as decided by the Client) take precedence over the documents above.

No other Agency terms are part of the Order Contract. That includes any terms written on the back of, or added to this Order Form, or presented at the time of delivery. For the avoidance of doubt, the relationship between the Parties is non-exclusive. The Client is entitled to appoint any other agency to perform services and produce goods which are the same or similar to the Goods or Services.

FORMATION OF ORDER CONTRACT

BY SIGNING AND RETURNING THIS LETTER OF APPOINTMENT (which may be done by electronic means) the Agency agrees to enter into an Order Contract with the Client to provide the Goods or Services in accordance with the terms of this letter and the Order Incorporated Terms.

The Parties hereby acknowledge and agree that they have read this letter and the Order Incorporated Terms. The Parties hereby acknowledge and agree that this Order Contract shall be formed when the Client acknowledges (which may be done by electronic means) the receipt of the signed copy of this letter from the Agency within two (2) Working Days from such receipt.

|  |  |  |  |
| --- | --- | --- | --- |
| **For and on behalf of the Agency:** | | **For and on behalf of the Client:** | |
| Signature: | Redacted Text Under FOIA Section 40 | Signature: | Redacted Text Under FOIA Section 40 |
| Name: | Redacted Text Under FOIA Section 40 | Name: | Redacted Text Under FOIA Section 40 |
| Role: | Redacted Text Under FOIA Section 40 | Role: | Redacted Text Under FOIA Section 40 |
| Date: |  | Date: |  |

**Annex A**

**Agency Proposal**

Redacted Text Under FOIA Section 43, Commercial Interests

**Annex B**

**Statement of Work – NOT USED**

**This Statement of Work is issued under and in accordance with the Order Contract entered into between the Parties dated *[insert date of signature of Order Contract****.]*

Any schedule attached to this Statement of Work will describe in detail the different types of Services to be provided under that Statement of Work. A schedule attached to this Statement of Work only applies to the relevant project to be delivered under that Statement of Work, and not to any other Statement of Work, or to the provision of the Services as a whole.

The terms of this Statement of Work only apply to the relevant Event to be delivered under that Statement of Work, and not to any other Statement of Work, or to the provision of the Services as a whole.

Once signed by both Parties this Statement of Work shall form part of the Contract.

|  |  |
| --- | --- |
| **Statement of Work Start Date:** | *Insert date on which Statement of Work is to begin* |
| **Statement of Work End Date:** | *Insert date on which statement of Work is to end.* ***DN: This should be once the Event has concluded and Sponsorship Rights in respect of that year’s Event should lapse.*** |
| **Event:** | *Set out a short description of the event.* |
| **Event period** | *Set out the start date for this Event and its duration and the likely end date if known– state whether for a fixed term or an initial term and then rolling subject to notice.* |
| **Goods or Services** | *Set out a description of the Goods or Services to be supplied by the Agency for this Event with reference to the Event Instructions which should be added as an annex to the Statement of Work.* |
| **Project plan:** | *Set out the timing of each phase of the project, any key dates and/ or delivery of the Goods or Services (if known)* |
| **Milestones** | *Set out any milestones that must be Achieved and the milestone achievement criteria for each milestone.* |
| **Service Levels** | *Set out any service levels that are specific to this Event* |
| **Contract Charges:** | *Set out the calculation of the Contract Charges payable to Agency for this Event e.g. details of any fixed Charges.*  *Set out any payment terms specific to the Event.*  Please refer to the Contract for further details of the Charges. |
| **Authority Materials:** | *Set out details of the materials or information to be provided to the Agency.* |
| **Dependencies** | *Set out any dependencies* |
| **Special Terms:** | *Set out any special terms that are intended to take precedence over the Call-Off Terms and/or the Schedules to the Call-Off Terms such as, security requirements, warranties, specific insurance requirements, any specific data reporting requirements etc..* |
| **Key Individuals:** | *Set out details of the key personnel from the Agency for this Event if relevant.* |
| **Guaranteed Amount:** | ***[Insert the amount of Sponsorship which the Agency guarantees to obtain in respect of the Event.]*** |
| **Authority Sponsorship Share:** | ***[Insert the amount of Sponsorship above the Guaranteed Amount, 100% of which will be paid to the Authority in respect of the Event.]*** |
| **Authorised Agency Approver:** | *Set out details of the person(s) who have the authority to agree day to day decisions on behalf of Agency for this Event.* |
| **Authorised Authority Approver:** | *Set out details of the person(s) who have the authority to agree day to day decisions on behalf of Authority for this Event.* |

Signed by:……………………………..........

by (print name):……………………………………….

As Agency Authorised Approver for and on behalf of

[Agency]

Date……….....................................................................

Signed by:………………………………………..........

by (print name):……………………………………….

As Authority Authorised Approver for and on behalf of

[Authority]

Date………...................................................................

**Joint Schedule 2 (Variation Form)**

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

|  |  |  |
| --- | --- | --- |
| **Contract Details** | | |
| This variation is between: | Cabinet Office ( **“the Client"**)  And  **Live Group** (**"the Agency"**) | |
| Contract name: | Provision of Support Civil Service Live **(“the Contract”)** | |
| Contract reference number: | CCCS23A03 | |
| **Details of Proposed Variation** | | |
| Variation initiated by: | **[delete** as applicable: Client/Agency] | |
| Variation number: | **[insert** variation number] | |
| Date variation is raised: | **[insert** date] | |
| Proposed variation |  | |
| Reason for the variation: | **[insert** reason] | |
| An Impact Assessment shall be provided within: | **[insert** number] days | |
| **Impact of Variation** | | |
| Likely impact of the proposed variation: | **[Agency to insert** assessment of impact] | |
| **Outcome of Variation** | | |
| Contract variation: | This Contract detailed above is varied as follows:   * **[Client to insert** original Clauses or Paragraphs to be varied and the changed clause] | |
| Financial variation: | Original Contract Value: | £ **[insert** amount] |
| Additional cost due to variation: | £ **[insert** amount] |
| New Contract value: | £ **[insert** amount] |

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

Signed by an authorised signatory for and on behalf of the Cabinet Office

|  |  |
| --- | --- |
| Signature |  |
| Date |  |
| Name (in Capitals) |  |
| Address |  |
|  |  |

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

|  |  |
| --- | --- |
| Signature |  |
| Date |  |
| Name (in Capitals) |  |
| Address |  |

**Joint Schedule 3 (Insurance Requirements)**

1. **The insurance you need to have**
   1. The Agency shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Order Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Agency shall ensure that each of the Insurances is effective no later than:
      1. the DPS Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
      2. the Order Contract Effective Date in respect of the Additional Insurances.
   2. The Insurances shall be:
      1. maintained in accordance with Good Industry Practice;
      2. (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
      3. taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
      4. maintained for at least six (6) years after the End Date.
   3. The Agency shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Goods or Services and for which the Agency is legally liable.
2. **How to manage the insurance**
   1. Without limiting the other provisions of this Contract, the Agency shall:
      1. take or procure the taking of all reasonable risk management and risk control measures in relation to Goods or Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
      2. promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Agency is or becomes aware; and
      3. hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.
3. **What happens if you aren’t insured**
   1. The Agency shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
   2. Where the Agency has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Agency to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Agency.
4. **Evidence of insurance you must provide**
   1. The Agency shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.
5. **Making sure you are insured to the required amount**
   1. The Agency shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Agency shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.
6. **Cancelled Insurance**
   1. The Agency shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
   2. The Agency shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Agency shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.
7. **Insurance claims**
   1. The Agency shall promptly notify to insurers any matter arising from, or in relation to, the Goods or Services, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Goods or Services, the Agency shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
   2. Except where the Relevant Authority is the claimant party, the Agency shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Goods or Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
   3. Where any Insurance requires payment of a premium, the Agency shall be liable for and shall promptly pay such premium.
   4. Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Agency shall be liable for such excess or deductible. The Agency shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

**ANNEX: REQUIRED INSURANCES**

The Agency shall hold the following standard insurance cover from the DPS Start Date in accordance with this Schedule:

1. professional indemnity insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000);
2. public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than two million pounds (£1,000,000); and
3. employers’ liability insurance with cover (for a single event or a series of related events and in the aggregate) with a minimum limit of indemnity as required by Law.

**Joint Schedule 6 (Key Subcontractors)**

1. **Restrictions on certain subcontractors**
   1. The Agency is entitled to sub-contract its obligations under the DPS Contract to the Key Subcontractors identified on the Platform but this does not remove or reduce the Agency’s liability for its performance of the Contract.
   2. The Agency is entitled to sub-contract its obligations under an Order Contract to Key Subcontractors listed on the Platform who are specifically nominated in the Order Form but this does not remove or reduce the Agency’s liability for its performance of the Contract.
   3. Where during the Contract Period the Agency wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Client and the Agency shall, at the time of requesting such consent, provide CCS and the Client with the information detailed in Paragraph 1.4. The decision of CCS and the Client to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to the Platform. Where the Client consents to the appointment of a new Key Subcontractor then they will be added to the Key Subcontractor section of the Order Form. CCS and the Client may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
      1. the appointment of a proposed Key Subcontractor may prejudice the provision of the Goods or Services or may be contrary to its interests;
      2. the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
      3. the proposed Key Subcontractor employs unfit persons.
   4. The Agency shall provide CCS and the Client with the following information in respect of the proposed Key Subcontractor:
      1. the proposed Key Subcontractor’s name, registered office and company registration number;
      2. the scope/description of any Goods or Services to be provided by the proposed Key Subcontractor;
      3. where the proposed Key Subcontractor is an Affiliate of the Agency, evidence that demonstrates to the reasonable satisfaction of the CCS and the Client that the proposed Key Sub-Contract has been agreed on "arm’s-length" terms;
      4. for the Client, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Order Contract Period; and
      5. (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.
   5. If requested by CCS and/or the Client, within ten (10) Working Days of receipt of the information provided by the Agency pursuant to Paragraph 1.4, the Agency shall also provide:
      1. a copy of the proposed Key Sub-Contract; and
      2. any further information reasonably requested by CCS and/or the Client.
   6. The Agency shall ensure that each new or replacement Key Sub-Contract shall include:
      1. provisions which will enable the Agency to discharge its obligations under the Contracts including without limitation Order Schedule 15 (Order Contract Management);
      2. a right under CRTPA for CCS and the Client to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Client respectively;
      3. a provision enabling CCS and the Client to enforce the Key Sub-Contract as if it were the Agency;
      4. a provision enabling the Agency to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Client;
      5. obligations no less onerous on the Key Subcontractor than those imposed on the Agency under the DPS Contract in respect of:
         1. the data protection requirements set out in Clause 14 (Data protection);
         2. the confidentiality requirements set out in Clause 15 (What you must keep confidential);
         3. the FOIA and other access request requirements set out in Clause 16 (When you can share information);
         4. the obligation not to embarrass CCS or the Client or otherwise bring CCS or the Client into disrepute;
         5. the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
         6. the conduct of audits set out in Clause 6 (Record keeping and reporting);
      6. provisions enabling the Agency to terminate the Key Sub-Contract on notice on terms no more onerous on the Agency than those imposed on CCS and the Client under Clauses 10.4 (When CCS or the Client can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
      7. a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Goods or Services provided to the Agency under the Key Sub-Contract without first seeking the written consent of CCS and the Client.

**Joint Schedule 10 (Rectification Plan)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Request for [Revised] Rectification Plan** | | | | | |
| Details of the Default: | [**Guidance:** Explain the Default, with clear schedule and clause references as appropriate] | | | | |
| Deadline for receiving the [Revised] Rectification Plan: | [**add** date (minimum 10 days from request)] | | | | |
| Signed by [Client]: |  | | Date: | |  |
| **Agency [Revised] Rectification Plan** | | | | | |
| Cause of the Default | [**add** cause] | | | | |
| Anticipated impact assessment: | [**add** impact] | | | | |
| Actual effect of Default: | [**add** effect] | | | | |
| Steps to be taken to rectification: | **Steps** | **Timescale** | | | |
| 1. | [date] | | | |
| 2. | [date] | | | |
| 3. | [date] | | | |
| 4. | [date] | | | |
| […] | [date] | | | |
| Timescale for complete Rectification of Default | [X] Working Days | | | | |
| Steps taken to prevent recurrence of Default | **Steps** | **Timescale** | | | |
| 1. | [date] | | | |
| 2. | [date] | | | |
| 3. | [date] | | | |
| 4. | [date] | | | |
| […] | [date] | | | |
| Signed by the Agency: |  | Date: | |  | |
| **Review of Rectification Plan** [Client] | | | | | |
| Outcome of review | [Plan Accepted] [Plan Rejected] [Revised Plan Requested] | | | | |
| Reasons for Rejection (if applicable) | [**add** reasons] | | | | |
| Signed by [Client] |  | Date: | |  | |

**Joint Schedule 11 (Processing Data)**

**Definitions**

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

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

**Status of the Controller**

* 1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
     1. “Controller” in respect of the other Party who is “Processor”;
     2. “Processor” in respect of the other Party who is “Controller”;
     3. “Joint Controller” with the other Party;
     4. “Independent Controller” of the Personal Data where the other Party is also “Controller”,

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

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

* 1. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 *(Processing Personal Data*) by the Controller.
  2. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
  3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
     1. a systematic description of the envisaged Processing and the purpose of the Processing;
     2. an assessment of the necessity and proportionality of the Processing in relation to the Goods or Services;
     3. an assessment of the risks to the rights and freedoms of Data Subjects; and
     4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
  4. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
     1. Process that Personal Data only in accordance with Annex 1 *(Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
     2. ensure that it has in place Protective Measures, including in the case of the Agency the measures set out in Clause 14.3 of the Core Terms*,* which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
        1. nature of the data to be protected;
        2. harm that might result from a Personal Data Breach;
        3. state of technological development; and
        4. cost of implementing any measures;
     3. ensure that:
        1. the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 *(Processing Personal Data*));
        2. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
           1. are aware of and comply with the Processor’s duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
           2. are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
           3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
           4. have undergone adequate training in the use, care, protection and handling of Personal Data;
     4. not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
        1. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
        2. the Data Subject has enforceable rights and effective legal remedies;
        3. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
        4. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
     5. at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
  5. Subject to paragraph 7 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
     1. receives a Data Subject Access Request (or purported Data Subject Access Request);
     2. receives a request to rectify, block or erase any Personal Data;
     3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
     4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
     5. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
     6. becomes aware of a Personal Data Breach.
  6. The Processor’s obligation to notify under paragraph 6 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
  7. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
     1. the Controller with full details and copies of the complaint, communication or request;
     2. such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
     3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
     4. assistance as requested by the Controller following any Personal Data Breach; and/or
     5. assistance as requested by the Controller with respect to any request from the Information Commissioner’s Office, or any consultation by the Controller with the Information Commissioner's Office.
  8. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
     1. the Controller determines that the Processing is not occasional;
     2. the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
     3. the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
  9. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller’s designated auditor.
  10. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
  11. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
      1. notify the Controller in writing of the intended Subprocessor and Processing;
      2. obtain the written consent of the Controller;
      3. enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
      4. provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
  12. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
  13. The Relevant Authority may, at any time on not less than thirty (30) Working Days’ notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
  14. The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Relevant Authority may on not less than thirty (30) Working Days’ notice to the Agency amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

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

* 1. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11. Annex 2 is not applicable as the supplier will be the data processor.

**Independent Controllers of Personal Data**

* 1. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
  2. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
  3. Where a Party has provided Personal Data to the other Party in accordance with paragraph 8 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
  4. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
  5. The Parties shall only provide Personal Data to each other:
     1. to the extent necessary to perform their respective obligations under the Contract;
     2. in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
     3. where it has recorded it in Annex 1 *(Processing Personal Data).*
  6. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
  7. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
  8. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract **(“Request Recipient”)**:
     1. the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
     2. where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
        1. promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
        2. provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
  9. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
     1. do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
     2. implement any measures necessary to restore the security of any compromised Personal Data;
     3. work with the other Party to make any required notifications to the Information Commissioner’s Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
     4. not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
  10. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 *(Processing Personal Data).*
  11. Personal Data shall not be retained or processed for longer than is necessary to perform each Party’s respective obligations under the Contract which is specified in Annex 1 *(Processing Personal Data)*.
  12. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Agency is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 27 of this Joint Schedule 11.

**Annex 1 - Processing Personal Data**

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

* + - 1. The contact details of the Relevant Authority’s Data Protection Officer are: Redacted Text Under FOIA Section 40, Personal Information
      2. The contact details of the Agency’s Data Protection Officer are Redacted Text Under FOIA Section 40, Personal Information
      3. The Processor shall comply with any further written instructions with respect to Processing by the Controller.
      4. Any such further instructions shall be incorporated into this Annex.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Identity of Controller for each Category of Personal Data | **The Relevant Authority is Controller and the Agency is Processor**  The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Agency is the Processor of the following Personal Data:  *Redacted Text Under FOIA Section 43, Commercial Interests* |
| Duration of the Processing | *Redacted Text Under FOIA Section 43, Commercial Interests* |
| Nature and purposes of the Processing | *Redacted Text Under FOIA Section 43, Commercial Interests* |
| Type of Personal Data | *Redacted Text Under FOIA Section 43, Commercial Interests* |
| Categories of Data Subject | *Redacted Text Under FOIA Section 43, Commercial Interests* |
| Plan for return and destruction of the data once the Processing is complete  UNLESS requirement under Union or Member State law to preserve that type of data | *Redacted Text Under FOIA Section 43, Commercial Interests* |

**Annex 2 - Joint Controller Agreement - NOT USED**

**1. Joint Controller Status and Allocation of Responsibilities**

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the Agency:

* + 1. is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
    2. shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
    3. is solely responsible for the Parties’ compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
    4. is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Goods or Services where consent is the relevant legal basis for that Processing; and
    5. shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Agency’s/Relevant Authority’s] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

* + 1. **Undertakings of both Parties**
       1. The Agency and the Relevant Authority each undertake that they shall:
    2. report to the other Party every [x] months on:
       1. the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
       2. the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
       3. any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party’s obligations under applicable Data Protection Legislation;
       4. any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
       5. any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

* + 1. notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
    2. provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
    3. not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Goods or Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
    4. request from the Data Subject only the minimum information necessary to provide the Goods or Services and treat such extracted information as Confidential Information;
    5. ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
    6. take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
       1. are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
       2. are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
       3. have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
    7. ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
       1. nature of the data to be protected;
       2. harm that might result from a Personal Data Breach;
       3. state of technological development; and
       4. cost of implementing any measures;
    8. ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
    9. ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.
       1. Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.
    10. **Data Protection Breach**
        1. Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:
    11. sufficient information and in a timescale, which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; and
    12. all reasonable assistance, including:
        1. co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
        2. co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;
        3. co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
        4. providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.
        5. Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party’s own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:
    13. the nature of the Personal Data Breach;
    14. the nature of Personal Data affected;
    15. the categories and number of Data Subjects concerned;
    16. the name and contact details of the Agency’s Data Protection Officer or other relevant contact from whom more information may be obtained;
    17. measures taken or proposed to be taken to address the Personal Data Breach; and
    18. describe the likely consequences of the Personal Data Breach.
    19. **Audit**
        1. The Agency shall permit:
    20. the Relevant Authority, or a third-party auditor acting under the Relevant Authority’s direction, to conduct, at the Relevant Authority’s cost, data privacy and security audits, assessments and inspections concerning the Agency’s data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
    21. the Relevant Authority, or a third-party auditor acting under the Relevant Authority’s direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Agency so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Agency to assist in the provision of the Goods or Services.
        1. The Relevant Authority may, in its sole discretion, require the Agency to provide evidence of the Agency’s compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.
    22. **Impact Assessments**
        1. The Parties shall:
    23. provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
    24. maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.
    25. **ICO Guidance**

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Relevant Authority may on not less than thirty (30) Working Days’ notice to the Agency amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

* + 1. **Liabilities for Data Protection Breach**
       1. If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Agency for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:
    2. if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Agency) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Agency shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Agency's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
    3. if in the view of the Information Commissioner, the Agency is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Agency shall be responsible for the payment of these Financial Penalties. The Agency will provide to the Relevant Authority and its auditors, on request and at the Agency’s sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
    4. if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Agency shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
       1. If either the Relevant Authority or the Agency is the defendant in a legal claim brought before a court of competent jurisdiction (“Court”) by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
       2. In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the “Claim Losses”):
    5. if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
    6. if the Agency is responsible for the relevant Personal Data Breach, then the Agency shall be responsible for the Claim Losses: and
    7. if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Agency shall be responsible for the Claim Losses equally.
       1. Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Agency reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.
    8. **Termination**

If the Agency is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Agency in accordance with Clause 10 of the Core Terms (*Ending the contract*).

* + 1. **Sub-Processing**
       1. In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:
    2. carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
    3. ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.
    4. **Data Retention**

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

**Joint Schedule 12 (Supply Chain Visibility)**

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

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

1. **Visibility of Sub-Contract Opportunities in the Supply Chain** 
   1. The Agency shall:
      1. subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Goods or Services above a minimum threshold of £25,000 that arise during the Contract Period;
      2. within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
      3. monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
      4. provide reports on the information at Paragraph 2.1.3 to the Relevant Authority in the format and frequency as reasonably specified by the Relevant Authority; and
      5. promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
   2. Each advert referred to at Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Agency.
   3. The obligation on the Agency set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
   4. Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Agency on Contracts Finder.
2. **Visibility of Supply Chain Spend**
   1. In addition to any other management information requirements set out in the Contract, the Agency agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “SME Management Information Reports”) to the Relevant Authority which incorporates the data described in the Supply Chain Information Report Template which is:
3. the total contract revenue received directly on the Contract;
4. the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
5. the total value of sub-contracted revenues to SMEs and VCSEs.
   1. The SME Management Information Reports shall be provided by the Agency in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Relevant Authority from time to time. The Agency agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Relevant Authority issuing a replacement version. The Relevant Authority agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
   2. The Agency further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.

**Annex 1**

**Supply Chain Information Report template**



**Order Schedule 1 (Transparency Reports)**

1.1 The Agency recognises that the Client is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>). The Agency shall comply with the provisions of this Schedule in order to assist the Client with its compliance with its obligations under that PPN.

1.2 Without prejudice to the Agency’s reporting requirements set out in the DPS Contract, within three (3) Months of the Start Date the Agency shall submit to the Client for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.

1.3 If the Client rejects any proposed Transparency Report submitted by the Agency, the Agency shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Client. If the Parties fail to agree on a draft Transparency Report the Client shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.

1.4 The Agency shall provide accurate and up-to-date versions of each Transparency Report to the Client at the frequency referred to in the Annex of this Schedule.

**Annex A: List of Transparency Reports**

The Supplier and the Buyer shall agree the content of the Transparency Reports

after commencement which shall, at a minimum, include any information necessary

to comply with transparency obligation under the Public Contract Regulations 2015

and any relevant HM Government guidance.

**Order Schedule 2 (Staff Transfer)**

Clients will need to ensure that appropriate provisions are included to deal with staff transfer on both entry and exit, and, irrespective of whether TUPE does apply on entry if there are employees eligible for New Fair Deal pension protection then the appropriate pensions provisions will also need to be selected.

If there is a staff transfer from the Client on entry (1st generation) then Part A shall apply.

If there is a staff transfer from former/incumbent supplier on entry (2nd generation), Part B shall apply.

If there is both a 1st and 2nd generation staff transfer on entry, then both Part A and Part B shall apply.

If either Part A and/or Part B apply, then consider whether Part D (Pensions) shall apply and the Client shall indicate on the Order Form which Annex shall apply (either D1 (CSPS), D2 (NHSPS), D3 (LGPS) or D4 (Other Schemes)). Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If there is no staff transfer (either 1st generation or 2nd generation) at the Start Date then Part C shall apply and Part D pensions may also apply where there is not a TUPE transfer for example where the incumbent provider is successful.

If the position on staff transfers is not known at the bid stage, include Parts A, B, C and D at the bid stage and then update the Client Contract Details before signing to specify whether Parts A and/or B, or C and D apply to the Contract.

Part E (dealing with staff transfer on exit) shall apply to every Contract.

For further guidance on this Schedule contact Government Legal Department’s Employment Law Group]

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

|  |  |
| --- | --- |
| **“Acquired Rights Directive”** | the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time; |
| **"Employee Liability"** | all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:   * 1. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; |
|  | * 1. unfair, wrongful or constructive dismissal compensation; |
|  | * 1. compensation for discrimination on grounds of  sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity  or sexual orientation or claims for equal pay; |
|  | * 1. compensation for less favourable treatment of part-time workers or fixed term employees; |
|  | * 1. outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions; |
|  | * 1. employment claims whether in tort, contract or statute or otherwise; |
|  | * 1. any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation; |
| **"Former Agency"** | a supplier supplying services to the Client before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor); |
| **"New Fair Deal"** | the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for Staff Pensions: Staff Transfer from Central Government*" issued in October 2013 including:  any amendments to that document immediately prior to the Relevant Transfer Date; and  any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Agency by the Client; |
| **“Old Fair Deal”** | HM Treasury Guidance “*Staff Transfers from Central Government: A Fair Deal for Staff Pensions*” issued in June 1999 including the supplementary guidance “*Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues*” issued in June 2004; |
| **"Partial Termination"** | the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Client can end this contract) or 10.6 (When the Agency can end the contract); |
| **"Relevant Transfer"** | a transfer of employment to which the Employment Regulations applies; |
| **"Relevant Transfer Date"** | in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Agency or a Subcontractor was the Former Agency and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Agency (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date; |
| **"Staffing Information"** | in relation to all persons identified on the Agency's Provisional Agency Personnel List or Agency's Final Agency Personnel List, as the case may be, such information as the Client may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:  (a) their ages, dates of commencement of employment or engagement, gender and place of work; |
|  | (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise; |
|  | (c) the identity of the employer or relevant contracting Party; |
|  | (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; |
|  | (e) their wages, salaries, bonuses and profit sharing arrangements as applicable; |
|  | (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them; |
|  | (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims); |
|  | (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence; |
|  | (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and |
|  | (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations; |
| **"Agency's Final Agency Personnel List"** | a list provided by the Agency of all Agency Staff whose will transfer under the Employment Regulations on the Service Transfer Date; |
| **"Agency's Provisional Agency Personnel List"** | a list prepared and updated by the Agency of all Agency Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Agency; |
| **"Term"** | the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract; |
| **"Transferring Client Employees"** | those employees of the Client to whom the Employment Regulations will apply on the Relevant Transfer Date; |
| **"Transferring Former Agency Employees"** | in relation to a Former Agency, those employees of the Former Agency to whom the Employment Regulations will apply on the Relevant Transfer Date. |

1. **INTERPRETATION**
   1. Where a provision in this Schedule imposes any obligation on the Agency including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Agency shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Client, Former Agency, Replacement Agency or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Agency will be liable for satisfying any such claim as if it had provided the indemnity itself.
   2. The provisions of Paragraphs 2.1 and 2.6 of Part A, Paragraph 3.1 of Part B, Paragraphs 1.5, 1.7 and 1.9 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together “Third Party Provisions”) confer benefits on third parties (each such person a “Third Party Beneficiary”) and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.
   3. Subject to Paragraph 2.2 above, a person who is not a Party to this Order Contract has no right under the CRTPA to enforce any term of this Order Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
   4. No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Client, which may, if given, be given on and subject to such terms as the Client may determine.
   5. Any amendments or modifications to this Order Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.
2. **Which parts of this Schedule apply**

Only the following parts of this Schedule shall apply to this Order Contract:

* + [Part C (No Staff Transfer on the Start Date)]
  + Part E (Staff Transfer on Exit)

1. **Limits on the Former Agency’s obligations**

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

1. **Pensions**
   1. The Agency shall, and shall procure that each Subcontractor shall, comply with:
      1. the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; ; and
      2. Part D: Pensions (and its Annexes) to this Schedule.

# Part C: No Staff Transfer on the Start Date

1. **What happens if there is a staff transfer**
   1. The Client and the Agency agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Client and/or any Former Agency.
   2. If any employee of the Client and/or a Former Agency claims, or it is determined in relation to any employee of the Client and/or a Former Agency, that his/her contract of employment has been transferred from the Client and/or the Former Agency to the Agency and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
      1. the Agency shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Client in writing and, where required by the Client, notify the Former Agency in writing; and
      2. the Client and/or the Former Agency may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Agency or the Subcontractor (as appropriate) or take such other reasonable steps as the Client or Former Agency (as the case may be) it considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
   3. If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Client and/or the Former Agency),, the Agency shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
   4. If by the end of the 15 Working Day period referred to in Paragraph 1.2.2:
      1. no such offer of employment has been made;
      2. such offer has been made but not accepted; or
      3. the situation has not otherwise been resolved;

the Agency may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

* 1. Subject to the Agency and/or the relevant Subcontractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.8 the Client shall:
     1. indemnify the Agency and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Client's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Agency takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and
     2. procure that the Former Agency indemnifies the Agency and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Agency referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Agency takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
  2. If any such person as is described in Paragraph 1.2 is neither re employed by the Client and/or the Former Agency as appropriate nor dismissed by the Agency and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Agency and/or the Subcontractor (as appropriate) and the Agency shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
  3. Where any person remains employed by the Agency and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Agency and/or the Subcontractor and the Agency shall indemnify the Client and any Former Agency, and shall procure that the Subcontractor shall indemnify the Client and any Former Agency, against any Employee Liabilities that either of them may incur in respect of any such employees of the Agency and/or employees of the Subcontractor.
  4. The indemnities in Paragraph 1.5:
     1. shall not apply to:
        1. any claim for:

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

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

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

* + - 1. any claim that the termination of employment was unfair because the Agency and/or any Subcontractor neglected to follow a fair dismissal procedure; and
    1. shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Agency and/or any Subcontractor to the Client and, if applicable, Former Agency within 6 months of the Start Date.
  1. If the Agency and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Agency and/or the Subcontractor and the Agency shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Client and any Former Agency against any Employee Liabilities that either of them may incur in respect of any such employees of the Agency and/or employees of the Subcontractor.

1. **Limits on the Former Agency’s obligations**

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

**Part E: Staff Transfer on Exit**

1. **Obligations before a Staff Transfer**
   1. The Agency agrees that within 20 Working Days of the earliest of:
      1. receipt of a notification from the Client of a Service Transfer or intended Service Transfer;
      2. receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
      3. the date which is 12 Months before the end of the Term; and
      4. receipt of a written request of the Client at any time (provided that the Client shall only be entitled to make one such request in any 6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Agency's Provisional Agency Personnel List, together with the Staffing Information in relation to the Agency's Provisional Agency Personnel List and it shall provide an updated Agency's Provisional Agency Personnel List at such intervals as are reasonably requested by the Client.

* 1. At least 20 Working Days prior to the Service Transfer Date, the Agency shall provide to the Client or at the direction of the Client to any Replacement Agency and/or any Replacement Subcontractor (i) the Agency's Final Agency Personnel List, which shall identify the basis upon which they are Transferring Agency Employees and (ii) the Staffing Information in relation to the Agency’s Final Agency Personnel List (insofar as such information has not previously been provided).
  2. The Client shall be permitted to use and disclose information provided by the Agency under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Agency and/or Replacement Subcontractor.
  3. The Agency warrants, for the benefit of The Client, any Replacement Agency, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
  4. From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Agency agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Agency’s Provisional Agency Personnel List and shall not without the approval of the Client (not to be unreasonably withheld or delayed):

:

* + 1. replace or re-deploy any Agency Staff listed on the Agency Provisional Agency Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces
    2. make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Agency Staff (including pensions and any payments connected with the termination of employment);
    3. increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Agency Staff save for fulfilling assignments and projects previously scheduled and agreed;
    4. introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Agency's Provisional Agency Personnel List;
    5. increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
    6. terminate or give notice to terminate the employment or contracts of any persons on the Agency's Provisional Agency Personnel List save by due disciplinary process;

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

* 1. On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Client may make written requests to the Agency for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Agency shall provide, and shall procure that each Subcontractor shall provide, to the Client such information as the Client may reasonably require relating to the manner in which the Services are organised, which shall include:
     1. the numbers of employees engaged in providing the Services;
     2. the percentage of time spent by each employee engaged in providing the Services;
     3. the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
     4. a description of the nature of the work undertaken by each employee by location.
  2. The Agency shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Client, any Replacement Agency and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Agency Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Agency Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Agency shall provide, and shall procure that each Subcontractor shall provide, to the Client or, at the direction of the Client, to any Replacement Agency and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Agency's Final Agency Personnel List who is a Transferring Agency Employee:
     1. the most recent month's copy pay slip data;
     2. details of cumulative pay for tax and pension purposes;
     3. details of cumulative tax paid;
     4. tax code;
     5. details of any voluntary deductions from pay; and
     6. bank/building society account details for payroll purposes.

1. **Staff Transfer when the contract ends**
   1. The Client and the Agency acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of the relevant Contract or otherwise) resulting in the Services being undertaken by a Replacement Agency and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Client and the Agency agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Agency and the Transferring Agency Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Agency and/or a Replacement Subcontractor (as the case may be) and each such Transferring Agency Employee.
   2. The Agency shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Agency Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Agency Employees arising in respect of the period up to (and including) the Service Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments ofPAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Agency and/or the Subcontractor (as appropriate); and (ii) the Replacement Agency and/or Replacement Subcontractor.
   3. Subject to Paragraph 2.4, the Agency shall indemnify the Client and/or the Replacement Agency and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:
      1. any act or omission of the Agency or any Subcontractor in respect of any Transferring Agency Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Agency Employee whether occurring before, on or after the Service Transfer Date;
      2. the breach or non-observance by the Agency or any Subcontractor occurring on or before the Service Transfer Date of:

##### any collective agreement applicable to the Transferring Agency Employees; and/or

##### any other custom or practice with a trade union or staff association in respect of any Transferring Agency Employees which the Agency or any Subcontractor is contractually bound to honour;

* + 1. any claim by any trade union or other body or person representing any Transferring Agency Employees arising from or connected with any failure by the Agency or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
    2. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

##### in relation to any Transferring Agency Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

##### in relation to any employee who is not identified in the Agency’s Final Agency Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Agency to the Client and/or Replacement Agency and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

* + 1. a failure of the Agency or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Agency Employees in respect of the period up to (and including) the Service Transfer Date);
    2. any claim made by or in respect of any person employed or formerly employed by the Agency or any Subcontractor other than a Transferring Agency Employee identified in the Agency’s Final Agency Personnel List for whom it is alleged the Client and/or the Replacement Agency and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
    3. any claim made by or in respect of a Transferring Agency Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Agency Employee relating to any act or omission of the Agency or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Client and/or Replacement Agency to comply with regulation 13(4) of the Employment Regulations.
  1. The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Agency and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date including any Employee Liabilities:
     1. arising out of the resignation of any Transferring Agency Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Agency and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
     2. arising from the Replacement Agency’s failure, and/or Replacement Subcontractor’s failure, to comply with its obligations under the Employment Regulations.
  2. If any person who is not identified in the Agency's Final Agency Employee List claims, or it is determined in relation to any employees of the Agency, that his/her contract of employment has been transferred from the Agency to the Replacement Agency and/or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
     1. the Client shall procure that the Replacement Agency and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Client and the Agency in writing; and
     2. the Agency may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within15 Working Days of receipt of notice from the Replacement Agency and/or Replacement Subcontractor.
  3. If such offer of is accepted, or if the situation has otherwise been resolved by the Agency or a Subcontractor, Client shall procure that the Replacement Agency shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release the person from his/her employment or alleged employment;
  4. If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:
     1. no such offer has been made:
     2. such offer has been made but not accepted; or
     3. the situation has not otherwise been resolved

the Client shall advise the Replacement Agency and/or Replacement Subcontractor (as appropriate) that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person;

* 1. Subject to the Replacement Agency's and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 and in accordance with all applicable proper employment procedures set out in applicable Law and subject to Paragraph 2.9 below, the Agency will indemnify the Replacement Agency and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Agency's employees pursuant to the provisions of Paragraph 2.7 provided that the Replacement Agency takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
  2. The indemnity in Paragraph 2.8:
     1. shall not apply to:
        1. any claim for:

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

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

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

* + - 1. any claim that the termination of employment was unfair because the Replacement Agency and/or Replacement Subcontractor neglected to follow a fair dismissal procedure; and
    1. shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Agency and/or Replacement Subcontractor to the Agency within 6 months of the Service Transfer Date..
  1. If any such person as is described in Paragraph 2.5 is neither re-employed by the Agency or any Subcontractor nor dismissed by the Replacement Agency and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Agency Employee. .
  2. The Agency shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Agency’s Final Agency Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

#### the Agency and/or any Subcontractor; and

#### the Replacement Agency and/or the Replacement Subcontractor.

* 1. The Agency shall, and shall procure that each Subcontractor shall, promptly provide the Client and any Replacement Agency and/or Replacement Subcontractor, in writing such information as is necessary to enable the Client, the Replacement Agency and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Client shall procure that the Replacement Agency and/or Replacement Subcontractor, shall promptly provide to the Agency and each Subcontractor in writing such information as is necessary to enable the Agency and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
  2. Subject to Paragraph 2.14, the Client shall procure that the Replacement Agency indemnifies the Agency on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:
     1. any act or omission of the Replacement Agency and/or Replacement Subcontractor in respect of any Transferring Agency Employee in the Agency’s Final Agency Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Agency Employee;
     2. the breach or non-observance by the Replacement Agency and/or Replacement Subcontractor on or after the Service Transfer Date of:

##### any collective agreement applicable to the Transferring Agency Employees identified in the Agency’s Final Agency Personnel List; and/or

##### any custom or practice in respect of any Transferring Agency Employees identified in the Agency’s Final Agency Personnel List which the Replacement Agency and/or Replacement Subcontractor is contractually bound to honour;

* + 1. any claim by any trade union or other body or person representing any Transferring Agency Employees identified in the Agency’s Final Agency Personnel List arising from or connected with any failure by the Replacement Agency and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
    2. any proposal by the Replacement Agency and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Agency Employees identified in the Agency’s Final Agency Personnel List on or after their transfer to the Replacement Agency or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Agency’s Final Agency Personnel List who would have been a Transferring Agency Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
    3. any statement communicated to or action undertaken by the Replacement Agency or Replacement Subcontractor to, or in respect of, any Transferring Agency Employee identified in the Agency’s Final Agency Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Agency in writing;
    4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

##### in relation to any Transferring Agency Employee identified in the Agency’s Final Agency Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

##### in relation to any employee who is not a Transferring Agency Employee identified in the Agency’s Final Agency Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Agency or Subcontractor, to the Replacement Agency or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

* + 1. a failure of the Replacement Agency or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Agency Employees identified in the Agency’s Final Agency Personnel List in respect of the period from (and including) the Service Transfer Date; and
    2. any claim made by or in respect of a Transferring Agency Employee identified in the Agency’s Final Agency Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Agency Employee relating to any act or omission of the Replacement Agency or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.
  1. The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Agency and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Agency and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

**Order Schedule 3 (Continuous Improvement)**

1. **Client’s Rights**
   1. The Client and the Agency recognise that, where specified in DPS Schedule 4 (DPS Management), the Client may give CCS the right to enforce the Client's rights under this Schedule.
2. **Agency’s Obligations**
   1. The Agency must, throughout the Contract Period, identify new or potential improvements to the provision of the Goods or Services with a view to reducing the Client’s costs (including the Charges) and/or improving the quality and efficiency of the Goods or Services and their supply to the Client.
   2. The Agency must adopt a policy of continuous improvement in relation to the Goods or Services, which must include regular reviews with the Client of the Goods or Services and the way it provides them, with a view to reducing the Client's costs (including the Charges) and/or improving the quality and efficiency of the Goods or Services. The Agency and the Client must provide each other with any information relevant to meeting this objective.
   3. In addition to Paragraph 2.1, the Agency shall produce at the start of each Contract Year a plan for improving the provision of Goods or Services and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year (**"Continuous Improvement Plan"**) for the Client's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
      1. identifying the emergence of relevant new and evolving technologies;
      2. changes in business processes of the Agency or the Client and ways of working that would provide cost savings and/or enhanced benefits to the Client (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
      3. new or potential improvements to the provision of the Goods or Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Goods or Services; and
      4. measuring and reducing the sustainability impacts of the Agency's operations and supply-chains relating to the Goods or Services, and identifying opportunities to assist the Client in meeting their sustainability objectives.
   4. The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Agency to the Client for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.
   5. The Client shall notify the Agency of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Agency shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
   6. The Agency must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Agency shall provide any further information as requested.
   7. If the Client wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Agency must implement such Variation at no additional cost to the Client or CCS.
   8. Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
      1. the Agency shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
      2. the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Agency's progress against the Continuous Improvement Plan.
   9. The Agency shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
   10. All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
   11. Should the Agency's costs in providing the Goods or Services to the Client be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Client by way of a consequential and immediate reduction in the Charges for the Goods or Services.
   12. If at any time during the Term the Agency reduces its DPS Prices for Goods or Services provided in accordance with the terms of the DPS Contract, the Agency shall immediately reduce the Charges for the Goods or Services under the Order Contract by the same amount. This obligation applies whether or not the Goods or Services are offered in a catalogue provided under the DPS Contract.

**Order Schedule 5 (Pricing Details)**

Redacted Text Under FOIA Section 43, Commercial Interests

**Order Schedule 6 (ICT Services)**

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

|  |  |
| --- | --- |
| **"Agency System"** | the information and communications technology system used by the Agency in supplying the Goods or Services, including the COTS Software, the Agency Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Client System); |
| **"Client Property"** | the property, other than real property and IPR, including the Client System, any equipment issued or made available to the Agency by the Client in connection with this Contract; |
| **"Client Software"** | any software which is owned by or licensed to the Client and which is or will be used by the Agency for the purposes of providing the Goods or Services; |
| **"Client System"** | the Client's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Client or the Agency in connection with this Contract which is owned by or licensed to the Client by a third party and which interfaces with the Agency System or which is necessary for the Client to receive the Goods or Services; |
| **“Commercial off the shelf Software” or “COTS Software”** | non-customised software where the IPR may be owned and licensed either by the Agency or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms |
| **"Defect"** | any of the following:  any error, damage or defect in the manufacturing of Goods or Services; or  any error or failure of code within the Software which causes Goods or Services to malfunction or to produce unintelligible or incorrect results; or |
|  | any failure of any Goods or Services to provide the performance, features and functionality specified in the requirements of the Client or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Goods or Services from passing any Test required under this Order Contract; or  any failure of any Goods or Services to operate in conjunction with or interface with any other Goods or Services in order to provide the performance, features and functionality specified in the requirements of the Client or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Goods or Services from passing any Test required under this Contract; |
| **"Emergency Maintenance"** | ad hoc and unplanned maintenance provided by the Agency where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault; |
| **"ICT Environment"** | the Client System and the Agency System; |
| **"Licensed Software"** | all and any Software licensed by or through the Agency, its Sub-Contractors or any third party to the Client for the purposes of or pursuant to this Order Contract, including any COTS Software; |
| **"Maintenance Schedule"** | has the meaning given to it in paragraph 8 of this Schedule; |
| **"Malicious Software"** | any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence; |
| **"New Release"** | an item produced primarily to extend, alter or improve the Software and/or any Goods or Services by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Goods or Services are also corrected) while still retaining the original designated purpose of that item; |
| **"Open Source Software"** | computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge; |
| **"Operating Environment"** | means the Client System and any premises (including the Client Premises, the Agency’s premises or third party premises) from, to or at which:  the Goods or Services are (or are to be) provided; or  the Agency manages, organises or otherwise directs the provision or the use of the Goods or Services; or  where any part of the Agency System is situated; |
| **"Permitted Maintenance"** | has the meaning given to it in paragraph 8.2 of this Schedule; |
| **"Quality Plans"** | has the meaning given to it in paragraph 6.1 of this Schedule; |
| **"Sites"** | has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Order Schedule shall also include any premises from, to or at which physical interface with the Client System takes place; |
| **"Software"** | Specially Written Software COTS Software and non-COTS Supplier and third party Software; |
| **"Software Supporting Materials"** | has the meaning given to it in paragraph 9.1 of this Schedule; |
| **"Source Code"** | computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software; |
| **"Specially Written Software"** | any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Agency (or by a Sub-Contractor or other third party on behalf of the Agency) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR; |

1. **When this Schedule should be used**
   1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Goods or Services.
2. **Client due diligence requirements** 
   1. The Agency shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
      1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
      2. operating processes and procedures and the working methods of the Buyer;
      3. ownership, functionality, capacity, condition and suitability for use in the provision of the Goods or Services of the Clients Assets; and
      4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Agency under this Contract and/or which the Agency will require the benefit of for the provision of the Goods or Services.
   2. The Agency confirms that it has advised the Client in writing of:
      1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
      2. the actions needed to remedy each such unsuitable aspect; and
      3. a timetable for and the costs of those actions.
3. **Licensed software warranty**
   1. The Agency represents and warrants that:
      1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Agency (and/or any Sub-Contractor) to the Client which are necessary for the performance of the Agency’s obligations under this Contract including the receipt of the Goods or Services by the Client;
      2. all components of the Specially Written Software shall:
         1. be free from material design and programming errors;
         2. perform in all material respects in accordance with the relevant specifications contained in Order Schedule 14 (Service Levels) and Documentation; and
         3. not infringe any IPR.
4. **Provision of ICT Services**
   1. The Agency shall:
      1. ensure that the release of any new COTS Software in which the Agency owns the IPR, or upgrade to any Software in which the Agency owns the IPR complies with the interface requirements of the Client and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Client three (3) Months before the release of any new COTS Software or Upgrade;
      2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Agency are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
      3. ensure that the Agency System will be free of all encumbrances;
      4. ensure that the Goods or Services are fully compatible with any Client Software, Client System, or otherwise used by the Agency in connection with this Contract;
      5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Goods or Services;
5. **Standards and Quality Requirements**
   1. The Agency shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Goods or Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**")**.**
   2. The Agency shall seek Approval from the Client (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Agency of its responsibility for ensuring that the Goods or Services are provided to the standard required by this Contract.
   3. Following the approval of the Quality Plans, the Agency shall provide all Goods or Services in accordance with the Quality Plans.
   4. The Agency shall ensure that the Agency Personnel shall at all times during the Order Contract Period:
      1. be appropriately experienced, qualified and trained to supply the Goods or Services in accordance with this Contract;
      2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Goods or Services; and
      3. obey all lawful instructions and reasonable directions of the Client (including, if so required by the Client, the ICT Policy) and provide the Goods or Services to the reasonable satisfaction of the Client.
6. **ICT Audit**
   1. The Agency shall allow any auditor access to the Agency premises to:
      1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
      2. review any records created during the design and development of the Agency System and pre-operational environment such as information relating to Testing;
      3. review the Agency ’s quality management systems including all relevant Quality Plans.
7. **Maintenance of the ICT Environment**
   1. If specified by the Client in the Order Form, the Agency shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Client for Approval in accordance with the timetable and instructions specified by the Client.
   2. Once the Maintenance Schedule has been Approved, the Agency shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
   3. The Agency shall give as much notice as is reasonably practicable to the Client prior to carrying out any Emergency Maintenance.
   4. The Agency shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Goods or Services.
8. **Intellectual Property Rights in ICT**
   1. Assignments granted by the Agency: Specially Written Software
      1. The Agency assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Client with full guarantee (or shall procure assignment to the Client), title to and all rights and interest in the Specially Written Software together with and including:
         1. the Documentation, Source Code and the Object Code of the Specially Written Software; and
         2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the "**Software Supporting Materials**").
      2. The Agency shall:
         1. inform the Client of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
         2. deliver to the Client the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Client and the Client shall become the owner of such media upon receipt; and
         3. without prejudice to paragraph 9.1.2.2, provide full details to the Client of any of the Agency’s Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Agency hereby grants to the Client and shall procure that any relevant third party licensor shall grant to the Client a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Agency’s Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Client to obtain the full benefits of ownership of the Specially Written Software and New IPRs.
      3. The Agency shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Client.
   2. Licences for non-COTS IPR from the Agency and third parties to the Buyer
      1. Unless the Client gives its Approval the Agency must not use any:
9. of its own Existing IPR that is not COTS Software;
10. third party software that is not COTS Software
    * 1. Where the Client Approves the use of the Agency’s Existing IPR that is not COTS Software the Agency shall grants to the Client a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Goods or Services (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer’s (or, if the Client is a Central Government Body, any other Central Government Body’s) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Order Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Agency.
      2. Where the Client Approves the use of third party Software that is not COTS Software the Agency shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Client on terms at least equivalent to those set out in Paragraph 9.2.2. If the Agency cannot obtain such a licence for the Client it shall:
         1. notify the Client in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Agency could seek to use; and
         2. only use such third party IPR as referred to at paragraph 9.2.3.1 if the Client Approves the terms of the licence from the relevant third party.
      3. Where the Agency is unable to provide a license to the Agency’s Existing IPR in accordance with Paragraph 9.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.
      4. The Agency may terminate a licence granted under paragraph 9.2.1 by giving at least thirty (30) days’ notice in writing if there is an Authority Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Agency gives the Client written notice specifying the breach and requiring its remedy.
    1. **Licenses for COTS Software by the Agency and third parties to the Buyer**
       1. The Agency shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Client on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       2. Where the Agency owns the COTS Software it shall make available the COTS software to a Replacement Agency at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 9.3 the Agency shall support the Replacement Agency to make arrangements with the owner or authorised licencee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       4. The Agency shall notify the Client within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
          1. will no longer be maintained or supported by the developer; or
          2. will no longer be made commercially available
    2. **Client's right to assign/novate licences**
       1. The Client may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:
          1. a Central Government Body; or
          2. to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Buyer.
       2. If the Client ceases to be a Central Government Body, the successor body to the Client shall still be entitled to the benefit of the licences granted in paragraph 9.2.
    3. **Licence granted by the Buyer**
       1. The Client grants to the Agency a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Client Software and the Specially Written Software solely to the extent necessary for providing the Goods or Services in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Agency on the same terms as set out in Clause 15 (Confidentiality).
    4. **Open Source Publication**
       1. Unless the Client otherwise agrees in advance in writing (and subject to paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Agency shall also provide the converted format to the Buyer) into a format, which is:
          1. suitable for publication by the Client as Open Source; and
          2. based on Open Standards (where applicable),

and the Client may, at its sole discretion, publish the same as Open Source.

* + 1. The Agency hereby warrants that the Specially Written Software and the New IPR:
       1. are suitable for release as Open Source and that the Agency has used reasonable endeavours when developing the same to ensure that publication by the Client will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Client System;
       2. have been developed using reasonable endeavours to ensure that their publication by the Client shall not cause any harm or damage to any party using them;
       3. do not contain any material which would bring the Client into disrepute;
       4. can be published as Open Source without breaching the rights of any third party;
       5. will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date notified by the Client to the Agency; and
       6. do not contain any Malicious Software.
    2. Where the Client has Approved a request by the Agency for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Agency Existing IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source), the Agency shall:
       1. as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Goods or Services based on IPRs which are to be excluded from Open Source publication; and
       2. include in the written details and information about the impact that inclusion of such IPRs or Goods or Services based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer’s ability to publish such other items or Goods or Services as Open Source.
  1. **Malicious Software**
     1. The Agency shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
     2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Goods or Services to its desired operating efficiency.
     3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 9.7.2 shall be borne by the Parties as follows:
        1. by the Agency, where the Malicious Software originates from the Agency Software, the third party Software supplied by the Agency or the Government Data (whilst the Government Data was under the control of the Agency) unless the Agency can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Client when provided to the Agency; and
        2. by the Client, if the Malicious Software originates from the Client Software or the Client Data (whilst the Client Data was under the control of the Buyer).

1. **[Agency Furnished Terms – NOT USED**
   1. **Software Licence Terms**
      * 1. Terms for licensing of non-COTS third party software in accordance with Paragraph 9.2.3 are detailed in [insert reference to relevant Schedule].
        2. Terms for licensing of COTS software in accordance with Paragraph 9.3 are detailed in [insert reference to relevant Schedule].
   2. **Software as a Service Terms**
      * 1. Additional terms for provision of a Software as a Service solution are detailed in [insert reference to relevant Schedule].
   3. **Software Support & Maintenance Terms**
      * 1. Additional terms for provision of Software Support & Maintenance Services are detailed in [insert reference to relevant Schedule]**]**

**Order Schedule 7 (Key Agency Staff)**

1.1 The Order Form (Letter of Appointment) lists the key roles (“**Key Roles**”) and names of the persons who the Agency shall appoint to fill those Key Roles at the Start Date.

1.2 The Agency shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.

1.3 The Client may identify any further roles as being Key Roles and, following agreement to the same by the Agency, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.

1.4 The Agency shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:

1.4.1 requested to do so by the Client or the Client Approves such removal or replacement (not to be unreasonably withheld or delayed);

1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or

1.4.3 the person’s employment or contractual arrangement with the Agency or Subcontractor is terminated for material breach of contract by the employee.

1.5 The Agency shall:

1.5.1 notify the Client promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Agency shall ensure appropriate temporary cover for that Key Role);

1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;

1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;

1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Goods or Services; and

1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

1.6 The Client may require the Agency to remove or procure that any Subcontractor shall remove any Key Staff that the Client considers in any respect unsatisfactory. The Client shall not be liable for the cost of replacing any Key Staff.

**Order Schedule 8 (Business Continuity and Disaster Recovery)**

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

|  |  |
| --- | --- |
| **"BCDR Plan"** | has the meaning given to it in Paragraph 2.2 of this Schedule; |
| **"Business Continuity Plan"** | has the meaning given to it in Paragraph 2.3.2 of this Schedule; |
| **"Disaster"** | the occurrence of one or more events which, either separately or cumulatively, mean that the Goods or Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable); |
| **"Disaster Recovery Goods or Services"** | the Goods or Services embodied in the processes and procedures for restoring the provision of Goods or Services following the occurrence of a Disaster; |
| **"Disaster Recovery Plan"** | has the meaning given to it in Paragraph 2.3.3 of this Schedule; |
| **"Disaster Recovery System"** | the system embodied in the processes and procedures for restoring the provision of Goods or Services following the occurrence of a Disaster; |
| **"Related Agency"** | any person who provides Goods or Services to the Client which are related to the Goods or Services from time to time; |
| **"Review Report"** | has the meaning given to it in Paragraph 6.3 of this Schedule; and |
| **"Agency's Proposals"** | has the meaning given to it in Paragraph 6.3 of this Schedule; |

1. **BCDR Plan**
   1. The Client and the Agency recognise that, where specified in Schedule 4 (DPS Management), CCS shall have the right to enforce the Client's rights under this Schedule.
   2. Within 10 Working Days of the Start Date the Agency shall prepare and deliver to the Client for the Client’s written approval a plan (a **“BCDR Plan”**), which shall detail the processes and arrangements that the Agency shall follow to:
      1. ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Goods or Services; and
      2. the recovery of the Goods or Services in the event of a Disaster
   3. The BCDR Plan shall be divided into three sections:
      1. Section 1 which shall set out general principles applicable to the BCDR Plan;
      2. Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
      3. Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
   4. Following receipt of the draft BCDR Plan from the Agency, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
2. **General Principles of the BCDR Plan (Section 1)**
   1. Section 1 of the BCDR Plan shall:
      1. set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
      2. provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Goods or Services and any goods and/or services provided to the Client by a Related Agency;
      3. contain an obligation upon the Agency to liaise with the Client and any Related Agencies with respect to business continuity and disaster recovery;
      4. detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Client and any of its other Related Agency in each case as notified to the Agency by the Client from time to time;
      5. contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
      6. contain a risk analysis, including:
         1. failure or disruption scenarios and assessments of likely frequency of occurrence;
         2. identification of any single points of failure within the provision of Goods or Services and processes for managing those risks;
         3. identification of risks arising from the interaction of the provision of Goods or Services with the goods and/or services provided by a Related Agency; and
         4. a business impact analysis of different anticipated failures or disruptions;
      7. provide for documentation of processes, including business processes, and procedures;
      8. set out key contact details for the Agency (and any Subcontractors) and for the Client;
      9. identify the procedures for reverting to "normal service";
      10. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
      11. identify the responsibilities (if any) that the Client has agreed it will assume in the event of the invocation of the BCDR Plan; and
      12. provide for the provision of technical assistance to key contacts at the Client as required by the Client to inform decisions in support of the Client’s business continuity plans.
   2. The BCDR Plan shall be designed so as to ensure that:
      1. the Goods or Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
      2. the adverse impact of any Disaster is minimised as far as reasonably possible;
      3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
      4. it details a process for the management of disaster recovery testing.
   3. The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Goods or Services and the business operations supported by the provision of Goods or Services.
   4. The Agency shall not be entitled to any relief from its obligations under the Performance Indicators ( PI’s) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Agency of this Contract.
3. **Business Continuity (Section 2)**
   1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Goods or Services remain supported and to ensure continuity of the business operations supported by the Services including:
      1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Goods or Services; and
      2. the steps to be taken by the Agency upon resumption of the provision of Goods or Services in order to address the effect of the failure or disruption.
   2. The Business Continuity Plan shall:
      1. address the various possible levels of failures of or disruptions to the provision of Goods or Services;
      2. set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Goods or Services;
      3. specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Goods or Services during any period of invocation of the Business Continuity Plan; and
      4. set out the circumstances in which the Business Continuity Plan is invoked.
4. **Disaster Recovery (Section 3)**
   1. The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Agency ensures continuity of the business operations of the Client supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
   2. The Agency's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
      1. loss of access to the Client Premises;
      2. loss of utilities to the Client Premises;
      3. loss of the Agency's helpdesk or CAFM system;
      4. loss of a Subcontractor;
      5. emergency notification and escalation process;
      6. contact lists;
      7. staff training and awareness;
      8. BCDR Plan testing;
      9. post implementation review process;
      10. any applicable Performance Indicators (PI’s) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Goods or Services during any period of invocation of the Disaster Recovery Plan;
      11. details of how the Agency shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
      12. access controls to any disaster recovery sites used by the Agency in relation to its obligations pursuant to this Schedule; and
      13. testing and management arrangements.
5. **Review and changing the BCDR Plan**
   1. The Agency shall review the BCDR Plan:
      1. on a regular basis and as a minimum once every six (6) Months;
      2. within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
      3. where the Client requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Agency shall conduct such reviews in accordance with the Client’s written requirements. Prior to starting its review, the Agency shall provide an accurate written estimate of the total costs payable by the Client for the Client’s approval. The costs of both Parties of any such additional reviews shall be met by the Client except that the Agency shall not be entitled to charge the Client for any costs that it may incur above any estimate without the Client’s prior written approval.
   2. Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Goods or Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Agency within such period as the Client shall reasonably require.
   3. The Agency shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Client a report (a **"Review Report"**) setting out the Agency's proposals (the **"Agency's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
   4. Following receipt of the Review Report and the Agency’s Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Agency's Proposals. If the Parties are unable to agree Review Report and the Agency's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   5. The Agency shall as soon as is reasonably practicable after receiving the approval of the Agency's Proposals effect any change in its practices or procedures necessary so as to give effect to the Agency's Proposals. Any such change shall be at the Agency’s expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Goods or Services.
6. **Testing the BCDR Plan**
   1. The Agency shall test the BCDR Plan:
      1. regularly and in any event not less than once in every Contract Year;
      2. in the event of any major reconfiguration of the Goods or Services
      3. at any time where the Client considers it necessary (acting in its sole discretion).
   2. If the Client requires an additional test of the BCDR Plan, it shall give the Agency written notice and the Agency shall conduct the test in accordance with the Client’s requirements and the relevant provisions of the BCDR Plan. The Agency's costs of the additional test shall be borne by the Client unless the BCDR Plan fails the additional test in which case the Agency's costs of that failed test shall be borne by the Agency.
   3. The Agency shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Client and shall liaise with the Client in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Client.
   4. The Agency shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Client. Copies of live test data used in any such testing shall be (if so required by the Client) destroyed or returned to the Client on completion of the test.
   5. The Agency shall, within twenty (20) Working Days of the conclusion of each test, provide to the Client a report setting out:
      1. the outcome of the test;
      2. any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
      3. the Agency's proposals for remedying any such failures.
   6. Following each test, the Agency shall take all measures requested by the Client to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Agency, at its own cost, by the date reasonably required by the Client.
7. **Invoking the BCDR Plan**
   1. In the event of a complete loss of service or in the event of a Disaster, the Agency shall immediately invoke the BCDR Plan (and shall inform the Client promptly of such invocation). In all other instances the Agency shall invoke or test the BCDR Plan only with the prior consent of the Client.
8. **Circumstances beyond your control**
   1. The Agency shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

**Order Schedule 9 (Security)**

**Part A: Short Form Security Requirements**

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

|  |  |
| --- | --- |
| **"Breach of Security"** | the occurrence of:   * 1. any unauthorised access to or use of the Goods or Services, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Client and/or the Agency in connection with this Contract; and/or   2. the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Client and/or the Agency in connection with this Contract,   in either case as more particularly set out in the Security Policy where the Client has required compliance therewith in accordance with paragraph 2.2; |
| **"Security Management Plan"** | the Agency's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Agency to the Client and as updated from time to time. |

1. **Complying with security requirements and updates to them**
   1. The Client and the Agency recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Client's rights under this Schedule.
   2. The Agency shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Client that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Agency fully complies with the Security Policy.
   3. Where the Security Policy applies the Client shall notify the Agency of any changes or proposed changes to the Security Policy.
   4. If the Agency believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Goods or Services it may propose a Variation to the Client. In doing so, the Agency must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
   5. Until and/or unless a change to the Charges is agreed by the Client pursuant to the Variation Procedure the Agency shall continue to provide the Goods or Services in accordance with its existing obligations.
2. **Security Standards**
   1. The Agency acknowledges that the Client places great emphasis on the reliability of the performance of the Goods or Services, confidentiality, integrity and availability of information and consequently on security.
   2. The Agency shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
      1. is in accordance with the Law and this Contract;
      2. as a minimum demonstrates Good Industry Practice;
      3. meets any specific security threats of immediate relevance to the Goods or Services and/or the Government Data; and
      4. where specified by the Client in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
   3. The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Agency from time to time.
   4. In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Agency should notify the Client's Representative of such inconsistency immediately upon becoming aware of the same, and the Client's Representative shall, as soon as practicable, advise the Agency which provision the Agency shall be required to comply with.
3. **Security Management Plan**
   1. **Introduction**
      1. The Agency shall develop and maintain a Security Management Plan in accordance with this Schedule. The Agency shall thereafter comply with its obligations set out in the Security Management Plan.
   2. **Content of the Security Management Plan**
      1. The Security Management Plan shall:
         1. comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
         2. identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Agency;
         3. detail the process for managing any security risks from Subcontractors and third parties authorised by the Client with access to the Goods or Services, processes associated with the provision of the Goods or Services, the Client Premises, the Sites and any ICT, Information and data (including the Client’s Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Goods or Services;
         4. be developed to protect all aspects of the Goods or Services and all processes associated with the provision of the Goods or Services, including the Client Premises, the Sites, and any ICT, Information and data (including the Client’s Confidential Information and the Government Data) to the extent used by the Client or the Agency in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Goods or Services;
         5. set out the security measures to be implemented and maintained by the Agency in relation to all aspects of the Goods or Services and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Goods or Services comply with the provisions of this Contract;
         6. set out the plans for transitioning all security arrangements and responsibilities for the Agency to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
         7. be written in plain English in language which is readily comprehensible to the staff of the Agency and the Client engaged in the provision of the Goods or Services and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.
   3. **Development of the Security Management Plan**
      1. Within twenty (20)Working Days after the Start Date and in accordance with Paragraph 4.4, the Agency shall prepare and deliver to the Client for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
      2. If the Security Management Plan submitted to the Client in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Agency shall amend it within ten (10) Working Days of a notice of non-approval from the Client and re-submit to the Client for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Client. If the Client does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
      3. The Client shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Client to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
      4. Approval by the Client of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Agency of its obligations under this Schedule.
   4. **Amendment of the Security Management Plan**
      1. The Security Management Plan shall be fully reviewed and updated by the Agency at least annually to reflect:
         1. emerging changes in Good Industry Practice;
         2. any change or proposed change to the Goods or Services and/or associated processes;
         3. where necessary in accordance with paragraph 2.2, any change to the Security Policy;
         4. any new perceived or changed security threats; and
         5. any reasonable change in requirements requested by the Client.
      2. The Agency shall provide the Client with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Client. The results of the review shall include, without limitation:
         1. suggested improvements to the effectiveness of the Security Management Plan;
         2. updates to the risk assessments; and
         3. suggested improvements in measuring the effectiveness of controls.
      3. Subject to Paragraph 4.4.4, any change or amendment which the Agency proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Client or otherwise) shall be subject to the Variation Procedure.
      4. The Client may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.
4. **Security breach**
   1. Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
   2. Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Agency shall:
      1. immediately take all reasonable steps (which shall include any action or changes reasonably required by the Client) necessary to:
         1. minimise the extent of actual or potential harm caused by any Breach of Security;
         2. remedy such Breach of Security to the extent possible and protect the integrity of the Client and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
         3. prevent an equivalent breach in the future exploiting the same cause failure; and
         4. as soon as reasonably practicable provide to the Client, where the Client so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Client.
   3. In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Client.

**Order Schedule 10 (Exit Management)**

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

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| **"Exclusive Assets"** | Agency Assets used exclusively by the Agency or a Key Subcontractor in the provision of the Goods or Services; |
| **"Exit Information"** | has the meaning given to it in Paragraph 3.1 of this Schedule; |
| **"Exit Manager"** | the person appointed by each Party to manage their respective obligations under this Schedule; |
| **“Exit Plan”** | the plan produced and updated by the Agency during the Initial Period in accordance with Paragraph 4 of this Schedule; |
| **"Net Book Value"** | the current net book value of the relevant Agency Asset(s) calculated in accordance with the DPS Tender or Order Tender (if stated) or (if not stated) the depreciation policy of the Agency (which the Agency shall ensure is in accordance with Good Industry Practice); |
| **"Non-Exclusive Assets"** | those Agency Assets used by the Agency or a Key Subcontractor in connection with the Goods or Services but which are also used by the Agency or Key Subcontractor for other purposes; |
| **"Registers"** | the register and configuration database referred to in Paragraph 2.2 of this Schedule; |
| **"Replacement Goods"** | any goods which are substantially similar to any of the Goods and which the Client receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Client internally and/or by any third party; |
| **"Replacement Services"** | any services which are substantially similar to any of the Services and which the Client receives in substitution for any of the Services following the End Date, whether those goods are provided by the Client internally and/or by any third party; |
| **"Termination Assistance"** | the activities to be performed by the Agency pursuant to the Exit Plan, and other assistance required by the Client pursuant to the Termination Assistance Notice; |
| **"Termination Assistance Notice"** | has the meaning given to it in Paragraph 5.1 of this Schedule; |
| **"Termination Assistance Period"** | the period specified in a Termination Assistance Notice for which the Agency is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule; |
| **"Transferable Assets"** | Exclusive Assets which are capable of legal transfer to the Client ; |
| **"Transferable Contracts"** | Sub-Contracts, licences for the Agency's software, licences for third party software or other agreements which are necessary to enable the Client or any Replacement agency to provide the Goods or Services or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| **"Transferring Assets"** | has the meaning given to it in Paragraph 8.2.1 of this Schedule; |
| **"Transferring Contracts"** | has the meaning given to it in Paragraph 8.2.3 of this Schedule. |

1. **Agency must always be prepared for contract exit**
   1. The Agency shall within 30 days from the Start Date provide to the Client a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
   2. During the Contract Period, the Agency shall promptly:
      1. create and maintain a detailed register of all Agency Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Goods or Services; and
      2. create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Agency provides the Goods or Services ("**Registers**").
   3. The Agency shall:
      1. ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
      2. procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Client) at the request of the Client to the Client (and/or its nominee) and/or any Replacement Agency upon the Agency ceasing to provide the Goods or Services (or part of them) and if the Agency is unable to do so then the Agency shall promptly notify the Client and the Client may require the Agency to procure an alternative Subcontractor or provider of Goods or Services.
   4. Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.
   5. The Agency shall ensure at no cost to the Client that all digital data that is the Existing IPR of the Client or New IPR to be assigned to the Client can be identified and returned to the Client in an open format on demand and advise the Client of any Transferable Contracts and technical information that would assist in the continued use of such data.
2. **Assisting re-competition for Goods or Services** 
   1. The Agency shall, on reasonable notice, provide to the Client and/or its potential Replacement Agencies (subject to the potential Replacement Agencies entering into reasonable written confidentiality undertakings), such information (including any access) as the Client shall reasonably require in order to facilitate the preparation by the Client of any invitation to tender and/or to facilitate any potential Replacement Agencies undertaking due diligence (the "**Exit Information**").
   2. The Agency acknowledges that the Client may disclose the Agency's Confidential Information (excluding the Agency’s or its Subcontractors’ prices or costs) to an actual or prospective Replacement Agency to the extent that such disclosure is necessary in connection with such engagement.
   3. The Agency shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Client within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Goods or Services (and shall consult the Client in relation to any such changes).
   4. The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Goods or Services; and not be disadvantaged in any procurement process compared to the Agency.
3. **Exit Plan**
   1. The Agency shall, within three (3) Months after the Start Date, deliver to the Client an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Client.
   2. The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   3. The Exit Plan shall set out, as a minimum:
      1. a detailed description of both the transfer and cessation processes, including a timetable;
      2. how the Goods or Services will transfer to the Replacement Agency and/or the Client;
      3. details of any contracts which will be available for transfer to the Client and/or the Replacement Agency upon the Expiry Date together with any reasonable costs required to effect such transfer;
      4. proposals for the training of key members of the Replacement Agency’s staff in connection with the continuation of the provision of the Goods or Services following the Expiry Date;
      5. proposals for providing the Client or a Replacement Agency copies of all documentation (including without limitation database schema and any other digital resources) relating to the use and operation of the Goods or Services and required for their continued use;
      6. proposals for the assignment or novation of all services utilised by the Agency in connection with the supply of the Goods or Services;
      7. proposals for the identification and return, or transfer to the Replacement Agency, of all Client Assets in the possession of and/or control of the Agency or any third party;
      8. proposals for the disposal of any redundant Goods or Services and materials;
      9. how the Agency will ensure that there is no disruption to or degradation of the Goods or Services during the Termination Assistance Period; and
      10. any other information or assistance reasonably required by the Client or a Replacement Agency.
   4. The Agency shall:
      1. maintain and update the Exit Plan (and risk management plan) no less frequently than:
         1. every six (6) months throughout the Contract Period; and
         2. no later than twenty (20) Working Days after a request from the Client for an up-to-date copy of the Exit Plan;
         3. as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
         4. as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Goods or Services (including all changes under the Variation Procedure); and
      2. jointly review and verify the Exit Plan if required by the Client and promptly correct any identified failures.
   5. Only if (by notification to the Agency in writing) the Client agrees with a draft Exit Plan provided by the Agency under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
   6. A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Agency.
4. **Termination Assistance**
   1. The Client shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Agency (a **"Termination Assistance Notice"**) at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
      1. the nature of the Termination Assistance required; and
      2. the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
   2. The Client shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
      1. no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
      2. the Client shall notify the Agency of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.
   3. The Client shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Agency.
   4. In the event that Termination Assistance is required by the Client but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Agency will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Client approved version of the Exit Plan (insofar as it still applies).
5. **Termination Assistance Period**
   1. Throughout the Termination Assistance Period the Agency shall:
      1. continue to provide the Goods or Services (as applicable) and otherwise perform its obligations under this Contract and, if required by the Client, provide the Termination Assistance;
      2. provide to the Client and/or its Replacement Agency any reasonable assistance and/or access requested by the Client and/or its Replacement Agency including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Goods or Services to the Client and/or its Replacement Agency;
      3. use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Client;
      4. subject to Paragraph 6.3, provide the Goods or Services and the Termination Assistance at no detriment to the Key Performance Indicators (KPI’s) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Agency's obligations under this Contract;
      5. at the Client's request and on reasonable notice, deliver up-to-date Registers to the Client;
      6. seek the Client's prior written consent to access any Client Premises from which the de-installation or removal of Agency Assets is required.
   2. If it is not possible for the Agency to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Client, any additional costs incurred by the Agency in providing such reasonable assistance shall be subject to the Variation Procedure.
   3. If the Agency demonstrates to the Client's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Agency's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels accordingly.
6. **Obligations when the contract is terminated** 
   1. The Agency shall comply with all of its obligations contained in the Exit Plan.
   2. Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Agency's performance of the Goods or Services and the Termination Assistance), the Agency shall:
      1. vacate any Client Premises;
      2. remove the Agency Equipment together with any other materials used by the Agency to supply the Goods or Services and shall leave the Sites in a clean, safe and tidy condition. The Agency is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Agency;
      3. provide access during normal working hours to the Client and/or the Replacement Agency for up to twelve (12) Months after expiry or termination to:
         * such information relating to the Goods or Services as remains in the possession or control of the Agency; and
         * such members of the Agency Staff as have been involved in the design, development and provision of the Goods or Services and who are still employed by the Agency, provided that the Client and/or the Replacement Agency shall pay the reasonable costs of the Agency actually incurred in responding to such requests for access.
   3. Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Client to the Agency in relation to the Goods or Services shall be terminated with effect from the end of the Termination Assistance Period.
7. **Assets, Sub-contracts and Software**
   1. Following notice of termination of this Contract and during the Termination Assistance Period, the Agency shall not, without the Client's prior written consent:
      1. terminate, enter into or vary any Sub-contract or licence for any software in connection with the Goods or Services; or
      2. (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Agency Assets or acquire any new Agency Assets.
   2. Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Agency, the Client shall notify the Agency setting out:
      1. which, if any, of the Transferable Assets the Client requires to be transferred to the Client and/or the Replacement Agency ("**Transferring Assets**");
      2. which, if any, of:
         1. the Exclusive Assets that are not Transferable Assets; and
         2. the Non-Exclusive Assets,

the Client and/or the Replacement Agency requires the continued use of; and

* + 1. which, if any, of Transferable Contracts the Client requires to be assigned or novated to the Client and/or the Replacement Agency (the **"Transferring Contracts"**),

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

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

1. **No charges** 
   1. Unless otherwise stated, the Client shall not be obliged to pay for costs incurred by the Agency in relation to its compliance with this Schedule.
2. **Dividing the bills**
   1. All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Client and/or the Replacement and the Agency as follows:
      1. the amounts shall be annualised and divided by 365 to reach a daily rate;
      2. the Client or Replacement Agency (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
      3. the Agency shall be responsible for or entitled to (as the case may be) the rest of the invoice.

**Order Schedule 13 (Implementation Plan and Testing)**

**Part A - Implementation**

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

|  |  |
| --- | --- |
| **"Delay"** | a delay in the Achievement of a Milestone by its Milestone Date; or   1. a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan; |
| **"Deliverable Item"** | an item or feature in the supply of the Goods or Services delivered or to be delivered by the Agency at or before a Milestone Date listed in the Implementation Plan; |
| **"Milestone Payment"** | a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone; |
| **Implementation Period"** | has the meaning given to it in Paragraph 7.1; |

1. **Agreeing and following the Implementation Plan**
   1. A draft of the Implementation Plan is set out in the Annex to this Schedule. The Agency shall provide a further draft Implementation Plan 20 working days after the Order Contract Start Date.
   2. The draft Implementation Plan:
      1. must contain information at the level of detail necessary to manage the implementation stage effectively and as the Client may otherwise require; and
      2. it shall take account of all dependencies known to, or which should reasonably be known to, the Agency.
   3. Following receipt of the draft Implementation Plan from the Agency, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   4. The Agency shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
   5. The Agency shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Client on such performance.
2. **Reviewing and changing the Implementation Plan**
   1. Subject to Paragraph 4.3, the Agency shall keep the Implementation Plan under review in accordance with the Client’s instructions and ensure that it is updated on a regular basis.
   2. The Client shall have the right to require the Agency to include any reasonable changes or provisions in each version of the Implementation Plan.
   3. Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
   4. Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Agency to comply with the Implementation Plan shall be a material Default.
3. **Security requirements before the Start Date** 
   1. The Agency shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Agency Staff have the necessary security clearance in place before the Order Start Date. The Agency shall ensure that this is reflected in their Implementation Plans.
   2. The Agency shall ensure that all Agency Staff and Subcontractors do not access the Client's IT systems, or any IT systems linked to the Client, unless they have satisfied the Client's security requirements.
   3. The Agency shall be responsible for providing all necessary information to the Client to facilitate security clearances for Agency Staff and Subcontractors in accordance with the Client's requirements.
   4. The Agency shall provide the names of all Agency Staff and Subcontractors and inform the Client of any alterations and additions as they take place throughout the Order Contract.
   5. The Agency shall ensure that all Agency Staff and Subcontractors requiring access to the Client Premises have the appropriate security clearance. It is the Agency's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Client, the Agency shall be responsible for meeting the costs associated with the provision of security cleared escort services.
   6. If a property requires Agency Staff or Subcontractors to be accompanied by the Client’s Authorised Representative, the Client must be given reasonable notice of such a requirement, except in the case of emergency access.
4. **What to do if there is a Delay** 
   1. If the Agency becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
      1. notify the Client as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
      2. include in its notification an explanation of the actual or anticipated impact of the Delay;
      3. comply with the Client’s instructions in order to address the impact of the Delay or anticipated Delay; and
      4. use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.
5. **Compensation for a Delay**
   1. If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Agency shall pay to the Client such Delay Payments (calculated as set out by the Client in the Implementation Plan) and the following provisions shall apply:
      1. the Agency acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Client as a result of the Agency’s failure to Achieve the corresponding Milestone;
      2. Delay Payments shall be the Client's exclusive financial remedy for the Agency’s failure to Achieve a Milestone by its Milestone Date except where:
         1. the Client is entitled to or does terminate this Contract pursuant to Clause 10.4 (When CCS or the Client can end this contract); or
         2. the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
      3. the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
      4. no payment or other act or omission of the Client shall in any way affect the rights of the Client to recover the Delay Payments or be deemed to be a waiver of the right of the Client to recover any such damages; and
      5. Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).
6. **[Implementation Plan** 
   1. The Implementation Period will be a 6 Month period.
   2. During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Order Start Date or as otherwise formally agreed with the Client. The Agency's full service obligations shall formally be assumed on the Order Start Date as set out in Order Form.
   3. In accordance with the Implementation Plan, the Agency shall:
      1. work cooperatively and in partnership with the Client, incumbent supplier, and other DPS Agency(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
      2. work with the incumbent supplier and Client to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
      3. liaise with the incumbent Agency to enable the full completion of the Implementation Period activities; and
      4. produce an Implementation Plan, to be agreed by the Client, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
   4. The Implementation Plan will include detail stating:
      1. how the Agency will work with the incumbent Agency and the Client Authorised Representative to capture and load up information such as asset data ; and
      2. a communications plan, to be produced and implemented by the Agency, but to be agreed with the Client, including the frequency, responsibility for and nature of communication with the Client and end users of the Services.
   5. In addition, the Agency shall:
      1. appoint a Agency Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Client;
      2. mobilise all the Services specified in the Specification within the Order Contract;
      3. produce a Implementation Plan report for each Client Premises to encompass programmes that will fulfil all the Client's obligations to landlords and other tenants:
         1. the format of reports and programmes shall be in accordance with the Client's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Client's approval; and
         2. the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Agency to the Client, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
      4. manage and report progress against the Implementation Plan;
      5. construct and maintain a Implementation risk and issue register in conjunction with the Client detailing how risks and issues will be effectively communicated to the Client in order to mitigate them;
      6. attend progress meetings (frequency of such meetings shall be as set out in the Order Form) in accordance with the Client's requirements during the Implementation Period. Implementation meetings shall be chaired by the Client and all meeting minutes shall be kept and published by the Agency; and
      7. ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent provider and the Agency.]

**Annex 1: Implementation Plan**

The Implementation Plan is set out below and the Milestones to be Achieved are identified below:

Refer to Schedule 20 (Order Specification).

**Part B - Testing**

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

|  |  |
| --- | --- |
| **"Component"** | any constituent parts of the Goods or Services; |
| **"Material Test Issue"** | a Test Issue of Severity Level 1 or Severity Level 2; |
| **"Satisfaction Certificate"** | a certificate materially in the form of the document contained in Annex 2 issued by the Client when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria; |
| **"Severity Level"** | the level of severity of a Test Issue, the criteria for which are described in Annex 1; |
| **"Test Issue Management Log"** | a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule; |
| **"Test Issue Threshold"** | in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan; |
| **"Test Reports"** | the reports to be produced by the Agency setting out the results of Tests; |
| **"Test Specification"** | the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule; |
| **"Test Strategy"** | a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule; |
| **"Test Success Criteria"** | in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule; |
| **"Test Witness"** | any person appointed by the Client pursuant to Paragraph 9 of this Schedule; and |
| **"Testing Procedures"** | the applicable testing procedures and Test Success Criteria set out in this Schedule. |

* **How testing should work**
  + All Tests conducted by the Agency shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
  + The Agency shall not submit any Deliverable for Testing:
    - unless the Agency is reasonably confident that it will satisfy the relevant Test Success Criteria;
    - until the Client has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
    - until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
  + The Agency shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
  + Prior to the issue of a Satisfaction Certificate, the Client shall be entitled to review the relevant Test Reports and the Test Issue Management Log.
* **Planning for testing**
  + The Agency shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
  + The final Test Strategy shall include:
    - an overview of how Testing will be conducted in relation to the Implementation Plan;
    - the process to be used to capture and record Test results and the categorisation of Test Issues;
    - the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
    - the procedure to be followed to sign off each Test;
    - the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
    - the names and contact details of the Client and the Agency's Test representatives;
    - a high level identification of the resources required for Testing including Client and/or third party involvement in the conduct of the Tests;
    - the technical environments required to support the Tests; and
    - the procedure for managing the configuration of the Test environments.
* **Preparing for Testing**
  + The Agency shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
  + Each Test Plan shall include as a minimum:
    - the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
    - a detailed procedure for the Tests to be carried out.
  + The Client shall not unreasonably withhold or delay its approval of the Test Plan provided that the Agency shall implement any reasonable requirements of the Client in the Test Plan.
* **Passing Testing** 
  + The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.
* **How Goods or Services will be tested**
  + Following approval of a Test Plan, the Agency shall develop the Test Specification for the relevant Goods or Services as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
  + Each Test Specification shall include as a minimum:
    - the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Client and the extent to which it is equivalent to live operational data;
    - a plan to make the resources available for Testing;
    - Test scripts;
    - Test pre-requisites and the mechanism for measuring them; and
    - expected Test results, including:
      * a mechanism to be used to capture and record Test results; and
      * a method to process the Test results to establish their content.
* **Performing the tests**
  + Before submitting any Goods or Services for Testing the Agency shall subject the relevant Goods or Services to its own internal quality control measures.
  + The Agency shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
  + The Agency shall notify the Client at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Client shall ensure that the Test Witnesses attend the Tests.
  + The Client may raise and close Test Issues during the Test witnessing process.
  + The Agency shall provide to the Client in relation to each Test:
    - a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
    - the final Test Report within 5 Working Days of completion of Testing.
  + Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Goods or Services, including:
    - an overview of the Testing conducted;
    - identification of the relevant Test Success Criteria that have/have not been satisfied together with the Agency's explanation of why any criteria have not been met;
    - the Tests that were not completed together with the Agency's explanation of why those Tests were not completed;
    - the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
    - the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
  + When the Agency has completed a Milestone it shall submit any Goods or Services relating to that Milestone for Testing.
  + Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Client shall be entitled to recover from the Agency, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
  + If the Agency successfully completes the requisite Tests, the Client shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Agency shall remain solely responsible for ensuring that the Goods or Services are implemented in accordance with this Contract.
* **Discovering Problems** 
  + Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Agency shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
  + The Agency shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Agency shall make the Test Issue Management Log available to the Client upon request.
  + The Client shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Agency. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.
* **Test witnessing** 
  + The Client may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Client, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
  + The Agency shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
  + The Test Witnesses:
    - shall actively review the Test documentation;
    - will attend and engage in the performance of the Tests on behalf of the Client so as to enable the Client to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
    - shall not be involved in the execution of any Test;
    - shall be required to verify that the Agency conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
    - may produce and deliver their own, independent reports on Testing, which may be used by the Client to assess whether the Tests have been Achieved;
    - may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
  + may require the Agency to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.
* **Auditing the quality of the test** 
  + The Client or an agent or contractor appointed by the Client may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
  + The Agency shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
  + The Client will give the Agency at least 5 Working Days' written notice of the Client’s intention to undertake a Testing Quality Audit.
  + The Agency shall provide all reasonable necessary assistance and access to all relevant documentation required by the Client to enable it to carry out the Testing Quality Audit.
  + If the Testing Quality Audit gives the Client concern in respect of the Testing Procedures or any Test, the Client shall prepare a written report for the Agency detailing its concerns and the Agency shall, within a reasonable timeframe, respond in writing to the Client’s report.
  + In the event of an inadequate response to the written report from the Agency, the Client (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Client.
* **Outcome of the testing**
  + The Client will issue a Satisfaction Certificate when the Goods or Services satisfy the Test Success Criteria in respect of that Test without any Test Issues.
  + If the Goods or Services (or any relevant part) do not satisfy the Test Success Criteria then the Client shall notify the Agency and:
    - the Client may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
    - the Client may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Agency to rectify the cause of the Test Issue and re-submit the Goods or Services (or the relevant part) to Testing; or
    - where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Agency to meet a Milestone, then without prejudice to the Client’s other rights and remedies, such failure shall constitute a material Default*.*
  + The Client shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Agency any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.
  + The Client shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
    - the issuing by the Client of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Goods or Services related to that Milestone which are due to be Tested; and
    - performance by the Agency to the reasonable satisfaction of the Client of any other tasks identified in the Implementation Plan as associated with that Milestone.
  + The grant of a Satisfaction Certificate shall entitle the Agency to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
  + If a Milestone is not Achieved, the Client shall promptly issue a report to the Agency setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
  + If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Client shall issue a Satisfaction Certificate.
  + If there is one or more Material Test Issue(s), the Client shall refuse to issue a Satisfaction Certificate and, without prejudice to the Client’s other rights and remedies, such failure shall constitute a material Default.
  + If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Client may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
    - any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Client agrees otherwise (in which case the Agency shall submit a Rectification Plan for approval by the Client within 10 Working Days of receipt of the Client’s report pursuant to Paragraph 10.5); and
    - where the Client issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.
* **Risk**
  + The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
    - operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Client’s requirements for that Deliverable or Milestone; or
    - affect the Client’s right subsequently to reject all or any element of the Goods or Services and/or any Milestone to which a Satisfaction Certificate relates.

**Annex 1: Test Issues – Severity Levels**

1. **Severity 1 Error** 
   1. This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.
2. **Severity 2 Error**
   1. This is an error for which, as reasonably determined by the Client, there is no practicable workaround available, and which:
      1. causes a Component to become unusable;
      2. causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
      3. has an adverse impact on any other Component(s) or any other area of the Goods or Services;
3. **Severity 3 Error**
   1. This is an error which:
      1. causes a Component to become unusable;
      2. causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
      3. has an impact on any other Component(s) or any other area of the Goods or Services;

but for which, as reasonably determined by the Client, there is a practicable workaround available;

1. **Severity 4 Error**
   1. This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Goods or Services.
2. **Severity 5 Error**
   1. This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Goods or Services.

**Annex 2: Satisfaction Certificate**

To: [insert name of Agency]

From: [insert name of Client]

[insert Date dd/mm/yyyy]

Dear Sirs,

**Satisfaction Certificate**

Deliverable/Milestone(s): [Insert relevant description of the agreed Goods or Services/Milestones].

We refer to the agreement (**"Order Contract"**) [insert Order Contract reference number] relating to the provision of the [insert description of the Goods or Services] between the [*insert Client name*] (**"Client"**) and [*insert Agency name*] (**"Agency"**) dated [*insert Order Start Date dd/mm/yyyy*].

The definitions for any capitalised terms in this certificate are as set out in the Order Contract.

[We confirm that all the Goods or Services relating to [insert relevant description of Goods or Services/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Goods or Services that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Client]

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

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

|  |  |
| --- | --- |
| **"Contract Manager"** | the manager appointed in accordance with paragraph 2.1 of this Schedule; |

1. **Managing the contract**
   1. The Agency and the Client shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Goods or Services shall be managed day-to-day.
   2. The Parties shall ensure that appropriate resource and expertise is made available to deliver the aims, objectives and specific provisions of the Contract. The Client will give the Agency instructions as to its requirements for the Goods or Services. These will be included in a Statement of Work and may include start and end dates for each stage of the proposed Goods or Services.
   3. During the Contract Period, the Agency will:
      1. keep the Client fully informed as to the progress and status of all Goods or Services, by preparing and submitting written reports at such intervals and in such format as is agreed by the Parties; and
      2. promptly inform the Client of any actual or anticipated problems relating to provision of the Goods or Services. Receipt of communication from the Agency by the Client does not absolve the Agency from its responsibilities, obligations or liabilities under the Contract.
   4. During the Contract Period, the Parties’ respective Contract Managers will arrange and attend meetings to review the status and progress of the Goods or Services and to seek to resolve any issues that have arisen. These meetings will be held at locations and intervals as agreed by the Parties.
   5. Unless otherwise agreed in the Statement of Work, the Agency will produce contact reports providing each Party with a written record of matters of substance discussed at meetings or in telephone conversations between the parties within 3 Working Days of such discussions. If the Client does not question any of the subject matter of a contact report within 7 Working Days of its receipt, it will be taken to be a correct record of the meeting or telephone conversation.
2. 3. **Approvals and Authority**
   1. For the purposes of this Order Schedule 15, any reference to Client Approval means written approval in one of the following ways:
      1. the Client issuing a purchase order bearing the signature of an Authorised Client Approver;
      2. email from the individual business email address of an Authorised Client Approver; or
      3. the signature of an Authorised Client Approver on the Agency’s documentation.
   2. The Agency will seek the Client’s prior Approval of:
      1. any estimates or quotations for any costs to be paid by the Client that are not agreed in a Statement of Work; and
      2. any creative treatments, including but not limited to scripts, messaging, storyboards, copy, layouts, design, artwork, or proposed marketing activity.
   3. The Agency will seek the Client’s prior Approval of any draft Goods or Services. The Client’s Approval will be the Agency’s authority to proceed with the use of the relevant Goods or Services.
   4. If the Client does not approve of any matter requiring Approval, it must notify the Agency of its reasons for disapproval within 14 days of the Agency’s request.
   5. If the Client delays approving or notifying the Agency as to its disapproval, the Agency will not be liable for any resulting delays or adverse impact caused to the delivery of the Statement of Work.
3. **Monitoring Campaign Performance**
   1. The Agency agrees to provide access to data and support for Audits undertaken by the Client and its Auditors under the CRTPA relating to campaign performance under the Contract during and after campaigns.
   2. The Agency will fully comply with all remote access requests.
   3. The Auditor may share data with relevant key stakeholders as necessary to complete the work. Where the Client carries out an Audit it will own the resulting report and may share non-sensitive outcomes as appropriate.
   4. The Agency and the Client will agree a plan to address Audit findings to optimise campaign performance.
4. **Contract Risk Management**
   1. Both Parties will proactively manage risks attributed to them under the terms of this Contract.
   2. The Agency will develop, operate, maintain and amend, as agreed with the Client, processes for:
      1. the identification and management of risks;
      2. the identification and management of issues; and
      3. monitoring and controlling project plans.
5. **International Work**
   1. The management and process for Client billing under Statements of Work including international work is to be agreed prior to the commencement of the Statement of Work and set out in the Statement of Work or Letter of Appointment.

**Annex: Contract Boards**

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

To be agreed on contract commencement.

**Order Schedule 18 (Background Checks)**

1. **When you should use this Schedule**

This Schedule should be used where Agency Staff must be vetted before working on the Contract.

1. **Definitions**

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule.

1. **Relevant Convictions**
   1. The Agency must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Goods or Services without Approval.
   2. Notwithstanding Paragraph 3.1 for each member of Agency Staff who, in providing the Goods or Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Client owes a special duty of care, the Agency must (and shall procure that the relevant Sub-Contractor must):
      * 1. carry out a check with the records held by the Department for Education (DfE);
        2. conduct thorough questioning regarding any Relevant Convictions; and
        3. ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Agency shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Goods or Services any person who has a Relevant Conviction or an inappropriate record.

**Annex 1 – Relevant Convictions**

Refer to Schedule 20

**Order Schedule 20 (Order Specification)**

This Schedule sets out the characteristics of the Goods or Services that the Agency will be required to make available to the Client under this Order Contract

Redacted Text Under FOIA Section 43, Commercial Interests