Address: Health Services Category
Department for Work and Pensions
Finance Group
Commercial Directorate
1 Hartshead Square
Sheffield
S1 2FD

Website: www.dwp.gov.uk

Date: 6th October 2020

Department for Work & Pensions

(REDACTED)
Capita Business Services Limited
(REDACTED)
(REDACTED)
(REDACTED)

Dear (REDACTED),

Personal Independence Payments (PIP) Assessment Service Lot 2

Contract Reference: UI_DWP_100430

Contract (as amended) between (1) Department for Work and Pensions (the "Authority") and (2) Capita Business Services Limited (the "Provider") dated 31 July 2012 (the "Contract")

Provider relief due to COVID-19 in accordance with Procurement Policy Notes 02/20 and 04/20

1. We refer to the Contract. Unless otherwise defined, terms defined in the Contract and used in this letter shall have the meaning set out in the Contract.

2. This letter, when signed by both Parties, shall form a Variation to the Contract and shall be deemed to have been made in accordance with clause F3 of the Contract.

Background

3. The purpose of this Variation is for the Authority to give relief to the Provider on the terms of this Variation. The Authority and the Provider acknowledge that the relief is given in accordance with the policy set out in PPN 02/20 and PPN 04/20 and that both Parties shall act in good faith and work together towards the principles set out in PPN 02/20 and PPN 04/20. The Provider acknowledges that any relief given to it is at the sole discretion of the Authority (acting reasonably).

4. This Variation provides for:

   4.1. payment to be made during Stage 1 in accordance with the Interim Payment Approach;
   4.2. a payment reconciliation to be carried out at the end of Stage 1;

4.3. payment to be made during Stage 2 in accordance with the Temporary Cost Model; and

4.4. agreement of the Further Variation to set out the terms on which the Parties will transition out of the arrangements set out in this Variation by the end of Stage 2 (which the Parties will work in good faith to achieve by no later than 31 October 2020).

5. On 14 March 2020 and 23 March 2020, the Authority issued step-in notices to the Provider in accordance with clause F10.4 of the Contract (Step In without Provider Breach). This right to Step-In was exercised for the reason set out in clause F10.1.1 (because a serious risk exists to the health or safety of persons). The Parties agree that the provisions relating to payment of the Contract Price set out in clause F10.4.2 of the Contract shall not apply and that, instead, the Authority will pay the Provider in accordance with: (i) the Interim Payment Approach during Stage 1; and (ii) the Temporary Cost Model during Stage 2.

6. The Authority reasonably anticipates that the Procurement Regulations will apply to this Variation and the Authority shall ensure that there is lawful basis for agreeing the Variation under the Public Contracts Regulations 2015 and / or any applicable procurement rules. Due to the current COVID-19 pandemic, this may include in particular justifications under Regulation 72 and Regulation 32 of the Public Contracts Regulations 2015 or such other applicable or equivalent provisions.

7. The Contract, including any previous variations, will remain effective and unaltered except as amended by this Variation.

<u>Variation</u>

8. The following terms used in this Variation shall have the meanings as set out below:

"Allowable Covid Costs"	means, during the Covid Relief Period, those costs which are shown as being Allowable Covid Costs in the table in Appendix B, Schedule 3 (or which are otherwise agreed by the Parties to be Allowable Covid Costs in accordance with the process set out in that Schedule).
"Cost Baseline"	means the document referred to as the Cost Baseline in Appendix B, Schedule 3 setting out the average monthly cost incurred by the Provider in providing each element of the Services immediately before the Covid Relief Period (such average cost calculated on the basis of the period from 1 December 2019 to 29 February 2020); such baseline will be used by the Authority to assess the appropriateness of the costs incurred by the Provider during Stage 2.
"Covid Related Hardship"	means that as a result of the COVID-19 pandemic or any related regulatory or government action, guidance, intervention, policy or Law, the Provider's ability to meet its contractual obligations under the Contract has been adversely affected.

"Covid Relief Period"	means the period from the Effective Date until the Relief Expiry Date.
"Disallowable Covid Costs"	means, during the Covid Relief Period, those costs which are shown as not being Allowable Covid Costs in the table in Appendix B, Schedule 3 (or which are otherwise agreed by the Parties to be Disallowable Covid Costs in accordance with the process set out in that Schedule).
"Effective Date"	means 1st March 2020.
"Further Variation"	means a further variation to the Contract, as described in clause 9.16, to enable the Parties to transition out of the arrangements set out in this Variation, as anticipated in PPN 04/20.
"Interim Payment Approach"	means payment to the Provider of fixed monthly sums during Stage 1 as set out in more detail in Appendix A to this Variation.
"Open Book Interim Data"	means the complete and accurate financial and non-financial information (forming part of the management information referred to at "Management information – validation requirements" in Appendix B, Schedule 3) which is required by the Authority to enable the Authority to understand all COVID-19 related relief, grants, interventions or other measures received by the Provider from the Government and to verify the cost of providing the Services during the Covid Relief Period, including but not limited to: a. the Provider's costs broken down as requested by the Authority, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software; b. operating expenditure relating to the provision of the Services including an analysis showing: i. the unit costs and quantity of consumable and bought-in services; ii. staff costs broken down into the number and grade / role of all Provider Staff together with a list of rates against each manpower grade; iii. pass through costs; c. reimbursable expenses; d. overheads; e. all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services; f. full details of the payment of Staff wages (on an anonymised basis); and

	g. full details of the payment of Sub-contractors.
"PPN 02/20"	means Procurement Policy Note 02/20 (as updated or amended from time to time) setting out information and guidance for public bodies on how they may amend payment provisions in contracts or consider other contractual relief in order to assist suppliers combat the impact of COVID-19.
"PPN 04/20"	means Procurement Policy Note 04/20 (as updated or amended from time to time) setting out information and guidance for public bodies on payment of their suppliers to ensure service continuity during the coronavirus outbreak and, in particular, recovery and transition from COVID-19.
"Procurement Regulations"	means the Public Contracts Regulations 2015.
"Relief Expiry Date"	means the date on which the Further Variation comes into force.
"**Stage 1**"	means the period commencing on the Effective Date and ending at midnight on the day immediately preceding the TCM Effective Date.
"**Stage 2**"	means the period commencing on the TCM Effective Date and ending at midnight on the day immediately preceding the Relief Expiry Date.
"TCM Effective Date"	means 1 July 2020.
"TCM Validation Approach"	means the validation and extrapolation approach, detailed in Appendix B, Schedule 4, that will be applied to all costs submitted under this Variation.
"Temporary Cost Model"	means the transparent cost model supported by the Open Book Interim Data and the open book cost data set out in Appendix B, Schedule 3, which will apply during Stage 2 (and in accordance with which the reconciliation at the end of Stage 1 will be carried out pursuant to paragraph 9.3).
"Temporary Service Specification"	means the specification of revised Services set out in Appendix B, Schedule 2, which the Provider will provide under the Contract during Stage 1 and Stage 2.
"Variation"	means the terms set out in this Variation.
"Variation Date"	means the date the second party signs this Variation.
"Variation Payment Arrangement"	means: (i) the Interim Payment Approach during Stage 1; and (ii) the Temporary Cost Model during Stage 2.

9. Notwithstanding any other term of the Contract, the Parties agree to vary the Contract during the Covid Relief Period as follows:

Part A: Terms applicable to Stage 1

Interim Payment Approach and Temporary Service Specification

9.1. During Stage 1:

9.1.1. the Provider shall receive payment in accordance with the Interim Payment Approach; and

9.1.2. the Services shall be varied and provided by the Provider in accordance with the Temporary Service Specification.

Service Levels and relief from Service Credits

9.2. The Service Levels will not apply to the provision of the Services during Stage 1. Therefore, the Provider will have relief from all associated Service Credits and No Pay Amounts under the Contract in relation to the provision of the Services, during Stage 1. However, the Parties will continue to monitor performance against the Service Levels during this period for information purposes. The Provider acknowledges that the Parties may agree revised Service Levels at any time.

Reconciliation

9.3. At the end of Stage 1, the Parties will carry out and agree a reconciliation between:

9.3.1. the payments actually made to the Provider during Stage 1 under the Interim Payment Approach ("**A**"); and

9.3.2. the sums that would have been paid to the Provider during Stage 1 had the Provider been paid pursuant to the Temporary Cost Model including the TCM Validation Approach during Stage 1 ("**B**")

PROVIDED THAT in calculating "**B**", the Parties shall add a mark-up to the Allowable Covid Costs incurred by the Provider in the provision of the Services during Stage 1 such that the Provider's margin during this period shall be (R), as described in more detail in Appendix A.

In the event that A exceeds B, the Provider shall issue a credit note for a sum equal to the difference between A and B, and the Authority shall deduct the amount of such credit note from the amount payable under the Provider's next invoice, provided that if there is no such invoice or if the amount of the Provider's next invoice(s) is insufficient, the Provider shall pay to the Authority the sum within 30 days following receipt of a notice from the Authority requiring the Provider to make payment.

In the event that B exceeds A, the Provider shall issue to the Authority an invoice for a sum equal to the difference between B and A, such invoice to be issued by the Provider and paid by the Authority in accordance with clause C2 of the Contract.

9.4. If the Parties are unable to agree the reconciliation referred to in paragraph 9.3 within 30 days following the end of Stage 1 (or such other period as may be agreed between the parties), either Party shall be entitled to refer the issue for resolution under the Dispute Resolution Procedure set out in clause I.2 of the Contract.

Part B: Terms applicable to Stage 2

Application of the Temporary Cost Model

9.5. During Stage 2, the Parties shall cease to apply the Interim Payment Approach and, instead, will apply the Temporary Cost Model.

Temporary Service Specification

9.6. Appendix B, Schedule 2 sets out the Temporary Service Specification, which details the variations to the Services to be provided by the Provider during Stage 2. If the Authority wishes to vary the Services further during Stage 2, it shall provide reasonable notice of such variation in writing and the Parties shall seek to agree such variation in accordance with clause F3 of the Contract.

9.7. The Parties will work together in good faith during the Covid Relief Period to manage service wide demand for Assessments across total Provider capacity and capability to deliver such Assessments, having regard to the Provider's rights and obligations in respect of the Services under the Contract prior to the implementation of this Variation. As part of this, both Parties shall work to ensure that balancing demand does not compromise the ability of the Provider to maintain such capacity and capability in the delivery of the Services.

9.8. Where an unforeseen change in claim volumes means that:

9.8.1. demand cannot be balanced across the service; and/or
9.8.2. the Provider is not able to manage the impact of the change on its delivery performance against the Service Levels,

the Authority and the Provider will work together in good faith to minimise any adverse impact on the stability of the Services, the Claimants and the Provider's ability to maintain the required capacity and capability in the delivery of the Services, having regard to the Provider's rights and obligations in respect of the Services under the Contract prior to the implementation of this Variation.

9.9. The Parties agree that the specific obligations set out in Appendix B, Schedule 1 shall be amended as set out in that Schedule.

Service Levels and Performance Management

9.10. The Service Levels shall apply during Stage 2. The financial consequences of a failure by the Provider to achieve the Service Levels during Stage 2 will be addressed as set out in Appendix B, Schedule 2.

Financial Controls

9.11. Payments made during Stage 2 will be subject to the TCM Validation Approach.

9.12. The Authority will work with the Provider to implement the TCM Validation Approach, including a “dry run” of the approach against payments made during Stage 1 (and additionally against any other months’ payments where the Authority deems this is necessary to enable the approach to be fully and properly embedded before it is formally launched). The “dry run” of the approach will give the Provider the information and experience necessary to embed the approach and identify areas of payment risk in its invoicing process.

9.13. Payment validation and extrapolation is a key process in the Authority fulfilling its responsibility to ensure all payments made through this Variation represent actual costs incurred in the delivery of Services under the Contract.

9.14. The paragraph entitled “Cost Baseline” in Appendix B, Schedule 3 sets out how the Cost Baseline will apply during Stage 2.

9.15. All payments made will be subject to the processes detailed in Appendix B, Schedule 4.

Transition out of Stage 2

9.16. In line with the principles set out in PPN 04/20, the Parties will use their reasonable endeavours to agree the basis on which they can, as soon as reasonably practicable, transition out of the arrangements set out in this Variation. The Parties’ target date for completing such transition is no later than 31 October 2020. In order to enable such transition, the Parties acknowledge that they will need to agree a Further Variation to reflect changes to the delivery of the Services, such Further Variation to set out amongst other things (and unless otherwise agreed):

9.16.1. revised unit pricing, such pricing to reflect only increases or decreases to the costs identified in the Baseline Cost Model that result directly and exclusively from the changes to the delivery of the Services;
9.16.2. a revised Service Requirement and Service Levels; and
9.16.3. an updated Latest Forecast and Proposed Clearance Profile.

9.17. The Parties’ current intention is that the coming into force of the Further Variation will amount to completion of Required Action under clause F10 pursuant to the step-in notice referred to in paragraph 5 above.

Part C: Terms applicable to both Stage 1 and Stage 2

General

9.18. The purpose of this Variation is to provide interim relief and support to the Provider in relation to Covid Related Hardship affecting the Provider during the Covid Relief Period, pursuant to the aims and principles set out in PPN 02/20 and PPN 04/20.

9.19. The Provider shall:

9.19.1. ensure that the payments agreed under the Variation Payment Arrangement are promptly and solely applied to the purposes for which

they are paid, which may include payments to the Staff and the Provider's supply chain who are working on deliverables to be provided under or in connection with the Contract so as to reduce the adverse effect of Covid Related Hardship;

9.19.2. make available to the Authority upon request any information and/or evidence (including the Open Book Interim Data) which the Authority may reasonably require in order to:

9.19.2.1. verify and assure that the Provider has applied the monies in the provision of the Services, including copies of accounts, ledgers, cash-flow forecasts and statements, balance sheets, profit and loss accounts and any other documentary evidence;

9.19.2.2. verify and assure that monies intended for the Provider's Staff performing the Contract have been properly and promptly paid;

9.19.2.3. verify the number of health professionals seconded by the Provider to the NHS (and, in respect of such seconded health professionals, the Provider will work with the Authority in good faith to help manage cost recovery from the entity to which such staff are seconded); and

9.19.2.4. verify that the Provider has paid invoices submitted by the Provider's Sub-contractors and other suppliers in accordance with the terms set out in the Contract;

9.19.3. ensure that all invoices comply with the requirements set out in Appendix B, Schedule 3; and

9.19.4. maintain full records and a written audit trail of all the Variation Payment Arrangement activity in accordance with the general financial records provisions in the Contract (and such records shall be made available promptly to the Authority on reasonable request).

9.20. The Provider shall not be entitled to combine the Variation Payment Arrangement with any other government / public sector COVID-19 related relief, grant, intervention or other measure which results in the Provider receiving more than one benefit / relief for the same underlying cash-flow issue.

10. If, in the reasonable opinion of the Authority, the Provider:

10.1. fails to meet any obligation set out in this Variation;

10.2. receives any payment and fails to apply it to meet any proposal in the Variation Payment Arrangement;

10.3. takes undue advantage of any relief (including, without limitation, by introducing any changes to or replacing (during the Covid Relief Period) any policies prevailing at the Variation Date which increase (or are intended to increase) the recovery by the Provider of Allowable Covid Costs in respect of the Covid Relief Period and which the Authority (acting reasonably and having regard to all relevant circumstances) considers exposes (or are reasonably likely to expose) the Authority to reputational risk or damage and/or which do not represent value for money for the taxpayer); or

10.4. fails to act transparently and with integrity,

the Authority may take all action necessary to recover any payments made to the Provider during the Covid Relief Period, including without limitation retaining or setting-off payment of any amount it owes to the Provider at any time under the Contract or any other contract, to the extent that sub-paragraphs 10.1– 10.4 apply to such payments.

Fixed Cost True Up

11. Provisions relating to the Fixed Cost True Up under paragraph 6 of Appendix 12 (Exit and Service Transfer Arrangements) of the Contract shall be amended as set out in Appendix C to this Variation.

Miscellaneous

12. The terms of this Variation shall come into force on the Variation Date but shall be deemed to be effective from the Effective Date.
.
13. This Variation may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same agreement.

14. Except to the extent set out in this Variation, this Variation shall not constitute a waiver of any right or remedy of the Authority or the Provider arising before, during or after this Variation.

15. The Authority and the Provider agree that any event arising from COVID-19 shall not give rise to any force majeure or frustration rights set out in the Contract to the extent that such rights are mitigated by the Variation Payment Arrangement.

16. If there is an inconsistency between any of the provisions of this Variation and the provisions of the Contract, the provisions of this Variation shall prevail.

If you have any queries, please contact (REDACTED).

SIGNED for and on behalf of		**SIGNED** for and on behalf of	
The Secretary of State for Work and Pensions (the Authority) acting as part of the Crown		Capita Business Services Limited	
Name	(REDACTED)	Name	(REDACTED)
Position	(REDACTED)	Position	(REDACTED)
Signature		Signature	

Appendix A

Stage 1: Interim Payment Approach

The Interim Payment Approach set out in this Appendix shall apply during Stage 1.

Monthly Sums and FME Payments

During Stage 1, the Authority shall pay the Provider:

- a monthly sum of (REDACTED) per month (the "**Monthly Sum**"); and
- Further Medical Evidence (FME) payments based on actuals, monthly in arrears (the "**FME Payment**").

The Provider shall invoice and the Authority shall pay the Monthly Sum and the FME Payment in accordance with the payment schedule set out below.

Subject always to paragraphs 9.3 and 9.4 of this Variation, the Monthly Sum and the FME Payment are the only sums payable by the Authority to the Provider under or in connection with the Contract during Stage 1 and replace any sums that would otherwise be payable to the Provider during that period.

Payment Schedule

Invoice description	**Invoice date**	**Payment date**
Monthly Sum for March 2020*	27 April 2020	11 May 2020
FME Payment for March 2020*	27 April 2020	11 May 2020
Monthly Sum for April 2020	4 May 2020	18 May 2020
FME Payment for April 2020	4 May 2020	18 May 2020
25% of Monthly Sum for May	11 May 2020	18 May 2020
25% of Monthly Sum for May	15 May 2020	22 May 2020
25% of Monthly Sum for May	22 May 2020	29 May 2020
25% of Monthly Sum for May	1 June 2020	8 June 2020
FME Payment for May	5 June 2020	19 June 2020

The Provider acknowledges that the payment arrangements in respect of the remainder of Stage 1 (being June) shall continue substantially on the same basis as outlined in the table above, the dates being adjusted as applicable in respect of the relevant month.

*These invoices replace the invoice issued by the Provider on 3 April 2020. The Provider will issue a credit note in respect of the 3 April 2020 invoice.

Basis of calculation of the Monthly Sum

The Parties acknowledge that the Monthly Sum has been calculated on the basis of the average invoicing under the Contract (excluding FME) for the period from the beginning of December 2019 to the end of February 2020.

Profit Margin during Stage 1

Profit Margin payable on Allowable Covid Costs

The Parties acknowledge that during Stage 1, the Provider shall be entitled to earn a margin of (R) in respect of Allowable Covid Costs incurred during Stage 1. This margin shall be calculated (as contemplated by the worked example in the paragraph entitled "Worked Example for Profit Margin – Stage 2" in Appendix B, Schedule 2) and accounted for as part of the reconciliation process at the end of Stage 1 as set out in paragraph 9.3 of this Variation.

HP Capacity Bonus

The Provider shall be entitled to earn a further margin of (R) in respect of Allowable Covid Costs incurred during Stage 1 (the "**HP Capacity Bonus**") subject to achievement of certain minimum numbers of Healthcare Professionals (HPs) being in post at the earlier of 31 October 2020 or the end of the Covid Relief Period (the "**HP Capacity Bonus Date**"). The amount of HP Capacity Bonus payable (if any) will be calculated within 30 days after the HP Capacity Bonus Date.

The Provider confirms that the number of Healthcare Professionals (HPs) that it reasonably expects will be deployed by the Provider in delivering the Services under the Contract (being in respect of Lot 2 only) in front office and back office roles (including HPs employed by, engaged by and seconded to the Provider as well as HPs in training, but not including independent contractors) during the period to 31 October 2020 will be (R) FTE HPs.

For the purposes of this calculation:

"**HP Capacity**" = the number of FTE (full time equivalent) HPs actually deployed by the Provider in delivering the Services under the Contract (being in respect of Lot 2 only) in front office and back office roles, including HPs employed by, engaged by and seconded to the Provider as well as HPs in training at the HP Capacity Bonus Date. For the avoidance of doubt, the number shall not include independent contractors; and

"**HP Target**" = HP Capacity of (R) FTE HPs

The proportion of the HP Capacity Bonus payable will be as set out in the table below:

HP Capacity Achieved	Percentage of HP Capacity Bonus Payable
HP Capacity equals or exceeds HP Target	(R)
HP Capacity <100% and > or equal to 97.5% of HP Target	(R)
HP Capacity <97.5% and > or equal to 95% of HP Target	(R)
HP Capacity < 95% of HP Target	(R)

For the avoidance of doubt, although the HP Capacity Bonus is not assessed until the HP Capacity Bonus Date, it is only calculated on Allowable Covid Costs incurred during Stage 1.

Where the Provider can demonstrate to the reasonable satisfaction of the Authority that, notwithstanding the actual HP Capacity achieved by the Provider at the HP Capacity Bonus Date, the actual number of FTE HPs actually deployed by the Provider in delivering the Services in front office and back office roles (including HPs employed by, engaged by and seconded to the Provider as well as HPs in training but not including independent contractors) as at the HP Capacity Bonus Date would have been higher but for

circumstances outside of the Provider's reasonable control acting in accordance with Good Industry Practice (for example, where the resumption of Consultation Assessments in a Consultation Centre results in above forecast attrition of HPs (save where the Provider has not complied with any applicable instructions and/or guidance issued by the Authority in respect of the resumption of such Consultation Assessments)), the Authority shall (acting reasonably) consider and determine what HP Capacity might reasonably have been achieved as at the HP Capacity Bonus Date (but for the occurrence of such circumstances) and such determined HP Capacity shall be deemed to be the HP Capacity achieved for the purposes of the above table.

If the Parties are unable to agree the HP Capacity or the amount of HP Capacity Bonus payable within 30 days following the HP Capacity Bonus Date, the Parties shall refer the issue for resolution by good faith negotiations and/or mediation under the Dispute Resolution Procedure set out in clause I.2 of the Contract.

Worked Example

If, as part of the reconciliation carried out at the end of Stage 1, total Allowable Covid Costs incurred by the Provider during Stage 1 are £14.5m, then:

(i) The Profit earned by the Provider at the end of Stage 1 will be (REDACTED) (a (R) margin from the base costs of £14.5m). This will be calculated and accounted for as part of the reconciliation process pursuant to paragraph 9.3 of this Variation.

(ii) The maximum potential HP Capacity Bonus payable will be (REDACTED) (a further (R) margin from the base costs of £14.5m). The actual HP Capacity Bonus payable will be assessed and calculated at the end of the Covid Relief Period.

If the HP Target is 250 and the actual HP Capacity is 240, the percentage of the HP Target achieved will be 96%. Therefore, in accordance with the table above, the amount of the HP Capacity Bonus payable will be (R). Therefore, the HP Capacity Bonus payable to the Provider at the end of the Covid Relief Period will be (REDACTED).

Appendix B

Stage 2: Temporary Cost Model and Temporary Service Specification

Schedule 1 – Obligations

The following obligations in the Contract shall be amended in respect of the Covid Relief Period in the manner and to the extent only set out in the table below.

Contract Reference	Required Amendment
Service Requirement, Part I (Infrastructure Requirements (Estates and IT Requirements), paragraph 41.5	The words “The Contractor will update this annually as a minimum.” shall be replaced with the words “The Contractor will update this as soon as reasonably practicable after any change to such estate.”
Service Requirement, Part K (Business Continuity and Disaster Recovery), paragraph 45	A new paragraph 45.7 shall be deemed to be inserted which shall read as follows “The Contractor shall, within 30 days after the Variation Date, update (and provide to the Authority for approval, such approval not to be unreasonably withheld or delayed) the Business Continuity and Disaster Recovery Plans to reflect any proposed changes the Contractor reasonably believes are necessary to such Business Continuity and Disaster Recover Plans to manage and/or mitigate the impact of the occurrence and/or subsistence of the COVID-19 pandemic (including, without limitation, any recurrence of COVID-19 on a national or local basis) and/or any pandemic and/or epidemic having a similar effect, in each case, on the provision of the Services”. The Parties agree that, for the purposes of giving effect to this obligation, reference to the Variation Date above shall be deemed to be to the date on which the Variation Date occurs in accordance with this Variation.

Schedule 2 – Temporary Service Specification and Temporary Performance Incentive Scheme

Temporary Service Specification

The Services as detailed in the Contract shall continue to be required unless specifically varied in this Schedule.

The Temporary Service Specification set out in this Schedule shall apply on and from 23 March 2020 and shall apply throughout the remainder of the Covid Relief Period.

The changes to the Services as instructed under clause F10 ('Step In') are as per the letters issued by the Authority on 14 and 23 March 2020. These letters set out the required change to the Services in response to the Covid pandemic, including the cessation of face to face Consultations and the mobilisation of a telephone-based assessment service. The delivery of a telephony assessment channel was confirmed on 26 March 2020. In addition, the Authority wrote to the Provider on 7 July 2020 to confirm, amongst other things, the "best endeavours" approach to determining PIP entitlement where a telephone assessment was not possible.

1. 20200314 COVID19 Letter Capit
2. 20200323 COVID19 Letter re AR
3. Capita Commencement of T
4. Letter to Capita decisions with limited
4a. Best Endeavours.pdf
5. 20200818 F2F Reintroduction Letter
6. 20200828 Update F2F Reintroduction L
7. Response to reinstating F2F assess

The Authority notified the Provider on 30 July 2020 of its objective to resume face to face Consultations from 1 October 2020. The Authority wrote to the Provider further on 18 August 2020 to set out how the Authority envisages the Parties will work together to achieve a phased reintroduction of face to face Consultations from 1 October. The Authority then wrote to the Provider on 2 September 2020 (to confirm that Referrals that the Provider receives from 5 October 2020 will be eligible to be considered for a face to face Consultation) and again on 28 September to highlight a potential re-examination of the approach to reflect emerging Government guidance on Covid safety. The Provider confirms that it will work with the Authority in accordance with the principles and aims outlined in the 18 August 2020 letter (as updated by the 2 September 2020 and 28 September 2020 letters) to achieve that objective.

The Service Requirements are amended during the Covid Relief Period as set out below:

From 23 March 2020 until the end of the Covid Relief Period:

- the definition of "Consultation" in the Service Requirements shall be amended to read "The face to face or telephone engagement between the Claimant and the Contractor's Health Professional, as part of the Assessment"; and
- for the avoidance of doubt, references in the Service Requirements to "face to face" or "face-to-face" Consultations shall be deemed to be references to telephone and/or face to face (as the case may be) Consultations.

The Authority will continue to consider the impact of the Covid pandemic on the delivery of the Services during Stage 2 and will work with the Provider to make any necessary

adaptations to the Services to take account of public health advice to ensure the needs of Claimants are met. This may require further changes to how the Services are delivered.

All other Service Requirements as detailed in the Contract are unaffected by the changes in this Schedule. However, further amendments to the Services will be considered and agreed as part of the Further Variation.

Profit Margin, Service Credits and No Pay Amounts during Stage 2

The Parties acknowledge that during Stage 2, the Provider shall be entitled to earn a maximum margin of (R) in respect of Allowable Covid Costs incurred in any Month during Stage 2 (the "**Available Deductions Amount**"). This margin shall be calculated (as contemplated by the worked example in the paragraph entitled "Worked Example for Profit Margin – Stage 2" below) and accounted for as part of the reconciliation process referred to in the paragraph entitled "Interim arrangements – Monthly reconciliation" in Appendix B, Schedule 3.

The Parties further acknowledge that, in respect of the assessment of the Provider's performance of the Services against the Service Levels and the Authority's remedies for a failure by the Provider to achieve such Service Levels during Stage 2, the amount of Service Credits and No Pay Amounts that may be levied against the Provider for failure to achieve the Service Levels in respect of the relevant Month shall not exceed the Available Deductions Amount applicable to that Month. Where the aggregate of the Service Credits and No Pay Amounts that the Authority would, but for the provisions of this paragraph, otherwise have been entitled to levy against the Provider in respect of the relevant Month exceed the amount of the applicable Available Deductions Amount, then the Provider shall not be liable to the Authority in respect of such Service Credits and No Pay Amounts in that Month to the extent that they exceed the applicable Available Deductions Amount.

The provisions of Appendix 14 (including, without limitation, paragraph 3.5 of Appendix 14) and Appendix 4 of the Contract shall, during the Stage 2 period only, be construed to give effect to the above provisions.

The Parties acknowledge and agree that the arrangements in this paragraph (Profit Margin, Service Credits and No Pay Amounts during Stage 2) shall only apply during and in respect of Stage 2 and that the arrangements during and in respect of Stage 1 (as outlined in paragraph 9.2 and Appendix A to this Variation) shall only apply in respect of Stage 1.

Worked Example for Profit Margin – Stage 2

PDF
8. 20200707 - Final profit Margin Calculat

Worked Example for SC1 Calculation

The Parties acknowledge and agree that, in respect of the Provider's performance in relation to Service Level SC1 during the period 1 July 2020 to (and including) 31 October 2020, the provisions of paragraphs 5B.2.4 to 5B.2.6 (No Pay mechanism for Unacceptable Reports (post glide path)) (inclusive) of Appendix 4 (Rates and Prices) of the Contract shall be deemed to have been replaced by the provisions of the attachment embedded below.

The Parties further acknowledge and agree that, in respect of the Provider's performance in relation to Service Level SC1 following 31 October 2020, the provisions of paragraphs 5B.2.4 to 5B.2.6 (No Pay mechanism for Unacceptable Reports (post glide path)) (inclusive) of Appendix 4 (Rates and Prices) of the Contract shall resume in full, with (for the avoidance of doubt) the Provider's performance during September, October and November in relation to Service Level SC1 being taken into account as part of the Assessment Period in respect of the assessment of the Provider's performance in November (being the Latest Month), notwithstanding that the Provider's performance during September and October has otherwise been subject to the arrangements set out above.

9. SC1 Worked Example Capita.pdf

Schedule 3

Stage 2: Temporary Cost Model

The Temporary Cost Model set out in this Schedule shall apply during Stage 2 and shall be used for working out the costs that are to be assessed as part of the reconciliation referred to in paragraph 9.3 of this Variation.

Temporary Cost Model

The Temporary Cost Model shall apply during Stage 2. The Temporary Cost Model details Allowable Covid Costs (as set out below) in respect of which the Provider may submit costs incurred as part of a monthly invoice and (as noted above) shall also apply to support any reconciliation carried out in accordance with paragraph 9.3 of this Variation.

Allowable Covid Costs and Disallowable Covid Costs

This framework is intended to give guidance to which costs are Allowable Covid Costs and which costs are Disallowable Covid Costs under the cost payment model arrangements covering the Covid Relief Period. It is not intended to be an exhaustive list of every possible Allowable Covid Cost and Disallowable Covid Cost which may arise and it is intended that, where there are disputes, the Parties would meet to discuss in good faith and resolve the disputes. If the Parties are unable to resolve any such dispute through good faith discussions, the issue would be referred to the Dispute Resolution Procedure. Disputed costs would remain unbillable until agreed as billable upon resolution of the dispute.

The changes to the process to assure and pay invoices during the Covid Relief Period are not intended to re-write the processes set out in the Contract and most, if not all, of the costs covered by this Allowable Covid Costs and Disallowable Covid Costs register should be straightforwardly assessed as allowable or not, in the same way as they were under the previous payment mechanism in the Contract.

All costs invoiced (or to be invoiced) must be evidenced as incurred wholly, solely and specifically in the provision of the Services in accordance with the Contract. Any costs incurred pursuant to a Variation agreed during the Covid Relief Period in accordance with the Variation process in clause F3 of the Contract will be Allowable Covid Costs and will be payable in accordance with the Temporary Cost Model. Any costs incurred pursuant to a Variation agreed in accordance with the Variation process in clause F3 of the Contract prior to the Covid Relief Period will, save as amended by this Variation, be invoiced in accordance with that agreed Variation.

For the purposes of the following table, references to the “Lot 4 Contract” shall be to the Order under the Health and Disability Assessment Services Framework Agreement, Personal Independence Payment Assessment Service Call-Off Contract - Lot 4, Order Number: UI_DWP_100432, between (1) Department for Work and Pensions acting for and on behalf of the Department for Social Development in Northern Ireland and Capita Business Services Ltd with Order Date 16 November 2012 (as amended from time to time).

Cost category	Allowable Covid Cost?	Note
Staffing		
HP salary costs	Y	These salary costs are only Allowable Covid Costs to the extent that they relate to the delivery of the Services by HPs under the Contract and do not extend to any salary costs in respect of such HPs (or any other HPs) to the extent that they are engaged in the delivery of services under the Lot 4 Contract. These Allowable Covid Costs also exclude the 2 HPs who are currently seconded to the Authority who are undertaking the Independent Audit. The Provider is paid for these through a separate agreement.
Management salary costs	Y	These salary costs are only Allowable Covid Costs to the extent that they relate to salary costs in respect of the management of the Services under the Contract and do not extend to any management costs that relate (in whole or in part) to the delivery of services under the Lot 4 Contract or under any other contract.
Back office and support functions salary costs	Y	To include all roles not taken into account as part of the HP salary costs or Management salary costs. These salary costs are only Allowable Covid Costs to the extent that they relate to the delivery of the Services by Staff and do not extend to any salary costs in respect of such Staff (or any other staff) to the extent that they are engaged in the delivery of services under the Lot 4 Contract.
Salary costs for staff on secondment/deployed to the NHS	Y	<u>NHS secondments</u> Payable directly by the Provider and invoiced to the Authority but subject to separate reporting and MI to enable the Authority to recover costs from the NHS. Salary costs only. <u>NHS vetting</u> The salary costs of those Staff who have been deployed to NHS England to

Cost category	Allowable Covid Cost?	Note
		support NHS Vetting shall be pass-through costs. The Provider will submit details of costs for each group of Staff separately, as contemplated in the "MI requirements" table below.
Bonus payments	Y	Prevailing Provider bonus policies apply during the Covid Relief Period. No new bonus policies will be introduced during the period 1 March 2020 to 31 October 2020.
Staff Training	Y	
Staff Welfare	Y	
Staff Insurance premiums	Y	To include medical malpractice insurance.
Temporary and Agency staff	Y	
Recruitment costs	Y	The Authority does not expect to see investment-related increases to recruitment premiums within business as usual costs during the period 1 March 2020 to 31 October 2020 – these are to be determined separately as part of any investment decisions. For example, the Authority would not expect to see arrangements such as potential "golden handshake" payments to returning Healthcare Professionals or retention bonuses for staff that were not in place pre-Covid.
Overtime payment	Y	Overtime should be paid in line with prevailing policies only. Overtime specific to Covid 19 events is to be considered a Covid 19 cost.
Holiday Pay accrual	Y	Normal Provider accounting treatments apply.
National Insurance	Y	
Pension Contributions	Y	
Car allowances	Y	All existing allowances would continue if appropriate. The Authority does not expect to see an expansion of allowances during the period 1 March 2020 to 31 October 2020 (unless otherwise agreed between the Parties).
Other ongoing allowances	Y	All existing allowances would continue if appropriate. The Authority does not expect to see an expansion of allowances during the period 1 March 2020 to 31 October 2020 (unless otherwise agreed between the Parties).

Cost category	Allowable Covid Cost?	Note
Other direct payroll costs	Y	Depending on the nature of “other costs” these may need to be agreed with the Authority.
Redundancy costs	Y	The Parties have agreed the settlements reflected in the spreadsheet below in respect of the redundancies (detailed in that spreadsheet) that have occurred immediately prior to or during the Covid Relief Period, but prior to the Variation Date. 10. Terminations 110920 CAPITA FINAl In respect of further redundancies during the Covid Relief Period, the Provider shall set out its intention to make staff cuts and redundancies in advance of taking any action. Where the Provider complies with the requirements in the preceding sentence, such associated costs (as agreed with the Authority) will be treated as Allowable Covid Costs during the Covid Relief Period.
I.T. costs		
Desktop / Laptop	Y	Subject to transparent understanding of any allocations included in these charges; basis for charges. charges will be agreed as part of the process but will be subject to expert review as part of payment validation – please see explanation of payment validation process in Appendix B, Schedule 4 for further details. Covid related IT costs should be captured and reported as Covid costs separately.
Fixed telephony	Y	
Mobile Telephony	Y	
Networks	Y	
Support/Service desks	Y	
Third Party support	Y	
Licence costs	Y	
Hosting / Platform	Y	
IT consumables	Y	
Cloud services	Y	
Operational IT support	Y	
PIPAT costs	N	
SIAM/Integration/Storage	Y	
Other costs		
Medical supplies – disposable	Y	Normal processes apply. Covid related medical supplies should be captured and reported as Covid costs separately.
Medical Supplies fixed assets	Y	Normal processes apply. Covid related medical supplies should be captured and reported as Covid costs separately.

Cost category	Allowable Covid Cost?	Note
		All fixed assets to be agreed with the Authority. Impacts to the Depreciation schedule to be noted.
Printing costs	Y	
Postage costs	Y	
Stationery costs	Y	
Marketing and Advertising	Y	Reasonable costs eg: for recruitment and client information purposes; General marketing and advertising costs would need to be demonstrated as solely and wholly for the purposes of executing the Contract.
Professional fees and subscriptions	Y	As they apply normally e.g. GMC fees.
Bank charges	Y	As they apply to normal course of business.
Travel and Subsistence	Y	Yes – the Provider shall apply the prevailing policies in accordance with the Contract. However, this excludes travel and subsistence in relation to Independent Audit secondees, as the Provider is paid for these through a separate arrangement.
Corporate Overheads	Y	Overhead cost in line with the Financial Model. Subject to suitable transparency over costs covered to ensure no double counting. Covid related costs should be captured and reported as Covid costs separately.
Covid-19 related costs	Y	Specific costs incurred responding to COVID 19. For example, deep clean of estate, PPE for staff and additional costs to enable and support home-based working.
Costs of shared service operations to support business operations	Y	
Interpreters services	Y	Supporting delivery of services during Covid Relief Period. Normal processes apply. Covid related costs should be captured and reported as Covid costs separately.
Sub-contractor / Supply chain partner costs	Y	
Legal fees/ICE	Y	Provider to notify the Authority as soon as it becomes aware of any potential claim.

Cost category	Allowable Covid Cost?	Note
Claimant travel	Y	Normal process. Expected to fall significantly after lag.
FME costs	Y	The Provider is not entitled to earn a margin in respect of FME costs.
Intercompany charges	Y	Assuming evidenced and suitably transparent basis (separate from Corporate Overheads).
Allocations and apportionments from other Capita businesses	Y	Must be sufficiently evidenced and on a suitably transparent basis.
Depreciation	Y	Normal policy under the Contract will continue to apply; subject to checks to assure levels of spend; write downs; useful economic life.
Finance costs / costs of money or borrowing	Y	Assumed to be none during the Covid Relief Period. The Provider shall provide evidence of the cost of any borrowing e.g. from external lender
Residual Asset value write back	N	See in conjunction with Bad debt write off; write down.
Contractual		
Overheads as %		Covered above.
Service Credits	N/A	Service Credits will not apply for March, April, May and June 2020 periods, during which average payments are made under Stage 1. Service Credits from 1 July 2020 until the end of the Covid Relief Period will not be Allowable Covid Costs.
Premises		
Rent Rates	Y	The Provider shall inform the Authority of any further changes to the Premises.
Facilities Management	Y	
Insurance	Y	
Dilapidations	Y	In scope linked to current plan, but require a forward projection of likely dilapidations cover.
Temporary Accommodation	Y	If required to support business and agreed with the Authority.
Casual Hire	Y	
Service Charges	Y	
Lease renewals or negotiations	Y	In scope linked to current estates plan for the Provider. Subject to current approvals process with the Authority.
Office fixtures and fittings (desks, chairs, power, etc)	Y	
Income or revenue streams generated or received by	Y	If Income, the Authority would expect these netted off with the Authority

Cost category	Allowable Covid Cost?	Note
the Provider consequential to the Contract		invoicing – otherwise double funding and disallowed.
Disallowable Covid Costs		
Consultancy costs	N	Unless specifically agreed
Redundancy costs	N	Save as expressly referred to above in this Table (at "Redundancy costs") in respect of redundancy costs that are Allowable Covid Costs, costs associated with the termination of employment/redundancies initiated prior to commencement of the Covid Relief Period shall be Disallowable Covid Costs.
TUPE costs	N	No TUPE costs during the Covid Relief Period, provided always that the provisions of Clause B11.8 shall continue to apply in respect of the end of the Contract Period (if the end of the Contract Period occurs during the Covid Relief Period) notwithstanding the subsistence of the Covid Relief Period.
Affiliate Profit	N	Profits of Affiliates of the Provider and/or costs of the Provider incurred for such Affiliates' services in connection with the Contract, where such profits arise or costs are incurred in relation to services other than (a) those stated in the definition of 'd' in the defined term "Profit", or (b) those approved by the Authority (if any) pursuant to paragraph 1.2 of part E of Appendix 4 of the Contract.
Corporate Hospitality	N	Assumed to be none during the Covid Relief Period.
Conference costs	N	Assumed to be none during the Covid Relief Period.
Travel and Subsistence	N	Travel and subsistence payments incurred other than in accordance with the prevailing policies. Any expenditure that could or would bring the Authority into disrepute. Travel costs external to/from UK
Premises provided for personal use	N	Premises provided for personal use. Any personal or corporate flat or other dwelling.

Cost category	Allowable Covid Cost?	Note
Bonus payments	N	Bonus payments made above the levels provided in the Provider's prevailing bonus scheme without the Authority's approval. Bonus payments made in addition to those provided in the Provider's prevailing bonus scheme to reflect performance during the Covid Relief Period unless these are agreed in advance of payment by the Authority.
Gifts and rewards	N	As current Contract. Unreasonable gift and reward structures; gifts and rewards that would, or could be seen to, bring the Authority into disrepute.
Bad Debt adjustment	N	
Write offs and write downs	N	
Accounting adjustments	N	Normal accounting procedures and policies are expected to apply during the Covid Relief Period.

Investment costs	N	New investments from the Provider will be regarded as unbillable in the period 1 March 2020 to 31 October 2020 (unless otherwise agreed between the Parties). This excludes those investments that:
		• the Provider has made, or will make, that are part of the Continuous Improvement Plan;
		• the Provider has made, or will make, in support of the following projects (capped at a total aggregate spend of £50k):
		  ○ Artificial Intelligence; and
		  ○ Web Portal Development; and/or
		• are subject to the Variation process.

Apportionment of non-staff costs to/from GB and NI		Subject to existing profit sharing / apportionment processes

<u>TCM Statements</u>
Each invoice submitted by the Provider during Stage 2 will be accompanied by a statement of Allowable Covid Costs incurred during the period covered by the invoice (a "**TCM Statement**").

Each TCM Statement shall be in the format of, and include the information required by, the TCM Statement template as set out in the "MI requirements" table below.

Invoicing and Reporting

Timings for invoicing and payment

During Stage 2, subject to the provisions of this Schedule 3, the Provider will raise all invoices and the Authority will pay each invoice in accordance with the requirements set out in clause C2 of the Contract, unless specifically agreed otherwise between the Authority and the Provider.

The Provider shall ensure that, subject to the following paragraph of this Schedule (Interim arrangements – weekly invoicing) and the paragraph entitled "Cost Baseline" (below), all invoices reflect actual service delivery costs, which must be Allowable Covid Costs in accordance with the Allowable Covid Costs and Disallowable Covid Costs list set out above and include the standard VAT calculation as applicable.

A sample invoice is attached:

PDF
11. Dummy Invoice for Stage 2 7-7-20.pdf

The Provider must, in respect of the Monthly Reconciliation Payment Claim (as defined below) submit a completed TCM Statement with each invoice or credit note (as the case may be). The TCM Statement must include all actual service delivery costs (which must be Allowable Covid Costs) for the Month to which the invoice or credit note (as applicable) relates and a forward profile of costs for the remaining Months in Stage 2.

The Provider shall continue to submit invoices or credit notes (as applicable) via a feeder file with (where applicable) the relevant TCM Statement and Management Information (as defined and set out below in the paragraph entitled "Management information – validation requirements) attached.

Interim arrangements – weekly invoicing

During Stage 2, the Provider shall (subject to the following provisions of this Schedule 3) submit a cost invoice to the Authority on a weekly basis (a "**Weekly Invoice**") for 25% of the Monthly baseline forecast amount for the Month in which the applicable week falls, as such Monthly baseline forecast amount is set out in the Table below. The Provider shall invoice for Further Medical Evidence (FME) based on actuals, monthly in arrears as part of the monthly reconciliation invoice referred to below.

Month (2020)	Monthly baseline forecast amount (£)	
July	Assessments	(REDACTED)
August	Assessments	(REDACTED)
September	Assessments	(REDACTED)
October	Assessments	(REDACTED)

The Provider shall submit these Weekly Invoices to the Authority on the next Working Day following the end of the week to which the applicable Weekly Invoice relates. The Authority shall, as soon as reasonably practicable:

- following receipt of the applicable feeder file, undertake pre-payment validation of such Weekly Invoice (such pre-payment validation to include (without limitation) an arithmetic assessment of the percentage of the Monthly baseline forecast for the relevant Month claimed by the Provider in respect of the week in question) and validate that the applicable feeder file has been composed correctly; and
- following validation of such Weekly Invoice (including the amount claimed in such Weekly Invoice) and the applicable feeder file, pay the undisputed amount of such Weekly Invoice. Where any element of the Weekly Invoice is disputed, such disputed element will be resolved in accordance with clause C2.8 and paragraph 4 of Appendix 2 (Administration Requirements) of the Contract and if the dispute cannot so be resolved, the Parties shall refer the issue for resolution under the Dispute Resolution Procedure set out in clause I2 of the Contract.

Interim arrangements – Monthly reconciliation

As soon as reasonably practicable following the end of the relevant Month, the Provider shall provide to the Authority (duly certified in accordance with the requirements set out under the paragraph entitled "Provider certification of the Monthly Reconciliation Payment Claim" (below)) the Management Information and the TCM Statement in respect of the Month just ended, together with an invoice or credit note (as applicable and similarly, duly certified) to reflect the difference between the aggregate of the amounts claimed by the Provider in respect of the relevant Month under the Weekly Invoices (as previously agreed by the Authority) and the amount that the Provider is entitled to claim in respect of the relevant Month in relation to: (i) FME based on actuals monthly in arrears in respect of the relevant Month; and (ii) the actual service delivery costs incurred by the Provider in connection with the delivery of the Services during that Month (such invoice or credit note to be further adjusted to reflect any Service Credits and/or No Pay Amounts due to the Authority in respect of the Month in question pursuant to Appendix B, Schedule 2), which costs:

- must be Allowable Covid Costs in accordance with the Allowable Covid Costs and Disallowable Covid Costs list set out above;
- include the standard VAT calculation as applicable; and
- save to the extent that the Provider is not permitted to earn any margin in respect of such costs (as expressly referred to in the Allowable Covid Costs and Disallowable Covid Costs list set out above, including in respect of pass-through costs), shall be multiplied by the applicable "Mark-up" for Stage 2 (as contemplated by the worked example in the paragraph entitled "Worked Example for Profit Margin - Stage 2" in Appendix B, Schedule 2 (above) and being (R)), subject to the provisions of Appendix B, Schedule 2 relating to the maximum margin that the Provider shall be entitled to earn during Stage 2,

(the "**Monthly Reconciliation Payment Claim**").

The Authority shall, as soon as reasonably practicable following receipt of the applicable feeder file in relation to the Monthly Reconciliation Payment Claim in question, carry out payment validation of such Monthly Reconciliation Payment Claim in accordance with the applicable processes set out in Appendix B, Schedule 4.

Where, following validation of the Monthly Reconciliation Payment Claim as referred to above, it is agreed or determined that:

- an amount is payable by the Authority to the Provider in respect of the relevant Month, the Authority shall pay such amount as soon as reasonably practicable following the agreement or determination of such Monthly Reconciliation Payment Claim; or
- an amount is owing to the Authority from the Provider in respect of the relevant Month, such amount shall be off-set against amounts which would otherwise be claimed by the Provider in subsequently Weekly Invoices referred to above (following such agreement or determination) and the provisions above relating to the invoicing and payment of Weekly Invoices shall be construed accordingly (or, where amounts owing to the Authority are agreed or determined (and/or become payable) after the end of the Covid Relief Period (in respect of which the weekly payment arrangements will have ceased), such amounts shall be off-set against invoices due to be submitted by the Provider pursuant to clause C2 of the Contract and such clause C2 shall be construed accordingly).

Provider certification of the Monthly Reconciliation Payment Claim

Before each invoice can be considered for payment or any credit note is processed in relation to the Monthly Reconciliation Payment Claim, a senior finance official duly authorised by the Provider must certify:

- the accuracy and content of that invoice or credit note (as applicable) and its accompanying TCM Statement and supporting Management Information;
- that the resources and costs claimed or to be credited (as applicable) in respect of such invoice or credit note (as applicable) are Allowable Covid Costs that relate to and are wholly attributable to the Contract against which they have been claimed; and
- that all costs claimed or to be credited (as applicable) are net of any additional Covid period-related support received by the Provider regardless of the source e.g. Chancellor announced financial support (including any relief, grant, intervention or other measure), business insurance or charges levied for other services (e.g. payments received for health practitioners via the NHS). (If there is any doubt as to the treatment of costs or revenues, the Provider should seek clarification from the Authority before invoicing or raising a credit note).

All invoices or credit notes (as applicable) in relation to the Monthly Reconciliation Payment Claim may also be subject to post-payment validation in accordance with the processes set out in Appendix B, Schedule 4.

Management information - validation requirements

Without prejudice to the Provider's obligations in respect of the Quarterly Reports in Appendix 4 (Prices and Rates) to the Contract, the Provider is required to submit monthly (unless otherwise stated) the management information set out in the table below (the "**Management Information**" or "**MI**") to support payments during the Covid Relief Period and allow for the Authority to gain sufficient assurance and verification of costs paid:

MI requirements

TCM Statement	Monthly reporting from the Provider to support invoicing showing details of all cost elements claimed to support payment validation

	The form of TCM Statement as agreed with the Provider is set out in the following document: 12. Proposed form of TCM Statement.pdf
General Ledger (GL) Supporting detail	Sub-ledger analysis and detail. This should be in the form of an excel extract from the Provider to support the invoice as it is submitted. The Provider is required to ensure that the GL extract: - is consistent with the TCM Statement referred to above and the invoiced amount in total - is clearly readable across to the invoice and the TCM Statement e.g. 'maps' GL costs to reporting lines - provides sufficient unique evidence to allow the Authority to sample and request evidence from for example (including but not limited to): o GL cost element or code charged to o Description of GL account code o Vendor name or journal description o Amount paid o Month/year/date posted o Accrual or cash indicator o Subsystem generator (A/P, Payroll, A/R, Journal etc.)
Supporting Schedules will be needed for	o Accruals o Prepayments o Provisions o Depreciation charges o Accounting adjustments such as write down; write back; write off. <u>The Authority does not expect any of these adjustments during the Covid Relief Period, save as may be necessary to comply with any changes to generally accepted accounting standards.</u>
Payroll specific	Payroll information is required to validate and assure the single largest element of the Provider's cost. The Authority is aware that this is extremely sensitive and will only require the Provider to submit anonymised data as part of this process. This anonymised data will need to include a unique identifier in order to verify which record it refers to. For the avoidance of doubt, all payroll information submitted to the Authority will be Confidential Information for the purposes of clause E4 of the Contract.

	Further detail of the payroll validation process is set out in Appendix B, Schedule 4.
Performance Reporting	Performance reporting will continue during the Covid Relief Period.

Additional Reporting requirements during COVID 19	A number of additional reporting requirements are needed during the Covid Relief Period including:
	
	- the Provider to identify and report which costs are Covid related and which are business as usual
	- the Provider to split out:
	  o details of the salary costs (including margin but no other costs) of those Staff (DAs (HPs)) seconded to NHS England pursuant to the secondment agreement with the DHSC/NHS England;
	  o details of the pass-through salary costs of those Staff who have been deployed to NHS England to support NHS Vetting, as referred to above in the Allowable Covid Costs and Disallowable Covid Costs register
	  o details of those Staff members delivering Services under the Contract and services under the Lot 4 Contract (as defined above) and/or services under any other contract (as contemplated above in the Allowable Covid Costs and Disallowable Covid Costs register), including details of:
	  ▪ the proportion of the time engaged by each such Staff member in delivering the Services under this Contract as a proportion of their total time engaged by or on behalf of the Provider to deliver Services under the Contract, services under the Lot 4 Contract (as defined above) and services under any other contract; and
	  ▪ each such Staff member's total salary and applicable proportion of such Staff member's salary allocated to this Contract.
	- a means of independently assuring the validity of recharges, allocations and recoveries from Affiliates of the Provider. All indirect costs must be suitably supported and agreed by the Authority.
	- Subcontractors' costs supported. Assurance that supply chain partners are being paid in line with PPN 02/20 and agreements reached with the Authority.
	- statement of the Provider's financial viability and Sub-contractor's financial viability

<u>Cost Baseline</u>

The embedded document below sets out the Cost Baseline, detailing the cost areas split into three cost categories (being, “Staffing”, “I.T. costs” and “Other costs” (each a “**Cost Baseline Category**” and each as detailed further in this Schedule 3 in the Allowable Covid Costs and Disallowable Covid Costs list above (save that in the case of such “Other costs”, those costs which would otherwise be designated as “Contractual” or “Premises” (in accordance with such Allowable Covid Costs and Disallowable Covid Costs list) shall (for the purposes of the Cost Baseline and the provisions of this paragraph and the immediately following paragraph entitled “Cost Baseline Reconciliation”) be deemed to form part of and be taken into account as if such costs were “Other costs”))), where a baseline will apply and what the value of that baseline is.

13. Cost Baseline.pdf

Subject to the bullet-points and the “Cost Baseline Reconciliation” section below, under no circumstances shall the Provider charge the Authority under the Temporary Cost Model an amount in respect of any Cost Baseline Category that is more than (R) higher than the cost for that Cost Baseline Category set out in the Cost Baseline (the “**CBC Threshold**”). This does not apply to:

- Specific Covid-19 related costs (such as for additional PPE or office deep cleans and as referred to above in this Schedule 3 in the Allowable Covid Costs and Disallowable Covid Costs list) incurred during Stage 2 in respect of which there is a specific Allowable Covid Cost in the table of Allowable Covid Costs and Disallowable Covid Costs above and in respect of which there is no equivalent cost in the Cost Baseline; or

- specific additional expenditure agreed by the Authority (such as expenditure incurred as a result of an unanticipated increase in Referrals). The Provider shall use its reasonable endeavours to gain in advance of such sums being incurred the written agreement of the Authority, which shall not be unreasonably withheld or delayed

(together the “**Cost Baseline Exceptions**”).

<u>Cost Baseline Reconciliation</u>

Following completion of the Monthly Reconciliation Payment Claim and the TCM Validation Approach in respect of the final Month in Stage 2 (or earlier where agreed between the Parties), the Parties will carry out and agree a reconciliation between:

- the total payments (as such payments have been adjusted (where applicable) as a result of the application of the TCM Validation Approach) actually made to the Provider in respect of each Cost Baseline Category (but excluding the Cost Baseline Exceptions) during the whole (or, where otherwise agreed between the Parties, the relevant part) of Stage 2 under the Temporary Cost Model (“**A**”); and
- the total sum that would have been paid to the Provider in respect of each Cost Baseline Category (but excluding the Cost Baseline Exceptions) during the whole (or, where otherwise agreed between the Parties, the relevant part) of Stage 2 under the Temporary Cost Model (including, for this purpose, the application of that element of the Temporary Cost Model relating to the CBC Threshold) (“**B**”).

In the event that A exceeds B for any Cost Baseline Category, the Provider shall issue a credit note to the Authority for a sum equal to the difference between A and B for such Cost Baseline Category (the "**Cost Baseline True Up**") and the Authority shall deduct the amount of such credit note from the amount payable by the Authority in relation to the Provider's next invoice, provided that if there is no such invoice or if the amount(s) of the Cost Baseline True Up (either in relation to a single Cost Baseline Category or in aggregate in relation to more than one Cost Baseline Category) is greater than the amount due from the Authority in respect of the Provider's next invoice, the Provider shall pay to the Authority the sum of such Cost Baseline True Up amounts within 30 days following receipt of a notice from the Authority requiring the Provider to make such payment.

If the Parties are unable to agree any one or more Cost Baseline True Ups within 30 days following the end of the application of the TCM Validation Approach in respect of the final Month in Stage 2 (or such other period as may be agreed between the Parties), the Parties shall refer the issue for resolution under the Dispute Resolution Procedure set out in clause I.2 of the Contract.

<u>Stage 2 Cost Baseline</u>

Where Stage 2 continues beyond 31st October 2020, the Parties (both acting reasonably and in good faith) shall seek to agree a further cost baseline and threshold to replace the Cost Baseline and the CBC Threshold (respectively) to apply in respect of the Stage 2 period from 1 November 2020 (or such other period as may be agreed between the Parties).

Schedule 4 - TCM Validation Approach

The processes set out in this Schedule 4 provide a more detailed level of assurance in respect of invoices (other than Weekly Invoices) and credit notes submitted by the Provider. The Authority will validate the accuracy of all billable expenditure claimed by the Provider (other than billable expenditure claimed by the Provider under a Weekly Invoice) by sampling and shall assure such expenditure by the Provider under the Contract is a true reflection of the costs incurred.

During the reconciliation process carried out at the end of Stage 1 (as referred to in paragraph 9.3 of this Variation), the Authority will undertake a 'dry run' validation approach by Cost Category (as defined below) so that errors found will be highlighted back to the Provider. This will allow the Provider to correct these or remove them and include corrected figures in later months. Once the dry run is completed, validation of Stage 1 costs will be undertaken followed by validation of Stage 2 costs. Any potential errors found will be discussed with the Provider and, if agreed as errors, the Authority reserves the right to apply error-extrapolation (as described under the heading "Extrapolation of Errors" later in this Schedule).

Validation will be carried out against costs grouped into three cost categories to ensure that potential errors in one cost category are not unfairly conflated across wider categories of cost where it is inappropriate to do so. These categories (each a "**Cost Category**") are:

- **Cost Category 1: Payroll and staffing** (including NHS deployment) the largest single element of the Provider's costs.

- **Cost Category 2: Recharges, allocations and apportioned charges** – the least transparent to the Authority.

- **Cost Category 3: All other invoiced costs** (typically these will all be directly invoiced to the Provider). This Cost Category will include, for validation purposes, costs associated with Further Medical Evidence (FME) which are treated as pass-through costs, but such costs shall not be subject to the extrapolation process referred to above.

Validation for Cost Category 1 (Payroll and staffing)

Purpose: To validate the accuracy and credibility of billable payroll expenditure (the largest single cost driver).

The Provider will provide a monthly anonymised payroll data extract, which includes the following cost information for each staff member and is in accordance with the total invoiced to the Authority:

- Employee salary costs
- Cost of Employers National Insurance
- Pension costs
- Inter-company employee lists (e.g. secondees) where these are charged
- Overtime and other allowances

The Provider shall submit payroll information to the Authority **in anonymised form** for validation purposes. Whilst anonymised, payroll information must contain a unique identifier to enable reference to a particular record selected for validation.

The Authority will create a sample from the list of payroll information submitted by the Provider (using an agreed sampling methodology) to generate a statistically valid sample. The Authority will then undertake checks on the line items in the sample to validate:

- That the HR record indicates that the employee was employed during the month of review (check the commencement and cessation date).
- The record indicates a valid National Insurance number.
- The record appears credible.
- If the employee is a non-UK national then the record will also show proof of the employee's right to work in the UK.
- Checking for situations where a payroll line exists but the employee was not employed during that period e.g. (leaver's pay/leaver's holiday pay/pay adjustments).

The Provider will need to give the Authority access to appropriate evidence to complete the validation checks, such as sight of appropriate evidence from HR or Finance systems.

For the avoidance of doubt, all payroll information submitted to the Authority and the sample created from that information will be Confidential Information for the purposes of clause E4 of the Contract.

The Authority will discuss any situations which are unclear with the Provider's payroll team and will only 'pass' each line item from the sample once satisfied that the record is valid.

Once the payroll and staffing validation has been completed, any errors or discrepancies agreed will be recorded by **both** the Provider and the Authority. If no errors or discrepancies are identified, the Parties will confirm in writing that the payroll information sample is agreed. **No employee details will be recorded – only the size of any error, if an error is found.**

Validation for Cost Category 2 (Recharges, allocations and apportioned charges)

Where the invoice contains (or credit note reflects) costs charged by any Affiliate of the Provider, either as an allocation, an apportionment, a recharge or, in the case of overheads, a percentage applied to all other costs, there must be sufficient evidence:

a) to assure the Authority that these costs are necessarily incurred in the provision of the Services;
b) that the Authority is only paying for costs which are properly incurred to support services delivered to the Authority, for example, dedicated server, network, storage or support costs;
c) that standard overheads are only being charged as specifically provided for in this Variation; and
d) that the Authority is not paying for actual costs in categories where these are already covered elsewhere by allocations, recharges or recoveries for example, staff overtime in corporate overhead areas.

These costs and the above principles relating to recharges, allocations and apportioned charges will be finally agreed as part of the Stage 1 reconciliation process carried out under paragraph 9.3 of this Variation and will be taken into account by relevant Authority and Provider subject matter experts, using the open book framework, during the validation processes with a reconciliation upwards or downwards should these costs not reflect actual, and necessarily, incurred costs.

Validation for Cost Category 3 (All other invoiced costs)

The Authority will validate the accuracy and credibility of billable expenditure incurred by the Provider which is invoiced to the Authority (other than in respect of Weekly Invoices) or reflected in a credit note (as applicable). All general ledger transactions must be itemised by the Provider as part of the MI requirement before the invoice or credit note (as applicable) can be approved by the Authority.

The Authority will generate sample populations on the general ledger data and these will then be subject to evidential audit by the Authority. The Authority will remove the following items from the base data before samples are taken:

- Credit transactions
- Unbillable transactions – using the Allowable Covid Cost/Disallowable Covid Cost register
- Depreciation costs
- Payroll and staffing costs – which are subject to the separate Cost Category 1 (Payroll and staffing) validation process described above
- All recharges, allocations and apportioned charges – which are subject to the separate Cost Category 2 (Recharges, allocations and apportioned charges) validation process described above.

Once the Authority has produced these populations, it will generate a sample for the population using an agreed sampling methodology. Samples will then be analysed by the Authority to determine what evidence the Provider will need to provide via the Jaggaer platform (or such other means of communication as may be notified by the Authority to the Provider from time to time).

The Authority will request and review evidence provided by the Provider to ensure:

- Accuracy - does the detail shown on the general ledger match the evidence?
- Validity – is it an Allowable Covid Cost?
- Reasonableness – is the expenditure in line with Managing Public Money and does it provide value for money for the taxpayer?

The outcome of the Authority's initial review, including requests for further evidence, will then be returned to the Provider via the Jaggaer platform (or such other means of communication as may be notified by the Authority to the Provider from time to time) for further and final evidence. The Provider will then need to respond to the Authority within appropriate timeframes agreed in good faith at the relevant time, providing additional evidence if required.

Extrapolation of Errors

It is not possible, nor value for money, for the Authority to review every single line item of cost incurred in the delivery of the Services. The Authority will therefore adopt a sample and evidence review process for validation of each invoice (other than each Weekly Invoice) or credit note (as applicable). Where errors are found and agreed with the Provider from the sample audit, these will be assumed to be applicable to the entire population of invoiced cost or cost reflected in the credit note (as applicable) within the relevant Cost Category.

Extrapolation Process – outline

Where extrapolation applies, the Authority will carry out checks to produce an error rate per Cost Category. This will be derived from a representative (statistically valid) sample of the population and the Authority will extrapolate that error rate across the unchecked spend in, but not beyond, the relevant Cost Category. The period to which the extrapolation will apply will be the same as the period in respect of which the checked claims are taken (for example. if the checked claims are taken from Cost Category 1 in August 2020, any extrapolation will apply to all costs incurred in Cost Category 1 during August 2020).

Any errors identified by the Authority from the validation processes will be discussed by the Parties and agreed with the Provider. Once agreed:

- The error value is calculated as a percentage of the sample from which it derives to produce an error percentage.
- The error percentage is applied to the billable costs within the relevant Cost Category to produce an error extrapolation amount.
- The extrapolated error amount must then be agreed with the Provider before it is adjusted on the following invoice or credit note (as applicable).

Simple example (purely Illustrative)

Cost Category	**Total Invoice**	**Sample**	**Error Rate (£value)**	**Extrapolation**
Cost Category 1 (Payroll and staffing)	£1,000,000	50 records (£100000)	Nil	Nil
Cost Category 2 (Recharges, allocations and apportioned charges)	£300,000	Assured quarterly	N/A	Nil
Cost Category 3 (all other invoiced costs)	£200,000	50 records (£25,000)	£250 (1% of £25,000)	1% x £200,000 = £2,000
Total Invoiced	**£1,500,000**			

The Authority will notify the Provider in writing of the nature and the value of the errors identified and will give the Provider the opportunity to dispute any of the errors / extrapolated amounts formally within 30 days following receipt of the original written notification.

Stage 1 'Dry run'

During the Stage 1 reconciliation (carried out pursuant to paragraph 9.3 of this Variation), the Authority will validate invoices for March, April, May and June 2020 against the Allowable Covid Costs/Disallowable Covid Costs register set out in Appendix B, Schedule 3 to assess whether any of the presented costs are not Allowable Covid Costs and/or to highlight any areas which the Authority disputes with the Provider. This will be conducted as a 'dry run' to allow corrections as necessary and to support the Provider in implementing the Temporary Cost Model.

Whilst checks undertaken during the Stage 1 reconciliation may identify what the Authority believes to be errors relating to Stage 1, the Stage 1 'dry run' process will not itself form part of the formal validation which will be conducted subsequently. As such, any errors found

during the ‘dry run’ process will not result in extrapolation but will be subject to informal discussion with the Provider (allowing the Provider to correct these or remove them at its discretion and, as appropriate, include corrected figures in later months). Items checked during the ‘dry run’ and not removed by the Provider will be available for sampling as part of formal validation of the Provider’s March, April, May and June 2020 invoices (and may, therefore, result in extrapolation as part of the post-payment validation of those invoices).

During Stage 2, payment validation will be carried out based on the sampling and checking processes set out above. Any errors found by the Authority that the Provider cannot evidence as part of the validation process will be extrapolated as described above across the relevant Cost Category.

Dispute Resolution Procedure –payment validation

Where payment validation identifies a disputed item, no invoice or credit note (as applicable) adjustment will be made until the dispute is resolved between both Parties. Disputed items will be resolved in accordance with clause C2.8 and paragraph 4 of Appendix 2 (Administration Requirements) of the Contract and if the dispute cannot so be resolved, the Parties shall refer the issue for resolution under the Dispute Resolution Procedure set out in clause I2 of the Contract. If an error is identified by the Authority and agreed by the Provider (or otherwise determined) such that a subsequent adjustment is required to a paid invoice or previously applied credit note, this will be reflected in the next following invoice or credit note (as applicable) after such agreement or determination.

Open Book

Under Part C of Appendix 4 of the Contract, the Authority has certain audit rights, including full open book rights to view, assess and test the Provider’s cost data to enable more detailed analysis than payment validation to take place. This is usually undertaken on a quarterly basis (or whenever an issue of sufficient magnitude or concern is raised as to warrant deeper investigation).

The purpose of undertaking open book cost reviews during the Covid Relief Period is to:

- provide assurance that the payments made to the Provider during the Covid Relief Period are achieving the aims of PPN 02/20 and PPN 04/20 and maintaining capacity and capability while the Covid Related Hardship prevails (eg: telephony services, paper based reviews);
- provide assurance that the Provider’s controls and governance are robust in order to minimise the Authority’s exposure to risk;
- ensure that the payments made under PPN 02/20 and PPN 04/20 are achieving value for money for the taxpayer;
- ensure that the Authority is not exposed to any reputational risk or damage; and
- ensure the validity of all costs charged by the Provider and any Sub-contractors.

The Parties will discuss and may agree other areas of focus for, and timings of, open book reviews during the course of the Covid Relief Period. The areas selected for further deep dive analysis will be informed by the Authority’s view of the risk inherent in the cost including:

- any areas of weakness highlighted in the Provider’s internal or external audit reports;
- any recurring areas of error / adjustment – this will also be informed by the Stage 1 reconciliation process carried out pursuant to paragraph 9.3 of this Variation; and

- areas of concern / further analysis highlighted by the Authority pre-payment and post-payment validation processes..

Appendix C

Fixed Cost True Up

Paragraph 6.3 of Appendix 12 (Exit and Service Transfer Arrangements) of the Contract will be deleted in its entirety and be replaced by the following (and any capitalised terms used in the following (and any further capitalised terms used within those capitalised terms) not defined in the Contract shall have the meaning given in this Variation):

"6.3 Where a Fixed Cost True Up applies in accordance with paragraph 6.2 above, the Provider shall, within 20 Working Days (of the relevant expiry of the Contract Period or termination), provide to the Authority a report showing the following:

6.3.1 the total number of Chargeable Outputs during the Extension Period less the total number of Chargeable Outputs during the Covid Relief Period, compared to:

(a) (where paragraph 6.2.1 applies, expiry of the Contract Period) the number of Chargeable Outputs forecast during the Extension Period as set out in the Baseline Clearance Profile in respect of the period from the start of the Extension Period up to the date of a Transition, and the relevant Transition Clearance Profile in respect of a Transition Period (for a First Transition or Subsequent Transition), less the number of Chargeable Outputs forecast in the Baseline Clearance Profile in respect of the Covid Relief Period (the "**Expiry Forecast Chargeable Outputs**"); or

(b) (where paragraph 6.2.2 applies, termination under clause H3 (Break)) the number of Chargeable Outputs forecast during the Extension Period as set out the Baseline Clearance Profile in respect of the period from the start of the Extension Period up to the date of a Transition, and the relevant Transition Clearance Profile in respect of a Transition Period (for a First Transition or Subsequent Transition) but adjusted on a pro-rata basis to reference the actual date of termination, in order to reflect termination earlier than 31 July 2021, less the number of Chargeable Outputs forecast in the Baseline Clearance Profile in respect of the Covid Relief Period (the "**Break Forecast Chargeable Outputs**"); and

6.3.2 proposals for any Fixed Cost True Up Payment calculated in accordance with paragraphs 6.4 and 6.5 below

(such report being the "**Fixed Cost True Up Report**")."