

Order Schedule 13 (Implementation Plan and Testing)

Order Ref:

Crown Copyright 2021

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 RM6124 Communications Marketplace between CCS and the Agency, dated 06/09/2021.

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:	TBC – Purchase order to be raised when the contract is signed
From:	Care Quality Commission Citygate Gallowgate Newcastle NE1 4PA
To:	Grayling Holborn Gate 26 Southampton Buildings London WC2A 1AN

Order Start Date:	This contract shall commence on 01 st May 2022
Order Expiry Date:	This contract shall expire on 30th April 2023
Order Initial Period:	12 Month

Order Optional Extension Period:	<p>The contract can be extended up to a further 24 months at 12-month intervals.</p> <p>Minimum written notice to Agency in respect of extension is 3 months.</p>
---	---

Goods or Services required:	<p>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 Order Schedule 4.</p>
------------------------------------	---

Key Staff:	<p>For the Client:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
Guarantor(s)	Not used

Order Contract Charges (including any applicable discount(s), but excluding VAT):	£100,000.00 (Final costs for Initial term)
Liability	See Clause 11 of the Core Terms as amended by the Special Terms below.

Additional Insurance Requirements	Not applicable
Client billing address for invoicing:	Care Quality Commission T70 Payables F175 Phoenix House Topcliffe Lane Wakefield WF3 1WE Please email invoices to: sbs.apinvoicing@nhs.net

Special Terms	<p><u>Special Term 1</u></p> <p>Clause 11.2 of the Core Terms is deleted and replaced with the following clause 11.2:</p> <p>11.2 Each Party's total aggregate liability in each Contract Year under this Order Contract (whether in tort, contract or otherwise) shall be no greater than one hundred thousand pounds (£100,000) or 150% of the total Charges for the Contract Period whichever is higher.</p> <p><u>Special Term 2</u></p> <p>The following new clause 11.2A shall be added as follows:</p> <p>11.2A The Supplier's liability for all Losses suffered or incurred by the Authority arising from the destruction, corruption, degradation or damage to Buyer Data or any copy of such Buyer Data shall in no event exceed £120,000</p> <p><u>Special Term 3</u></p> <p>The following shall be inserted into Joint Schedule 1 (Definitions)</p>
----------------------	---

	<p>“Buyer Data” means:</p> <ul style="list-style-type: none">(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:<ul style="list-style-type: none">(i) supplied to the Contractor by or on behalf of the Authority; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to the Contract; or(b) any Personal Data for which the Authority is the Data Controller.
--	---

PROGRESS REPORT FREQUENCY

On the first Working Day of each calendar month

PROGRESS MEETING FREQUENCY

Quarterly at a time and date to be agreed

KEY SUBCONTRACTOR(S)

Not applicable

COMMERCIALLY SENSITIVE INFORMATION

Commercially Sensitive Information is outlined in accordance with Joint Schedule 4

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)

SERVICE CREDIT CAP

The Service Cap is: Not applicable

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 7 (Financial Difficulties)*
 - *Joint Schedule 8 (Guarantee) – NOT USED*
 - *Joint Schedule 10 (Rectification Plan)*
 - *Joint Schedule 11 (Processing Data)*
 - *Joint Schedule 12 (Supply Chain Visibility)*
 - *Order Schedules for CQC EP&S 009*
 - *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) NOT USED*
- *Order Schedule 7 (Key Supplier Staff)*
- *Order Schedule 8 (Business Continuity & Disaster Recovery)*
- *Order Schedule 9 (Security)*
- *Order Schedule 10 Exit Management)*
- *Order Schedule 13 (Implementation Plan & Testing)*
- *Order Schedule 14 (Service Levels)*
- *Order Schedule 15 (Order Contract Management)*
- *Order Schedule 16 (Benchmarking)*
- *Order Schedule 17 (MOD Terms) – NOT USED*
- *Order Schedule 18 (Background Checks) NOT USED*
- *Order Schedule 19 (Scottish Law) – NOT USED*
- *Order Schedule 20 (Order Specification)*
- *Order Schedule 21 (Northern Ireland Law) - NOT USED*
- *Order Schedule 23 (HMRC) – NOT USED*

4. CCS Core Terms

5. *Joint Schedule 5 (Corporate Social Responsibility) RM6124*

6. *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.

IN WITNESS of which this Contract has been duly executed by the parties.

SIGNED for and on behalf of CARE QUALITY COMMISSION

[Redacted Signature]

Full Name: [Redacted]
[Redacted] nt
Date Signed: 1 [Redacted]

SIGNED for and on behalf of Grayling

Authorised Signatory 1:

[Redacted Signature]

Full Name: [Redacted]
Job Title/Role: [Redacted]
Date Signed: [Redacted]

Authorised Signatory 2:

[Redacted Signature]

Full Name: [Redacted]
Job Title/Role: [Redacted]
Date Signed: 1 [Redacted]

ANNEX A

Agency Proposal – Please refer to Order Schedule 4 (Proposal)

Annex B –NOT USED

Statement of Work-

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.

1.1 Where a Statement of Work would result in:

- a variation of the Services procured under this Order Contract;
- an increase in the Charges agreed under this Order Contract; or
- a change in the economic balance between the Parties to the detriment of the Client that is not provided for in this Order Contract, the relevant term(s) will be dealt with as a proposed Variation to this Order Contract in accordance with the Variation procedure set out in Clause 24.

Project:	Set out a short description of the Project.
Project start Date Notice period for cancellation [Project Notice Period]:	Set out the start date for this Project and its duration and the likely end date if known– state whether for a fixed term or an initial term with extension periods Where the parties are agreeing a Project Notice Period for cancellation of Project, specify the notice period
Overarching Brand/Campaign	If this campaign is part of a wider overarching campaign, or uses specific Government owned brands (such as the GREAT Britain brand for example) please state them and what the relationship of this campaign will be to them.
Goods or Services	Set out a description of the Goods or Services to be supplied by the Agency for this Project. State any specific activities agreed in the pitch that are to be delivered as part of this campaign.

Ensure you capture any work across distinct specialisms or channels, for example if you were working on an integrated campaign you may write:

- Creative for campaigns (service)
- Development and testing of creative propositions (deliverables)
- Creative assets for use on social media
- Delivery of creative assets for “Above the Line” media
- Seamless working with the client's media buyer to deliver assets in the correct format to required deadlines
- PR
- PR strategy that compliments the “Above the Line” approach
- Development and delivery of PR hooks/stunts in agreement with the client
- Development of three Op eds, case studies and three feature articles
- Management of media at up to seven events, working with departmental press office
- Evaluation in accordance with the OASIS framework

State if you require any specific requirements and ways of working such as third-party consents, licences, clearances that Agency needs to obtain and products or purchases.

State that Client's use of the Goods or Services will be “subject to any third-party usage rights which are notified to the Client in accordance with this Order Contract “.

Project Plan:

Set out the timing of each phase of the project, any key dates and/ or delivery of the Services and/or the Goods or Services (if known)

Contract Charges:	<p>Set out the calculation of the Contract Charges [(including rules for the recovery of expenses where applicable)] payable to Agency for this Project e.g. details of any fixed price, time and materials in which case Agency's Rate Card should be attached, together with invoice dates or milestones that trigger payment.</p> <p>Set out any payment terms specific to the Project.</p> <p>Examples of different wording for Contract Charges:</p> <p>The Client shall pay the Agency the sum of £[...] for delivery of these Services, payable in monthly instalments. For the avoidance of doubt, the Contract Charges shall be inclusive of all third-party costs</p> <p>OR</p> <p>The Contract Charges shall be calculated using the hourly charge out rates shown in[the Tender], [provided that the total Contract Charges shall not exceed £ [...].] For the avoidance of doubt, the Contract Charges shall be inclusive of all third-party costs.</p>
Client Assets:	Set out details of the materials or information to be provided to the Agency.
International locations:	If Services are to be supplied outside the UK, specify additional territories here
Client Affiliates:	If relevant, set out any Client Affiliates which will be using Goods or Services
Special Terms:	Set out any special terms that are intended to take precedence over the Order Terms and/or the Schedules to the Order 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 Project if relevant.
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 project.

**Authorised Client
Approver:**

Set out details of the person(s) who have the authority to agree day to day decisions on behalf of Client for this Project.

S i g n e d b y :__

by (print name):

As Agency Authorised Approver for and on behalf of
[Agency]

Date.....

Signed by: __ by (print name):

As Client Authorised Approver
for and on behalf of [Client]

Date.....

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

Title	Content	Format	Frequency
Evaluation Reports	On the campaign activity delivered up to end April 2023	Reports in word or ppt.	Within one month after the end of each campaign period of activity (National launch and spikes)
Key Performance Indicators target reports	KPI Targets Achieved	Word or Excel	Quarterly

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

- 1.1 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:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
 - b) unfair, wrongful or constructive dismissal compensation;
 - c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
-

d) compensation for less favourable treatment of part-time workers or fixed term employees;

_____ e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions;

_____ f) employment claims whether in tort, contract or statute or otherwise;

_____ g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"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:

- (i) any amendments to that document immediately prior to the Relevant Transfer Date; and
- (ii) 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;

() details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;

(a) the identity of the employer or relevant contracting Party;

(b) 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.

2. INTERPRETATION

- 2.1 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.
- 2.2 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.

- 2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Order Contract has no right under the CRTPA to enforce any term of this Order Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Client, which may, if given, be given on and subject to such terms as the Client may determine.
- 2.5 Any amendments or modifications to this Order Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.
3. **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)

PART A: STAFF TRANSFER AT THE START DATE - NOT USED

OUTSOURCING FROM THE CLIENT

1. What is a relevant transfer

1.1 The Client and the Agency agree that:

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

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

2. Indemnities the Client must give

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

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

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

- (a) any collective agreement applicable to the Transferring Client Employees; and/or
- (b) any custom or practice in respect of any Transferring Client Employees which the Client is contractually bound to honour;

2.1.3 any claim by any trade union or other body or person representing the Transferring Client Employees arising from or connected with any failure by the Client to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

2.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Client Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
- (b) in relation to any employee who is not a Transferring Client Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Client to the Agency and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.

- 2.1.5 a failure of the Client 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 Client Employees arising before the Relevant Transfer Date;
- 2.1.6 any claim made by or in respect of any person employed or formerly employed by the Client other than a Transferring Client Employee for whom it is alleged the Agency and/or any Subcontractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.7 any claim made by or in respect of a Transferring Client Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Client Employee relating to any act or omission of the Client 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 Agency or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Agency or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

- 2.2.1 arising out of the resignation of any Transferring Client Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Agency and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
- 2.2.2 arising from the failure by the Agency or any Subcontractor to comply with its obligations under the Employment Regulations.

- 2.3 If any person who is not identified by the Client as a Transferring Client Employee claims, or it is determined in relation to any person who is not identified by the Client as a Transferring Client Employee, that his/her contract of employment has been transferred from the Client to the Agency and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 2.3.1 the Agency shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Client in writing; and
- 2.3.2 the Client may offer (or may procure that a third party may offer) employment to such person, or take such other reasonable steps as the Client considers appropriate to deal with the matter provided always that such steps are in compliance with Law,

within 15 Working Days of receipt of notice from the Agency and/or any Subcontractor.

- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Client, the Agency shall, or shall procure that a Subcontractor shall, immediately release the person from his/her employment or alleged employment;
- 2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:

- 2.5.1 no such offer of employment has been made;
- 2.5.2 such offer has been made but not accepted; or
- 2.5.3 the situation has not otherwise been resolved,

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

- 2.6 Subject to the Agency and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law and subject also to Paragraph 2.7, the Client will indemnify the Agency and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5 provided that the

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

2.7 The indemnity in Paragraph 2.6:

2.7.1 shall not apply to:

(a) any claim for:

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

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

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

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

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

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

- 3.1 Subject to Paragraph 3.2, the Agency shall indemnify the Client against any Employee Liabilities arising from or as a result of:

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

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

- (a) any collective agreement applicable to the Transferring Client Employees; and/or
- (b) any custom or practice in respect of any Transferring Client Employees which the Agency or any Subcontractor is contractually bound to honour;

- 3.1.3 any claim by any trade union or other body or person representing any Transferring Client Employees arising from or connected with any failure by the Agency or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Agency or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Client Employees to their material detriment on or after their transfer to the Agency or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Client Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Agency or any Subcontractor to, or in respect of, any Transferring Client Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Client in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Client Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
- (b) in relation to any employee who is not a Transferring Client Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Client to the Agency or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the 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 Author Client ity Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Client Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Client Employee relating to any act or omission of the Agency or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Client's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9 a failure by the Agency or any Sub-contractor to comply with its obligations under paragraph 2.8 above.

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Client

whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Client's failure to comply with its obligations under the Employment Regulations.

- 3.3 The Agency shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of the Transferring Client Employees, from (and including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Client and the Agency.

4. Information the Agency must provide

- 4.1 The Agency shall, and shall procure that each Subcontractor shall, promptly provide to the Client in writing such information as is necessary to enable the Client to carry out its duties under regulation 13 of the Employment Regulations. The Client shall promptly provide to the Agency and any Subcontractor in writing such information as is necessary to enable the Agency and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

0. Cabinet Office requirements

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Agency of employees whose employment begins after the Relevant Transfer Date, and the Agency undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

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

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

5.2.2 Old Fair Deal; and/or

5.2.3 The New Fair Deal.

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

6. Pensions

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

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

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

PART B: STAFF TRANSFER AT THE START DATE - NOT USED

TRANSFER FROM A FORMER AGENCY

1. What is a relevant transfer

1.1 The Client and the Agency agree that:

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

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

2. Indemnities given by the Former Agency

- 2.1 Subject to Paragraph 2.2, the Client shall procure that each Former Agency shall indemnify the Agency and any Subcontractor against any Employee Liabilities arising from or as a result of:

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

2.1.2 the breach or non-observance by the Former Agency arising before the Relevant Transfer Date of:

- (a) any collective agreement applicable to the Transferring Former Agency Employees; and/or
- (b) any custom or practice in respect of any Transferring Former Agency Employees which the Former Agency is contractually bound to honour;

2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Former Agency Employee, to the extent that the proceeding, claim or demand by

HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and

- (b) in relation to any employee who is not a Transferring Former Agency Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Agency to the Agency and/or any Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

- 2.1.4 a failure of the Former Agency to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Agency Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Agency other than a Transferring Former Agency Employee for whom it is alleged the Agency and/or any Subcontractor as appropriate may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.6 any claim made by or in respect of a Transferring Former Agency Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Agency Employee relating to any act or omission of the Former Agency 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 Agency or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Agency or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

- 2.2.1 arising out of the resignation of any Transferring Former Agency Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Agency or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
- 2.2.2 arising from the failure by the Agency and/or any Subcontractor to comply with its obligations under the Employment Regulations.

- 2.3 If any person who is not identified by the Former Agency as a Transferring Former Agency Employee claims, or it is determined in relation to any person who is not identified by the Former Agency as a Transferring Former Agency Employee, that his/her contract of employment has been transferred from a Former Agency to the Agency and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 2.3.1 the Agency shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Client and in writing and, where required by the Client, notify the relevant Former Agency in writing; and
- 2.3.2 the Former Agency may offer (or may procure that a third party may offer) employment to such person, or take such other steps as the Former Agency considers appropriate to deal with the matter provided always that such steps are in compliance with

applicable Law, within 15 Working Days of receipt of notice from the Agency and/or the Subcontractor (as appropriate).

2.4 If an offer referred to in Paragraph 2.3.2 is accepted, , or if the situation has otherwise been resolved by the Former Agency and/or the Client, the Agency shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.

2.5 If by the end of the 15 Working Day period referred to in Paragraph 2.3.2:

2.5.1 no such offer of employment has been made;

2.5.2 such offer has been made but not accepted; or

2.5.3 the situation has not otherwise been resolved,

the Agency and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;

2.6 Subject to the Agency and/or any Subcontractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law and subject also to Paragraph 2.7, the Client shall procure that the Former Agency will indemnify the Agency and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment pursuant to the provisions of Paragraph 2.5

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

2.7 The indemnity in Paragraph 2.6:

2.7.1 shall not apply to:

(a) any claim for:

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

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

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

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

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

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

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

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

- (a) any collective agreement applicable to the Transferring Former Agency Employee; and/or
- (b) any custom or practice in respect of any Transferring Former Agency Employees which the Agency or any Subcontractor is contractually bound to honour;

3.1.3 any claim by any trade union or other body or person representing any Transferring Former 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 after the Relevant Transfer Date;

3.1.4 any proposal by the Agency or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Agency Employees to their material detriment on or after their transfer to the Agency or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Agency Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

3.1.5 any statement communicated to or action undertaken by the Agency or a Subcontractor to, or in respect of, any Transferring Former Agency Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Client and/or the Former Agency in writing;

3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Former Agency Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
- (b) in relation to any employee who is not a Transferring Former Agency Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Agency to the Agency or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 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 Former Agency Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Former Agency Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Agency Employee relating to any act or omission of the Agency or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Agency's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9 a failure by the Agency or any Subcontractor to comply with its obligations under Paragraph 2.8 above

- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Agency whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Agency's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Agency shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of all the Transferring Former Agency Employees, on and from the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Agency and the Former Agency.
4. **Information the Agency must give**

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

5. Cabinet Office requirements

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

- 5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- 5.1.2 Old Fair Deal; and/or
- 5.1.3 The New Fair Deal.

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

6. Limits on the Former 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.

7. Pensions

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

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

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

PART C: NO STAFF TRANSFER ON THE START DATE

1. What happens if there is a staff transfer

- 1.1 The 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.
- 1.2 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:

- 1.2.1 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
- 1.2.2 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.

- 1.3 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.
- 1.4 If by the end of the 15 Working Day period referred to in Paragraph 1.2.2:

- 1.4.1 no such offer of employment has been made;
- 1.4.2 such offer has been made but not accepted; or
- 1.4.3 the situation has not otherwise been resolved;

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

- 1.5 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:

- 1.5.1 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
- 1.5.2 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.

- 1.6 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.
- 1.7 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.
- 1.8 The indemnities in Paragraph 1.5:

1.8.1 shall not apply to:

(a) any claim for:

- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage

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

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

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

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

1.8.2 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.

- 1.9 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.

2. 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 D: PENSIONS - NOT USED

1. Definitions

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

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

"CSPS"	the schemes as defined in Annex D1 to this Part D;
"Direction Letter/Determination"	has the meaning in Annex D2 to this Part D;
"Fair Deal Eligible Employees"	each of the CSPS Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D);
"Fair Deal Employees"	<p>any of:</p> <ul style="list-style-type: none"> (a) Transferring Client Employees; (b) Transferring Former Agency Employees; (c) employees who are not Transferring Client Employees or Transferring Former Agency Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Agency or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C; (d) where the Agency or a Subcontractor was the Former Agency, the employees of the Agency (or Subcontractor); <p>who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Client;</p>

"Fund Actuary"	a Fund Actuary as defined in Annex D3 to this Part D;
"LGPS"	the scheme as defined in Annex D3 to this Part D;
"NHSPS"	the schemes as defined in Annex D2 to this Part D;
	(a)
	(b)

"Statutory Schemes" means the CSPA, NHSPS or LGPS.

2. Agency obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Agency undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/ Determination, if necessary) as may be required to enable the Agency to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Agency undertakes:

- 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/ Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
- 2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

- 2.4 Where the Agency is the Former Agency (or a Subcontractor is a Subcontractor of the Former Agency) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Agency (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Agency (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Agency (or Sub- contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Client¹.

3. Agency obligation to provide information

- 3.1 The Agency undertakes to the Client:

- 3.1.1 to provide all information which the Client may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Client (such consent not to be unreasonably withheld or delayed);
- 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of the relevant Contract.

¹

4. Indemnities the Agency must give

- 4.1 The Agency shall indemnify and keep indemnified CCS, [NHS Pensions], the Client and/or any Replacement Agency and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Agency of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
- 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Agency or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;
- 4.1.3 relate to claims by Fair Deal Employees of the Agency and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

Subcontractor:

- (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of

periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract; or

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

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

4.2 The indemnities in this Part D and its Annexes:

- 4.2.1 shall survive termination of the relevant Contract; and

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

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Client and/or the Agency or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between

the CCS and/or the Client and/or the Agency be referred to an independent Actuary:

- 5.1.1 who will act as an expert and not as an arbitrator;
- 5.1.2 whose decision will be final and binding on the CCS and/or the Client and/or the Agency; and
- 5.1.3 whose expenses shall be borne equally by the CCS and/or the Client and/or the Agency unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

6. Other people's rights

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

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

- 7.1 The Agency agrees to notify the Client should it breach any obligations it has under this Part D and agrees that the Client shall be entitled to terminate its Contract for material Default in the event that the Agency:

- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
- 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Client giving particulars of the breach and requiring the Agency to remedy it.

8. Transferring Fair Deal Employees

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

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

references to the "Agency" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

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

10. Broadly Comparable Pension Schemes on the Relevant Transfer Date

- 10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Agency must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which

the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Client.

10.2 Such Broadly Comparable pension scheme must be:

- 10.2.1 established by the Relevant Transfer Date²;
- 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Agency's Broadly Comparable pension scheme (unless otherwise instructed by the Client);
- 10.2.4 capable of paying a bulk transfer payment to the Replacement Agency's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Client); and
- 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Client).

10.3 Where the Agency has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Agency shall (and shall procure that any of its Subcontractors shall):

- 10.3.1 supply to the Client details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal

- Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
- 10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Agency's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Client (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer³; and
- 10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Agency and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Agency and/or Subcontractor's Broadly Comparable pension scheme is terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

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

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

otherwise direct. The Agency shall indemnify the Client or the Replacement Agency's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Client directs) for any failure to pay the difference as required under this paragraph.

11. Broadly Comparable Pension Scheme in Other Circumstances

11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Agency must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Client.

11.2 Such Broadly Comparable pension scheme must be:

- 11.2.1 established by the date of cessation of participation in the Statutory Scheme⁴;
- 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Client);
- 11.2.4 capable of paying a bulk transfer payment to the Replacement Agency's Broadly Comparable pension scheme (or the relevant

- Statutory Scheme if applicable) (unless otherwise instructed by the Client); and
- 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Client).

11.3 Where the Agency has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Agency shall (and shall procure that any of its Subcontractors shall):

- 11.3.1 supply to the Client details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- 11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
- 11.3.3 where required to do so by the Client, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Client (where applicable). The Agency must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Agency shall be fully responsible for any costs

of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme⁵; and

11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Agency and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Agency and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

11.4 Where the Agency has provided a Broadly Comparable pension scheme pursuant ~~to the provisions of this paragraph 11, the Agency shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract~~ allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Agency's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Agency's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Agency's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Agency or the Subcontractor (as agreed between them) must pay the Replacement Agency's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that

in the absence of any agreement between the Agency and any Subcontractor, the Shortfall shall be paid by the Agency. The Agency shall indemnify the Client or the Replacement Agency's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Client directs) for any failure to pay the Shortfall under this paragraph.

12. Right of Set-off

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

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

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

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

Annex D1:**Civil Service Pensions Schemes (CSPS)****1. Definitions**

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

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

0. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Agency and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily

transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPA, shall each secure a CSPA Admission Agreement to ensure that CSPA Fair Deal Employees or CSPA Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPA that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Agency and/or any of its Subcontractors shall procure that the CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.

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

Annex D2: NHS Pension Schemes

1. Definitions

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

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

with the Services, prior to being employed by the Former Agency),

but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Client has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.

"NHSPS Employees"	Eligible	any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.
"NHSPS Fair Deal Employees"		<p>other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <ul style="list-style-type: none"> (a) their employment with the Client, an NHS Body or other employer which participates automatically in the NHSPS; or (b) their employment with a Former Agency who provides access to the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Agency (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Client, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Agency),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed

time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/ Determination or other NHSPS "access" facility but who has never been employed directly by the Client, an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Fair Deal Employee;

"NHS Body" has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;

"NHS Pensions" NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;

"NHSPS" the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;

"NHS Pension Scheme Regulations" as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;

"NHS Premature Retirement Rights" rights to which any NHS Fair Deal Employee (had they remained in the employment of the Client, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is

entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;

"Pension Benefits" any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme.

2. Membership of the NHS Pension Scheme

2.1 In accordance with New Fair Deal, the Agency and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

2.2 Where it is not possible for the Agency and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Agency must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Agency must ensure that:

- (a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
- (b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.

- 2.3 The Agency must supply to the Client a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Agency must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Agency will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Agency will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Agency will (and will procure that its Subcontractors (if any) will) Subcontractor provide any guarantee, bond or indemnity required by NHS Pensions in relation to a Direction Letter/Determination.

3. Continuation of early retirement rights after transfer

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

4. NHS Broadly Comparable Employees

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

a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

5. What the buyer can do if the Agency breaches its pension obligations

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

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

- 6.1 If the Agency (or its Subcontractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:

6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or

6.1.2 a Broadly Comparable pension scheme,

the Client may in its sole discretion permit the Agency (or any of its Subcontractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Agency (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Agency must meet (or must procure

that the relevant Subcontractor meets) the costs of the Client determining whether the level of compensation offered is reasonable in the circumstances.

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

7. Indemnities that a Agency must give

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

Annex D3:**Local Government Pension Schemes (LGPS)**

Note the LGPS unlike the CSPA & NHSPA is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Client, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether CCS and or the Client can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

1. Definitions

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

"2013 Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Client"	in relation to the Fund [insert name], the relevant Administering Client of that Fund for the purposes of the 2013 Regulations;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Client of that Fund;
"Fund"	[insert name], a pension fund within the LGPS;

["Initial Contribution Rate"6]	[XX %] of pensionable pay (as defined in the 2013 Regulations);]
"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
"LGPS Eligible Employees"	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement;
"LGPS Fair Deal Employees"	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; ;
"LGPS Regulations"	the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. Agency to become an LGPS Admission Body

- 2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Agency and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

OPTION 1⁷

- 2.2 [Any LGPS Fair Deal Employees who:
- 2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and
 - 2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.]

OPTION 2

[Any LGPS Fair Deal Employees whether:

2.2.3 active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or

2.2.4 eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Agency shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

2.3 The Agency will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Client in relation to an LGPS Admission Agreement.

3. Broadly Comparable Scheme

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

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

4. Discretionary Benefits

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

0. LGPS RISK SHARING⁸

- 5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of the relevant Contract the Administering Client, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Agency or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the "Excess Amount") shall be paid by the Agency or the Subcontractor, as the case may be, and the Agency shall be reimbursed by the Client.
- 5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of the relevant Contract, the Administering Client, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Agency or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the

Initial Contribution Rate for a Contract Year, the Agency shall reimburse the Client an amount equal to A–B (the “Refund Amount”) where:

A = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and

B = the amount of contributions or payments actually paid by the Agency or Subcontractor for that Contract Year, as the case may be, to the Fund.

5.3 Subject to paragraphs 5.4 to 5.10, where the Administering Client obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Agency or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by the Agency or any Subcontractor (as the case may be) and the Agency shall be reimbursed by the Client.

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

5.4.1 any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;

5.4.2 any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise⁹;

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

- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Agency or Subcontractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Client obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Agency or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Credit**”), the Agency shall (or procure that any Subcontractor shall) reimburse the Client an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Agency shall (or procure that the Subcontractor shall) notify the Client in writing within twenty (20) Working Days:

- 5.7.1 of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
- 5.7.2 of being informed by the Administering Client of any Exit Payment or Exit Credit that is determined by as being due from or to the Agency or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.

- 5.8 Within twenty (20) Working Days of receiving the notification under paragraph 5.7 above, the Client shall either:

- 5.8.1 notify the Agency in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
- 5.8.2 request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Agency; and/or
- 5.8.3 request a meeting with the Agency to discuss or clarify the information or evidence provided.

- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Client shall notify the Agency in writing. In the event that the Agency and the Client are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.
- 5.10 Any Excess Amount or Exit Payment agreed by the Client or in accordance with the Dispute Resolution Procedure shall be paid by the Client within timescales as agreed between Client and Agency. The amount to be paid by the Client shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Agency or a Subcontractor.
- 5.11 Any Refund Amount agreed by the Client or in accordance with the Dispute Resolution Procedure as payable by the Agency or any Subcontractor to the Client, shall be paid by the Agency or any Subcontractor forthwith as the liability has been agreed. In the event the Agency or any Subcontractor fails to pay any agreed Refund Amount, the Client shall demand in writing the immediate payment of the agreed Refund Amount by the Agency and the Agency shall make payment within seven (7) Working Days of such demand.
- 5.12 This paragraph 5 shall survive termination of the relevant Contract.

Annex D4: Other Schemes

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

1.1 The Agency agrees that within 20 Working Days of the earliest of:

- 1.1.1 receipt of a notification from the Client of a Service Transfer or intended Service Transfer;
- 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
- 1.1.3 the date which is 12 Months before the end of the Term; and
- 1.1.4 receipt of a written request of the 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.

- 1.2 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).

1.3 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.

1.4 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.

1.5 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):

:

- 1.5.1 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
- 1.5.2 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);
- 1.5.3 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;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Agency's Provisional Agency Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);

- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the 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.

- 1.6 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:

- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.

- 1.7 The 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:

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

2. Staff Transfer when the contract ends

- 2.1 The 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.

- 2.2 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 of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) 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.
- 2.3 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:

2.3.1 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;

2.3.2 the breach or non-observance by the Agency or any Subcontractor occurring on or before the Service Transfer Date of:

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

- (b) 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;
- 2.3.3 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;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring 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
 - (b) 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;
- 2.3.5 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);

- 2.3.6 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
- 2.3.7 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.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Agency and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring 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

2.4.2 arising from the Replacement Agency's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

2.5 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:

2.5.1 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

2.5.2 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, within 15 Working Days of receipt of notice from the Replacement Agency and/or Replacement Subcontractor.

2.6 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;

2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:

2.7.1 no such offer has been made:

2.7.2 such offer has been made but not accepted; or

2.7.3 the situation has not otherwise been resolved

the 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;

2.8 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.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

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

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

- (b) 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

2.9.2 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..

2.10 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. .

2.11 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:

- (b) the Agency and/or any Subcontractor; and
- (c) the Replacement Agency and/or the Replacement Subcontractor.

- 2.12 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.
- 2.13 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:

- 2.13.1 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;
- 2.13.2 the breach or non-observance by the Replacement Agency and/or Replacement Subcontractor on or after the Service Transfer Date of:

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

- 2.13.3 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;
- 2.13.4 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;
- 2.13.5 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;
- 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring 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

- (b) 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;

2.13.7 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

2.13.8 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.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the 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

- 1.1 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

- 2.1 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.
- 2.2 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.
- 2.3 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:

- 2.3.1 identifying the emergence of relevant new and evolving technologies;
- 2.3.2 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);
- 2.3.3 new or potential improvements to the provision of the Goods or Services including the quality, responsiveness, procedures, benchmark-ing methods, likely performance mechanisms and customer support services in relation to the Goods or Services; and
- 2.3.4 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 sustaina-bility objectives.

- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 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.

2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:

2.8.1 the Agency shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and

2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Agency's progress against the Continuous Improvement Plan.

2.9 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.

2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.

2.11 Should the 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.

2.12 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 4 (Proposal)

Evaluation Criteria 1: Leadership and resources

Provide details of the qualifications and experience of the individual(s) whose responsibility will be to:

- ensure that the requirement is delivered
- be the primary day to day contact for the requirements
- provide support to the delivery of the requirements

Evaluation Criteria 1 Bidder Response.

Your core account team:

Grayling will provide the Care Quality Commission and Healthwatch England with a dedicated account team responsible for driving campaign activity. This team will support with both designing and implementing campaigns across all channels, maintaining regular contact with CQC and Healthwatch, as well as co-ordinating third-party suppliers and stakeholders, where required.

We ensure that the quality of the work we deliver is never compromised by having strong internal account processes. This includes regular internal catch ups to check progress of account work and ensuring work is always reviewed internally at a senior level (Account Director or upwards) before being shared with the client or externally. We also regularly review progress internally to ensure we are meeting assignment objectives and KPIs.

The following team has a wealth of health experience, and will be your day-to-day contacts, working as an extension of your team to deliver successful campaigns through regular updates via phone/email, weekly project calls and regular reporting.

[Redacted]

rown Copyright 2021 [Redacted]

[Redacted]

[Redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



[REDACTED]

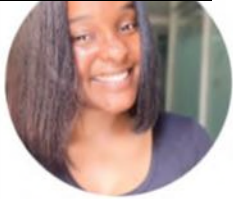
[REDACTED]

© 2006 The Authors

100

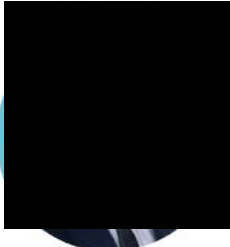
[illegible]

[Redacted]



[Redacted]

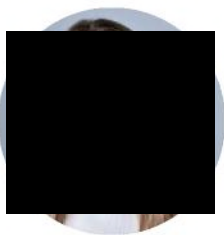
[Redacted]



[Redacted]

degree.

[Redacted]



[Redacted]

[Redacted]

[Redacted]

[Redacted]

- Has considered communications channels or activities which CQC and Healthwatch could use to reach its target audiences;
- Understands accessibility requirements and demonstrates creativity in how accessibility requirements can be used as a creative opportunity
- Shows an understanding of how to engage and drive successful behaviour change in audiences from diverse communities and individuals facing health inequalities.
- Demonstrates a creative approach to how we engage with and make best use of CQC and Healthwatch owned channels (which will be managed by CQC and Healthwatch in-house teams)
- Understands how to evaluate campaign activity and success in line with agreed objectives

Evaluation Criteria 2 Bidder Response.

HELLO CQC. WE ARE GRAYLING

Grayling is the only agency to have a network of nine offices in the UK, which means we are well connected: connected to our clients, their customers, brands, businesses, the competition, the media, MPs and their constituents.

We are passionate about using communications to improve patients' experiences of health and social care and drive impactful behaviour change. We have extensive experience across the health sector, including working with The Health Foundation to highlight health inequalities, condition awareness campaigns for the British Chiropractic Association and College of Podiatry, international advocacy campaigns across disease areas such as malaria and most recently developing the You Care, Your Way campaign for Healthwatch England.

Our team is in a unique position. We have worked with the Care Quality Commission (CQC) since 2017, developing the Because We All Care campaign and delivering the Your Care, Your Way, targeting people with specific communications needs. That means we already have detailed knowledge of your target audiences, key barriers that prevent different audience groups from sharing feedback and an understanding of the messaging, communications channels and assets that have yielded results so far. We would relish the opportunity to continue our partnership and build on the success we have achieved with you to date.

CAMPAIGN PLANNING: BUILDING THE FOUNDATIONS

Agreeing key objectives

Grayling has a rigorous approach to campaign planning and follows the OASIS campaign principles. Before commencing campaign planning activity, we always begin with agreeing the campaign objectives, which in this case are to:

- Encourage more people to share their feedback on health and social care (in terms of both volume and range), with CQC and Healthwatch and help turn this action into a cultural norm. We have noted the increasing focus on targeting people who receive poor care
- Educate the public on CQC's role in improving health and social care services.

Framework Ref: RM6124

Project Version: v1.0

Crown Copyright 2021

Part A: Campaign implementation and evaluation for Because We All Care 2022 **Building on campaign success to date**

We are proud of the work we have delivered for you so far, including winning the 2022 PR Week Health and Pharma Award for Best Use of Social Media for Because We All Care. Having already designed this campaign, we are dedicated to delivering the remainder of the campaign throughout 2022.

We understand that the requirement is to ensure that the Because We All Care 2022 campaign spikes drive increased feedback from these groups, with a focus on encouraging feedback from people most likely to experience poor care:

- people with a long-term condition
- over 55s
- people who are deaf or hard of hearing
- people with a learning disability and autistic people.

While an overarching approach and campaign strategy has already been agreed for the Because We All Care campaign, for each spike we would develop a bespoke tactical plan (detailed below) that aligns to the strategy and ensures resources are focused where we're likely to have the greatest impact among each audience.

To inform each plan, we would, however, first collate our insights on each individual audience to inform tailored approaches for each, delivering the campaign strategy in a way that resonates with each group. Thanks to our work with CQC and Healthwatch to date, we already have a range of insights around these groups' barriers and motivators to feeding back on care, their preferred media channels, and attitudes to issues such as COVID-19.

Part B: End to end campaign planning for 2023

Designing a fresh creative campaign

As you have set out in the brief, we would be keen to take a pause and take stock – fully and honestly evaluating the impact of each activity strand of the Because We All Care campaign, developing and managing audience testing and deciding together with you whether to continue with that platform or develop a fresh campaigning strategy. By the end of this year, we will be in a very different place to when we were developing the Because We All Care campaign, in terms of the post-pandemic world, political climate and concerns around the NHS backlog. It may very well be time to re-think the platform for 2023.

We also believe there are opportunities for you to maximise the budget available, by delivering a highly impactful campaign targeting each spike over a three-month period, rather than maintaining a low-level of activity throughout the year.

Our industry-leading creative studio, Ignite, has a track record of developing creative approaches that result in successful campaigns for clients across multiple sectors. We will collaborate with Ignite to bring fresh and innovative thinking to the brief to develop a creative campaign strategy, deliver quality content and execute across priority various communications channels.

1. Audience insights

Framework Ref: RM6124

Project Version: v1.0

Crown Copyright 2021

112

113
 Copyright 2021
 Audience insights are key to informing any successful campaign platform and strategy and, given the rapidly evolving health and political climate, it will be crucial that we use the most up to date audience research available. To inform future campaign activity for CQC and Healthwatch, we will work with Grayling's dedicated research and insights experts to carry out additional research into audience groups likely to receive poor care, ensuring this includes diverse audiences, using a range of industry tools including Global Web Index, Linkfluence, Radarly, Answer the Public, Keyword Finder and GPoI, Grayling's proprietary political social media monitoring service.

We will also continue to refer to our extensive bank of research into CQC and Healthwatch's priority audiences. The consumer research we delivered for CQC in 2020 and 2021 also provides a useful benchmark of people's attitudes to sharing feedback on care that can be leveraged to understand key barriers and motivators to feeding back on care among these groups.

We noted the requirement in the brief to understand accessibility requirements – thanks to our work developing Healthwatch's campaign to raise awareness of the Accessibility Information Standard – we already have research into the accessibility barriers some people face and attitudes to speaking up about these barriers. As well as desk research this includes experiences shared with us by audience testing participants, including people with sight loss, hearing loss, carers and people with learning disabilities.

2. Developing an effective campaign strategy

Our team would relish the opportunity to either refresh the existing the campaign, or develop a new campaign platform.

We would work closely with Grayling's leading strategists to develop a campaign strategy using our **ABC approach**:

- **Audiences:** Identifying, segmenting and prioritising your key audiences – understanding their experiences of care and motivators and barriers when it comes to sharing feedback
- **Brand:** Looking at current knowledge and perceptions among your audiences of CQC and its role in monitoring and improving health and social care standards
- **Context:** Looking at the broader social and political context and health landscape, (e.g. Covid-19 and pressures on the NHS and social care) which could influence your audiences and how our strategy can take these factors into consideration.



Using the ABC model, we would identify key insights to inform an impactful campaign platform (or campaign platforms) that will resonate with and have the flexibility to appeal to our range of target audiences. Any new platform would draw on learnings from previous

campaigns and would form the launch-pad for a series of connected creative and tactical executions delivered through owned, earned and paid channels.

3. Audience testing

Thoroughly testing campaign ideas with our key audiences before delivering the campaign is a crucial step to ensure a campaign will resonate and gain feedback before launch.

As with Because We All Care and Your Care, Your Way, we will work with our in-house research lead to recruit a panel of individuals representative of our key audience groups, before preparing a discussion guide and a range of assets to test with our audiences, such as key messages, campaign platforms or branding options. Depending on the campaign brief and audience needs, testing may take the form of a focus groups, phone interviews or a more interactive digital format.

A report summarising the findings alongside our strategic recommendations to integrate any feedback into the campaign would be provided.

CAMPAIGN PLANNING

Please note we would consider the following process for the delivery of the remainder of Because We All Care (Part A) and the development of a potential new campaign in 2023 (Part B).

Applying key learnings

Our planning for all future activity will first and foremost take into account the learnings from the campaign to date. For example, while social media advertising has always been considered a crucial channel for CQC and Healthwatch and referenced in the brief, recent changes to Facebook's advertising platform will likely have a negative impact on such activity in future. Diminishing returns have been observed over the duration of the campaign, with media coverage, website traffic and social media engagement declining over time. Experience also shows that what works well for one audience does not always resonate well with another, indicating a need to further tailor campaign activations to each target audience.

We would therefore recommend reviewing the strategy and trialling alternative approaches that:

- Consider alternative delivery channels outside those specified in the brief such as search engine advertising (which has performed well to date), targeted micro-influencer work, and engagement with patient forums to ensure we achieve the best outcomes.
- Drive fresh, impactful campaign activity tailored to each target audience that is delivered over a shorter, more intensive period of time (in contrast to delivering 'spikes' throughout the year)
- Further maximise existing stakeholder relationships to deliver creative, tailored campaign activations designed to use and reach stakeholders' unique audiences including through events, identifying digital ambassadors and developing different content formats.

Channel planning

For any brief, we will consider a broad mix of digital and traditional channels – across earned, owned, shared and paid - to connect with our target audiences and efficiently drive them to site to fill in feedback forms.

We will use key insights – captured using our insight tools, results from previous campaigns and conversations with our dedicated social platform account managers - to understand where each of CQC's target audiences are most likely to a) see and b) engage with the campaign subject matter. We will also consider the most effective and efficient use of the budget. The following channels would, for example, be considered as potential routes for reaching our target audience:

- **Traditional media:** The media outlets (including podcasts) most regularly consumed by each target audience
- **Social media:** How CQC's owned social media channels (Twitter, Facebook, In-stagram, LinkedIn, YouTube) could be leveraged for the campaign, the role of paid-for advertising campaigns, relevant forums, and the potential to expand into new platforms, such as Tik Tok or Nextdoor
- **Search marketing (e.g. PPC):** Incorporating search marketing to catch audiences primed for feedback in our latest campaign for CQC has proved incredibly successful. We would therefore look to further develop PPC recommendations (in collaboration with CQC's SEO and website teams), providing relevant keywords and targeting routes
- **Owned digital:** How CQC and Healthwatch should maximise owned channels such as websites and newsletters
- **Key Opinion Leaders (KOLs)/influencers:** Identifying any relevant influencers/KOLs who can authentically support the campaign directly to our target audience (using influencer tools HypeAuditor and Klear)
- **Advertising:** Whether other digital advertising platforms including display advertising/Google Display Network, native content partnerships, advertorial and sponsorship opportunities could be leveraged to reach our audiences
- **Stakeholders:** How the campaign could be amplified by stakeholders across their existing channels (social media, newsletters, websites, events etc)
- **Other:** If appropriate, other delivery channels may also be considered such as in-person/virtual events or stunts (for either Grayling or CQC/Healthwatch to deliver).

Tactical planning

Once our priority channels have been identified, we would then deliver tactical plans outlining our recommended creative activations for delivering the campaign/specific spikes on each channel, including:

- Recommended tactics for delivering the campaign on each of the priority channels in a way that would resonate with the audience, such as:
 - Social media activations most likely to engage the audience and formats that consider any accessibility needs

- Media angle recommendations and materials that will appeal to the audience and gain cut through in target media
 - KOL/influencer engagement strategy (e.g. as ambassadors, involving them as consultants in the campaign development phase, featuring them in CQC content or amplifying the campaign). This could include engagement on social media channels or via third-party platforms including forums (e.g. Health Unlocked, Reddit).
 - Potential activations in partnership with organisations or people popular among the target audience, that are guaranteed to reach and resonate with the audience.
- The resulting campaign assets required to deliver the campaign and resonate with each group (e.g. imagery that reflects a diverse audience, tailored messaging that taps into their unique motivators, recommended social media formats, video content)

CAMPAIGN DEVELOPMENT

We would then work with you to develop the range of assets recommended in these plans. While dependent on the wider strategy, we anticipate this would include the following activities highlighted in your brief:

Consumer research

Consumer research can be a useful tool for generating fresh data and insights to integrate throughout campaign assets and identify a news hook to attract media attention. Any research delivered for the campaign must be robust and designed to illicit interesting findings to generate a newsworthy media story for the campaign and audience-specific spikes.

We would commission a leading market research agency to complete a statistically significant survey with robust sub-population samples (minimum 2,000 respondents according to industry standards) to create newsworthy media hooks for the campaign launch and subsequent activity spikes. We would include both a set of questions with the objective of informing a hard-hitting news story for national and trade media, as well as questions relating to specific audience groups designed to provide content for consumer media and audience specific digital content,

We would support you to develop the survey questions, before analysing the resulting data to identify key findings to inform a national press release and other campaign content. We could consider including questions for sub-groups or qualitative research with priority audiences. We understand that findings will be published on your website and will support you to manage any enquiries around the research.

Tailored messaging and materials

Key messages are crucial to ensuring consistency of message throughout all campaign materials, and we would recommend developing and agreeing these before any other assets are created. Specific messages would be developed to resonate with each target audience, informed by the key audience insights identified within our campaign strategy. For all audiences, clear, simple language should be used to ensure accessibility.

Messaging and content would show how sharing experiences helps CQC understand where services aren't performing and how it has the power to help improve care. For example, this could include specific, tangible examples of how CQC has implemented feedback to directly support providers to improve standards of care.

Case studies and testimonials

Real people's stories are a powerful tool for getting our campaign messages in a way that emotionally resonates with our audiences. Filming and photographing a small number (3 – 4) of case studies also provides content for social and digital channels.

We would collaborate with CQC to recruit a selection of case studies – through the Experts by Experience panel, stakeholder organisations or public callouts – willing to share their experience to bring the campaign to life. We recommend recruiting a diverse range of participants among your target audience groups who have emotive stories relating to their experiences of poor care– given the focus of this in the brief, and why they would encourage people to share experiences with CQC. Testimonials from health and social care providers may also be relevant for the campaign.

Design assets

For any campaign, we will develop bold creative campaign assets that can be used across social and digital platforms and shared with stakeholders, such as video content or photography, infographics and social media cards. All assets will be developed to visually deliver campaign messages in a simple and engaging way, as well as stand-out when people are scrolling online. All assets will feature the core campaign CTA, key messages and consistent campaign branding. Where appropriate, existing photography, other visuals and research statistics will be maximised in campaign assets.

- In 2022 campaign spikes, Because We All Care digital assets will feature a combination of photos and illustrations reflecting each of the target audience groups, that align to the existing brand.
- In 2023, the design style and tone will be developed during the early stages of the campaign planning and tested as part of the audience testing phase.

Digital media delivery plans

Informed by our channel and tactical planning, we will provide an integrated campaign delivery plan – a detailed manual for implementing the campaign on each digital platform. This would include:

- Organic social media requirements (and support with copy development, if required)
- Social media/digital advertising overview (e.g. Facebook, Twitter, YouTube, Nextdoor, Google Ads):
 - Number of ad campaigns, audience targeting, campaign objectives, formats and assets requirements, frequency and budget splits
 - Planned use of assets
 - Draft advert copy
- Shareable content examples for use by partner organisations, KOLs and influencers.

All deliverables will be informed by previous results, your Google Analytics data and up to date industry benchmarks to ensure the best opportunity for effectiveness, performance and efficiency of budget. We will also incorporate A/B testing of creative assets and formats to understand the most effective combinations, before adapting and optimising in real-time to drive maximise budget and performance.

Stakeholder engagement

We understand that CQC and Healthwatch already have a host of strong stakeholder relationships within the health, social care and charity sectors. While you will continue to own these relationships, Grayling will support with providing recommendations for involving, supporting and maximising these relationships to extend the reach and impact of these campaigns. This may include involving key stakeholders in the development of the campaign by providing opportunities for them to share feedback, engaging stakeholders to identify relevant case studies or spokespeople, or supporting with developing a campaign stakeholder toolkit (including information about the campaign, key messages and useable assets) for partners to amplify the campaign through their existing communications channels.

Ambassadors and influencer engagement (KOLs)

Engaging ambassadors and influencers can also be an effective way to engage consumer media in particular, and reach a large, highly targeted and engaged audience. We therefore recommend recruiting campaign ‘ambassadors’ to help amplify our campaign messages among our audience groups – this could be either high profile celebrities with experiences relevant to the aims of the campaign or individuals with lower national profiles but who are well known among specific groups – such as care campaigners/ disability rights activists. A specific list would be drawn up as part of the campaign plan.

We know in the past you have preferred not to offer payment to celebrities for involvement in the campaign. We’ll therefore identify a list of suitable individuals who are active on social media and we’ll liaise with their agents to secure participation, this would be a goodwill ask and not for a fee. Depending on the campaign plan, this could include:

- Supporting the campaign on social by sharing posts from CQC or ideally uploading their own
- A quote we can use in media materials
- Media interview time.

CAMPAIGN DELIVERY

Our media approach

We know from our experience with consumer media that tailored content for their audiences will be more effective than using more general campaign messages. When implementing media outreach using the campaign media materials, we would therefore prioritise pitching exclusively tailored content to each outlet. This may include feature pitches, expert Q&As, consumer advice content, case study stories, campaign ambassador interviews and thought leadership articles.

Target media outlined in the channel plan may include consumer media (e.g. *Yours*, *Platinum*, *Good Housekeeping*, *Saga*), national feature slots (e.g. *Fabulous* magazine, *Daily Mail Good Health*) and media targeting our specific audiences, such as carers (e.g. *Your Caring*, *Able* and *CareLine*). It could also include community radio stations and pitching to relevant podcasts.

If agreed in our campaign plans, we will deliver media outreach to outlets identified for each spike (with a focus on consumer media), understanding that CQC and Healthwatch would prefer to deliver media outreach where they already have existing relationships. We would develop a comprehensive list of media targets to cross-reference with CQC to minimise the risk of any cross-over.

Digital media implementation

Working directly with our Grayling Ignite digital specialists, we will manage biddable ad campaigns in-platform, with weekly reporting. This will also allow for mid-campaign insight sharing and enable us to make changes in real-time as needed.

We will work closely with CQC digital teams to ensure platforms and pages are technically set up in the early stages for measurement and tracking ahead of campaign launch. This may include setting up or updating pixel tracking for retargeting campaigns and managing UTM links.

We will also continue to oversee any other agreed digital activity (such as online partnerships or KOL/influencer engagement), providing regular updates to CQC and Health-watch.

MEASURING ADVANTAGE

We understand the critical importance of evaluation to measure and improve the value of communications activities. At Grayling we take a holistic and flexible approach. This means that we set measurable KPIs following in depth insights work, and complete ongoing analysis that enables us to respond to learnings in real time, using tools such as including Sysomos, Google analytics, Gorkana and G-Core (Grayling's proprietary search analytics tool) as well as social media advertising platforms themselves. We are a member of the International Association for the Measurement and Evaluation of Communication (AMEC) and follow the Barcelona principles.

We would set a series of specific KPIs or 'outcomes' to measure the reach and impact of all campaign activity, such as:

- **Media coverage** - volume, quality, estimated reach of outlets, sentiment and spokesperson mentions
- **Social media engagement** – likes, comments and shares, follower growth, uses of campaign hashtag
- **Advertising engagement** – link clicks, cost-per-click, engagement rate
- **Website activity** - campaign landing page traffic, engagement with assets, total feedback form conversions.
- **Search metrics** – change in the volume of search and share of search around campaign keywords
- **Stakeholder engagement and feedback** (and downloads of assets if possible)

We would develop a bespoke campaign reporting framework for CQC to track performance against KPIs and assess audience reactions and engagement, comparing channel and content effectiveness and adjusting accordingly. This would include weekly campaign update reports and an end-of-campaign evaluation that measures:

- **Outputs - did we reach your target audiences and raise awareness?**

- **Outcomes** - how did your target audiences respond or engage with the campaign?
- **Impacts** - did they take action to deliver against your objectives by completing feedback forms?

PUTTING IT INTO A PRACTICE

An example campaign: Caring Conversations

We understand the brief is open to continuing with the existing Because We All Care campaign in 2023, or developing a new campaign platform. To showcase our thinking and move the campaign forward we have developed a new platform focussing on carers, as an example audience. We appreciate that significant work would need to be undertaken to research any new campaign platform and robustly test it before launch.

From our work with you, we know the barriers preventing people sharing their feedback on care include; not wanting to criticise or be negative, fear of repercussions and out of admiration for the NHS. To date, we've focussed on positioning giving feedback as a positive, caring action, to help improve services for all. Evolving this, what new ways can we strategically and creatively encourage feedback, to help continue and increase engagement in 2023 and beyond?

Insight: Conversation is key

'Feedback' can feel formal, corporate and intimidating, but 'conversation' is casual, everyday and friendly. What if we encouraged feedback not by asking for it directly, but by 'starting a conversation'? Inviting and including everyone to share their experiences and be part of a community conversation.

By reframing 'give feedback' into 'let's start a conversation', we instantly make it more approachable, collaborative and constructive. We therefore propose a new creative campaign:

Join the Caring Conversation

'Join the Caring Conversation' would be a new campaign platform to drive engagement with CQC, Healthwatch and partners, and encourage people to give feedback on health and social care. The platform is broad enough to include everyone but also lends itself to more impactful, focussed activity with one of your target groups; **unpaid carers**, particularly those in the **most deprived areas of England**. We know that audiences respond best when campaigns are truly tailored to them, and this platform enables us to do just that.

Why carers?

- **They are a gateway group:** Carers are a key group for CQC and Healthwatch and a 'gateway' to some of your other target groups, given they will likely be caring for people with long term conditions, learning and physical disabilities, and older people
- **They are most likely to be exposed to poor care and health inequalities:** Carers and the people they care for are therefore most likely to have frequent and multiple interactions with health and social care services, and are also more likely to live in areas of high deprivation – two indicators increasing their risk of exposure to poor care.
 - Carers themselves are highly likely to experience poor health themselves, being 16% more likely to be living with two or more health conditions.
 - According to the [Joseph Rowntree Foundation](#), a quarter of unpaid carers are living in poverty.
 - Studies suggest people living with disabilities were experiencing particularly poor access to healthcare even before the emergence of COVID-19 due to transport and cost barriers, and increasingly long waiting lists.
 - 50–69-year-olds living in the 10% most deprived areas are more than twice as likely to have two or more long-term conditions

Framework Ref: RM6124

Project Version: v1.0

Crown Copyright 2021

120

- CQC's ['State of Care' report 2020/21](#) found that people from areas with higher deprivation were more likely to experience longer waits to access care.
- **They need support:** We know from our research that many carers are feeling increasingly isolated and frustrated, partly due to the decrease in support and services during the pandemic. When we were developing the recent Healthwatch England campaign, we spoke to a group of carers from across the country, who expressed feeling 'angry', 'alone' and 'unheard'.
- **They are a rapidly growing audience group:** According to [Carers UK](#), the number of unpaid carers increased to 13.6 million during the pandemic. Carers UK estimates that every day, another 6,000 people take on caring responsibilities – over 2 million people each year.
- **Government and wider health, care and community stakeholders are aware of the ever-growing challenges:** Age UK describes the care system as already having been at crisis point before the pandemic and made weaker by it, and an issue which will remain high on the political agenda for years to come
- **Despite all this, they are less likely to feedback on care:** According to CQC's owned insights, people who feedback on care are more likely to be older, educated and wealthy. CQC consumer research also suggests carers are 11% pts more likely to have concerns feedback will have negative repercussions on their loved ones' care than the general population.

This is a group which not only enables us to reach a large – and increasingly growing – audience who are exposed to care services in general, and poor care more specifically, but also an untapped group that are not currently sharing feedback. They are also facing significant challenges which CQC can play a part in alleviating in a credible way, while also tapping into the wider agenda of government and wider health, care and community stakeholders.

What could the 'Caring Conversation' campaign look like?

1. Newsworthy research to start the conversation

All conversations need to start somewhere. We would create the foundations for the campaign by polling unpaid carers and the wider public in England to find out:

- How many people have caring responsibilities, or think they'll become carers by 2030?
- How many understand the care system and support available to them?
- How many have had negative experiences with health and social care - and not said anything?
- What needs to be done to improve things?

Grayling would:

- Develop survey questions in conjunction with CQC and Healthwatch
- Commission an experienced, reputable research company to deliver the research and carry out all liaison with them
- Analyse raw data (national and regional) to identify most interesting and newsworthy key findings (including sub-group breakdowns) for over-arching media story and specific audience spikes
- Provide quality assurance of data, including reviewing reference to statistics used in all campaign materials in partnership with the research company.

We'll compile the results into a short report, in partnership with a charity such as Carers UK to add further 'clout' to our findings. This report will become the basis for our campaign launch story and content, activated across owned, earned, paid and partner channels.

2. An inclusive call to action

The report findings will shine a spotlight on the issues carers are facing and spark the start of the conversation. The campaign will then call on carers and communities across the UK to **'Join the Caring**

Conversation’ and share their thoughts and experiences on health and social care with CQC, to improve services.

3. *People-led content across all channels*

Working with people involved in our report – from poll participants to charity partners and CQC experts – we will create fresh content to put human faces at the heart of this campaign. When developing the report, we would recruit real life carers and their loved ones to have their emotive stories featured in the report with highly impactful imagery. We will continue to put faces to quotes, expert advice, case studies and personal stories to bring the campaign to life and encourage everyone to join the conversation.

We’ll showcase voices from a diverse range of communities, to ensure the campaign is inclusive and that everyone feels invited to take part. This content will be shared across owned, earned, paid and partner channels, to get our message out there and encourage engagement with CQC.

4. Encouraging carers to join the conversation

‘Join the Caring Conversation’ LIVE – live monthly Q&As hosted on CQC and partners’ (e.g. Carers UK) social media channels. Members of the public are invited to participate in live (moderated) discussions around care. Different care providers e.g. a care home owner, could also be invited to take part each month. Quotes and short clips provide additional content for social channels.

Caring Conversations podcasts – We would approach an existing podcast like [Age Space](#) podcast, which is aimed at people caring for older people, to propose a regular guest slot with CQC and a charity partner to discuss advice and support for carers.

5. *Extending the conversation*

This campaign creates a conversation that can be as big as you want to make it. Additional example activations could include:

WhatsApp chats – everyone’s having conversations on WhatsApp, so why shouldn’t CQC make it easy to chat by joining them there? We could create a WhatsApp Business account for CQC and encourage people to message you there with their feedback, to give people a more accessible, informal and ‘normal’ way of sharing their experiences.

‘Britain’s Biggest Caring Conversation’ – If any additional budget became available, we could explore partnering with a national media title (e.g. *The Daily Express*) or a priority consumer outlet (e.g. *Yours* magazine) to host Britain’s biggest conversation about care.

We’re excited by the opportunities this campaign presents to position CQC as a leading voice in helping improve health and care services and driving new and increased engagement with you and your partners. It’s a bold, purpose-led campaign to make a difference – and a national conversation you have the authority and credibility to lead.

Evaluation Criteria 3: Campaign results

Please provide evidenced examples of successful behaviour change campaign activity you have delivered.

Seeks to establish that the Tenderer:

- Has achieved behaviour change campaign success against defined outcomes

- Has used audience insight to develop creative and effective campaign solutions
- Can provide examples of behaviour change campaign successes where the target audiences for the desired behaviour change were people with protected characteristics under equalities legislation and/or people using health and social care services who experience health inequalities / more likely to experience poor care
- Can demonstrate experience of tailoring campaigns and successfully using different media and intermediaries to reach target audiences
- Can demonstrate the successful use of paid for and organic social media to support campaigns (including audience targeting, content creation and evaluation)
- Can demonstrate the successful use of earned media to support campaigns.

Evaluation Criteria 3 Bidder Response.

Grayling has a wealth of experience delivering campaigns across a wide range of channels – from media relations and stakeholder engagement to social media campaigns and digital advertising - that drive behaviour change and create measurable advantage for our clients.

The following case studies showcase some of Grayling's recent campaigns relevant to the Care Quality Commission's brief, providing a snapshot of the activities delivered and resulting outcomes for each.

CARE QUALITY COMMISSION AND HEALTHWATCH ENGLAND | CONSULTING PATIENTS DURING THE COVID-19 PANDEMIC

In order to assist health and social care providers to respond to COVID-19 and make longer-term improvements to services, the Care Quality Commission (CQC) and Healthwatch England (HWE) commissioned Grayling to develop a campaign encouraging care users and their carers to provide feedback on their experiences of care during the pandemic.

After conducting thorough audience research through four focus groups, Grayling created and launched the '*Because We All Care*' campaign during the height of the pandemic. The campaign aligned to public sentiment amid increasing support for the UK's National Health Service and Clap4Carers movement and was designed to remove barriers to sharing feedback, which are sometimes considered 'harmful' to health workers. The campaign highlighted the dual message that not only was sharing feedback a way of supporting care services, but was also welcomed by providers because they too care about the service they provide. This encouraged users of health and social care services to share feedback on their experiences with CQC, HWE or directly with care providers.

Grayling delivered a full campaign strategy, incorporating PR and media relations, social media and stakeholder engagement activations, working in partnership with CQC and HWE to enable them to take the campaign forward following launch. The campaign was predominantly social media-led, leveraging paid advertising on Facebook and Instagram to encourage care users to share feedback on their experiences, by driving traffic to online feedback forms. This was supported by complementary organic activity on CQC and HWE's owned social media platforms, as well as consumer research into the general public's attitudes to care during the pandemic to generate media interest. Furthermore, campaign assets were developed to support partners and stakeholder organisations to promote the campaign messages on social media, including posts and editable campaign graphics to tailor for their own audiences and organisational objectives.

CQC reported more than a **1,300%** year-on-year increase in the number of forms received during the campaign, and Healthwatch observed a **30%** uplift. Almost **400** stakeholder organisations were engaged to join and promote the campaign including health charities, patient groups, professional bodies and NHS

Framework Ref: RM6124

Project Version: v1.0

Crown Copyright 2021

123

organisations, who visited the dedicated stakeholder campaign toolkit over **6,300** times. Campaign spikes were also successful, with CQC receiving the highest level of calls ever recorded during the Learning Disability and Autism spike in March 2021, an audience less likely to use the online feedback form. In the first week of the carers' spike, the proportion of carers providing feedback to Healthwatch also increased from 15.79% (9) to **52%** (247) of respondents. A benchmarking survey in March 2021 showed **80%** of carers and **70%** of non-carers were more likely to feedback after seeing the campaign.

HEALTH EDUCATION ENGLAND | KNOW ABOUT NURSING

With applications to nursing degrees plummeting in the UK, NHS Health Education England engaged Grayling to develop an attention-grabbing digital campaign to encourage 16-18-year olds to consider a career in nursing, midwifery, or the allied health professions. While there are a number of negative stereotypes around a career in nursing, our research found that many young people don't know the positives – including that nursing degrees have one of the highest employability rates of any degree at 94%.

Capitalising on this insight, we developed the #knowaboutnursing campaign to bust myths about nursing careers and refresh the stereotypical image of a nurse or health professional. Given the age demographic of our target audience, the campaign was social media-led with a paid approach implemented across Facebook, Instagram and Twitter. We worked with a renowned music photographer to develop youthful visual content that featured campaign ambassadors from all walks of life – reflecting the diversity of the audience we were looking to attract.

Social media activity generated more than **70,000** clicks to the Health Careers website, as well as nearly **140,000** engagements across Facebook, Instagram and Twitter. Campaign videos were viewed nearly **175,000** times and the campaign hashtag was used more than **5,000** times, with the campaign winning the endorsement of prominent public figures including Stephen Fry.

An independent evaluation of the project carried found that the campaign played at least a part in influencing the decision to apply for a course amongst **63%** of Clearing applicants. The campaign also contributed to a **6.4%** annual increase in nursing degree applications the following year.

LLOYDS BANKING GROUP | PROTECTING YOUNG MEN IN THE UK FROM FRAUD AND SCAMS

Raising awareness of fraud and scams is a key focus for UK-based Lloyds Bank. Our research identified that men are the most confident that they can spot the signs of a scam, despite 1 in 10 not knowing the common scams. Putting this to the test, we designed *A Shave Too Close*, a campaign to raise awareness of the risks of scams and encourage men to speak openly about the risks with friends and families.

Identifying young men as a target audience, we partnered with iconic London barbershop, Johnny's Chop Shop, to create a social experiment and hero video that highlights how easy it is for scammers to find private information about us via social media. The barbers asked the customers simple, yet personal, questions informed by their open social media profiles, capturing their surprise on video.

We conducted consumer research which found that Brits were unaware of how much personal information they were sharing and that men were in fact overconfident that they could spot the signs of a scam, which was leveraged to amplify the campaign in the media. We also partnered with consumer media platform LadBible to amplify the campaign across varied platforms, creating engaging and interactive content including an Instagram story quiz asking people about fraud techniques. Finally, we partnered with two male influencers to drive the conversation on social media around fraud and boost engagement amongst our target audience and influencers' followers.

The campaign secured **46** pieces of media coverage (including **39** articles embedding the hero video and **41** hyperlinks to Lloyds Bank Fraud Hub), with a total reach of **165,108,240**. On social media, 20 social assets drove **1,149** engagements (likes, comments, shares, etc.) and **180** click-throughs to the Lloyds Bank Fraud Hub. **547,027** people were reached on social media, including over **103,000** impressions from influencer content.

LLOYDS BANKING GROUP | PROTECTING UNDER 25s FROM GAMING FRAUD

In 2021, to establish Lloyds Bank as an authority and protect under-25s against scams, we designed *Fraud's No Game* - a campaign informed by audience research which showed that gaming was key to reaching this audience, with the UK gaming population growing 63% in 2020, and 46% of under 35s playing regularly.

By combining insights from cyber security professors at London's City University and a comprehensive series of focus groups engaging gamers and their parents, a study developed for the campaign demonstrated the extent of gaming fraud in the UK and how victims were targeted for the first time.

We used the study's key findings to create fraud prevention advice framework from Lloyds Bank in partnership with UK gaming industry body Ukie. An easy-to-remember, action-focused six-point guide (S.H.I.E.L.D) was designed to spark recall and encourage behaviour change through a relevant acronym for players using terminology they'd find familiar. A 'Guardian of the Game Players Code' avatar character was also created as a visual aid for earned, owned, and paid media. S.H.I.E.L.D., the study findings and Lloyds Bank's advice were packaged into a media-friendly report and pitched to media during the October half-term.

Results comprised **41** earned pieces of media coverage including an exclusive with The Observer and [theguardian.com](https://www.theguardian.com) (which indexed highly with parents of gamers) and a gaming fraud feature with BBC Radio 4's You & Yours. The Mail on Sunday, [Telegraph.co.uk](https://www.telegraph.co.uk) and [Mirror.co.uk](https://www.mirror.co.uk) also featured the campaign, with **97%** of coverage quoting Lloyds Bank's Fraud Prevention Director. On digital platforms, influencer content delivered preventative advice to **1.4m** UK gamers and earned over **1m** engagements on Instagram and Youtube across Lloyds Bank and Ukie's channels. The Game Players Code and campaign messaging, with advice from Lloyds Bank's Fraud Prevention Director, was also featured as a blog post on Ukie's consumer-facing platform for parents and gamers. Ukie also helped bring the campaign to the classroom, engaging **52** schools, **9,000** teachers and **80,000** young people with lesson plans and worksheets.

A post-campaign benchmarking report later found that **one in five** gamers recalled seeing the campaign, with **45%** claiming they were now more aware of the threats and **32%** taking action to reduce their risk. **Two-fifths** of parents also agreed they were more aware of gaming fraud threats, with a **third** (35%) acting to reduce their children's risk.

THE HEALTH FOUNDATION | DRIVING POLICY ACTION ON HEALTH INEQUALITIES DURING THE PANDEMIC

Last year, the Health Foundation engaged Grayling to launch and maintain momentum in the media for its COVID-19 impact inquiry, an investigation into how people's pandemic experiences and health outcomes were influenced by pre-existing health inequalities.

As the government looked to 'build back better', it was critical that evidence of widening health inequalities was part of the national conversation. Through ongoing media engagement, providing a strategic inquiry 'voice', newsjacking and an always-on press office our nine-month media relations campaign ensured the latest analysis from the Health Foundation's COVID-19 impact inquiry was regularly featured in media reports. Given the inquiry findings largely relied on existing data, it was crucial we used the analysis to identify unique news angles. Key headlines identified for media included how workers in the poorest areas of the UK were almost 4x more likely to die from COVID-19, and the professions that put them at greatest risk, and how the poorest communities faced how.

Throughout the campaign, the inquiry was further amplified through virtual panel discussions with key stakeholders, and through a promotional video featuring the stories of three individuals across the country who had been impacted disproportionately by the pandemic.

Key outcomes included **125** pieces of media coverage. As a direct result of the lead story in The Guardian, **Labour MP Debbie Abrahams referenced the report's key findings** and questioned Health Secretary Sajid Javid during a House of Commons session on the day of the report's launch. Further engagement has seen **meetings requested from Jeremy Hunt MP** as well as stakeholders including Public Health England and NHS England, to understand how the inquiry's findings can feed into their work.

THE COLLEGE OF PODIATRY | ATTRACTING NEW AUDIENCES INTO PODIATRY

After university applications for podiatry almost halved over two years, The College of Podiatry commissioned Grayling to open a new audience's eyes to how diverse and rewarding a career in podiatry can be.

Targeting young people, our campaign focused on the impact of podiatry in sport, leveraging social media, PR, and stakeholder engagement – a significant 'first' for the College which had never engaged with an audience in this way. We developed a data driven news story comparing injuries across four major European football leagues to showcase the role of podiatrists in sports injury management. We engaged sports podiatrists working at top football clubs and young sports podiatry students to talk about working in the field. We also leveraged Facebook, Instagram, and Twitter to target young people with an interest in sport and sports science.

Over a 3-week period, the campaign's social media content reached **471,253** users and generated over **1 million** impressions. We also achieved **37** pieces of media coverage, including the BBC and Mail Online, reaching an estimated **257,071,827** people.

Evaluation Criteria 4: Creative pitch

PRESENTATION - For information, this does not require response at this stage

Following Individual Evaluations, only the top 'five' suppliers scoring the highest on 'all' technical questions and cost combined will be taken through to presentation stage.

CQC reserves the right to take less than five suppliers through to presentation if for example a supplier scores 30% less than the highest bid.

Please deliver a creative pitch (up to 30 minutes) in line with the Year 1 tender requirements.

Introduce the key members of staff who will be responsible for delivering the requirement.

Ask questions of CQC and Healthwatch and answer questions pertinent to the requirement (up to 30 minutes).

Seeks to establish that the Tenderer:

- Creative proposals are informed by audience insight and are characterised by creativity, freshness and originality / differentiation
- Creative proposals demonstrate creativity in how accessibility requirements can be used as a creative opportunity
- Creative proposals are ownable – they will be clearly connected with the CQC and Healthwatch 'brands'

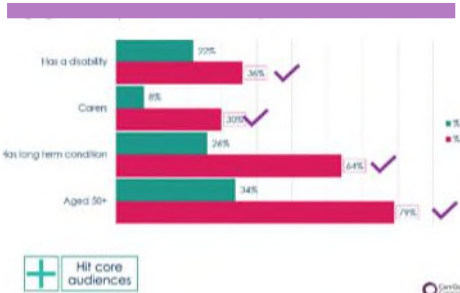
- Proposals harness the existing channels of CQC and Healthwatch
- Proposals build on and improve the past campaigns of CQC and Healthwatch
- Creative ideas work across various channels / media
- Creative ideas can be applied for a long period of time – there is thought to longevity and building momentum
- Understands how to evaluate campaign activity and success in line with agreed objectives
- The people who CQC and Healthwatch will work with on the requirement display enthusiasm, expertise and professionalism
- In our initial meeting relevant questions are asked and answered that indicate a clear grasp of our requirements



CLARIFICATION QUESTION & ANSWER LOG – Public Behaviour Change Campaign CQC EP&S 009

Q No.	Date Received	Clarification Question	Date of Response	Response
1	09/02/2022	Please can you confirm how many agencies have been sent this brief please? And, how many agencies will be shortlisted for presentations?	15/02/2022	CQC has invited 14 suppliers to tender and up to a maximum of five suppliers will be taken through to presentation stage.
2	10/02/2022	I am missing Appendix A from the pack - please could you provide this?	10/02/2022	The ITT is Appendix A (Attachment1).
3	15/02/2022	What time is the clarification deadline on 18 th Feb	15/02/2022	The Clarification deadline is midday on 18 th February.
4	16/02/2022	<p>Does the CQC have a market research provider already identified for the successful bidder to work with or does our proposal need to include this as a component?</p> <p>Do all market research provider costs need to be factored into this bid budget or just bidder costs associated with working with the CQC and a market research partner on survey questions and leading on the analysis of raw data and the comparison of data?</p> <p>Re: the cost of paid-for social: is the expectation that the cost envelope for this tender covers all costs associated with paid-for social (including the</p>	16/02/2022	There may be the opportunity to work with other suppliers during the duration of the contract, however, at this point it is unknown and therefore would ask the suppliers to please include market research, and the costs for the paid social within the cost envelope.

total cost of the advertising spend) or alternatively just the bidder's costs related to time spent on strategy development, implementation, monitoring and evaluation?

5	17/02/2022	<p>With regards to the outcome of 'proportion of feedback from specific target audiences' (e.g. individuals from seldom heard communities), have these audiences been targeted by recent campaigns, and has CQC seen success? If so, what does that success look like?</p>	24/02/2022	<p>With regards to the outcome of 'proportion of feedback from specific target audiences' (e.g. individuals from seldom heard communities), have these audiences been targeted by recent campaigns, and has CQC seen success? If so, what does that success look like?</p> <p>Because We All Care was launched by CQC and Healthwatch England in July 2020, it was developed as a year long campaign, launching nationally with specific audience focuses throughout 2020/21:</p> <ul style="list-style-type: none"> • People with a learning disability and/ or autism • Carers • People with a long-term condition • Older adults <p>Previous public behaviour change campaigns delivered by CQC and Healthwatch have achieved:</p> <ul style="list-style-type: none"> • all CQC feedback routes 25% increase from same period previous year (online CQC feedback form submissions 62% higher than the same period the previous year) • HWE feedback from submissions 23% higher than the same period the previous year • Find your local Health-watch page views 68% higher than the same period the previous year.  <p>All full evaluations will be shared with the successful supplier.</p>
---	------------	--	------------	--

6	17/02/2022	Are there audience insights already developed on these audiences, to inform Year 1 campaign delivery, and is there campaign performance benchmarking in place for them? Or would part of the Year 1 activity be to set these audience growth benchmarks for Year 2 campaign development?	24/02/2022	<p>There is an overarching OASIS plan for 2022, objectives and KPIs included. KPIs are included with the ITT document. When the agency comes on board, we hope the successful agency will help us evolve and refine this area of our work.</p> <p>2022/23, we'd expect to work with the successful agency to develop the OASIS plan, to build on or develop new (if audience focus changed) insights, platform, strategy, implementation and evaluation.</p>
7	17/02/2022	We note your feedback capture mechanisms (CQC online feedback form, telephone, email and HW channels and online feedback form). Has the CQC ever experimented with additional channels when it comes to feedback capture?	24/02/2022	<p>Our behaviour changes campaigns support the wider CQC organisational strategy to increase the range and volume of people's experiences of care to support risk-based regulation and flexible ratings approach. Our main objective is to increase the volume of people sharing experiences of care using our online Give Feedback on Care form.</p> <p>We have recently introduced text relay and SignLive for people who are deaf or hard of hearing. Get help contacting us if you're deaf or hard of hearing Care Quality Commission (cqc.org.uk)</p> <p>We'd be interested to understand further thinking about other channels and how CQC would report back and evaluate on an increase in the volume of experiences received by CQC.</p>
8	17/02/2022	Would the appointed supplier get access to channel splits in relation to what methods of feedback capture are performing most optimally?	24/02/2022	Yes, where we have this, we will share.

9	17/02/2022	The organic social following is made up of "NHS and social care providers, key stakeholders including trade associations and the voluntary and community sector." Assuming these are the targets of paid activity, can we be given any more information on the specific social audiences?	24/02/2022	<p>The paid for activity is to focus on the audience focus throughout the year:</p> <ul style="list-style-type: none"> • Carers (March) • People who are Deaf and hard of hearing (May) • People with long term conditions (July) • Over 55s (Q3) • People with a learning disability and autistic people (Q3/4). <p>We need to spend the budget on paid for social where it is most effective in reaching audiences we cannot through our earned and owned channels. We have well performing Twitter and LinkedIn for public and provider channels</p>
10	17/02/2022	In terms of paid marketing, is the focus on existing social channels (i.e., Facebook, Twitter, Instagram)? Or beyond to PPC and potentially other social channels?	24/02/2022	<p>Paid for activity focuses on Facebook and Instagram. Our following on Twitter is very strong and ads are expensive and therefore has steered away from using this platform. We have recently trialed PPC and it has performed well. We welcome and expect the successful supplier to bring new thinking, based on evidence, to most effectivity target our specified audiences.</p> <p>We'd welcome an agency who can supply content and targeting to reach tie right audiences on TikTok, Reddit, Next Door.</p>
11	17/02/2022	Is there a requirement for community management and customer support to be baked into social plans?	24/02/2022	No, this is handled in house.
12	17/02/2022	Are there any learnings we can draw on from previous activity around the <i>Because We All Care</i> Campaign that we should factor into our response?	24/02/2022	<p>Lessons learnt – successes</p> <ul style="list-style-type: none"> • Pooled expertise and learning between CQC & HWE helped improve campaign performance for the benefit of service users and continued integration of sector/systems. • Metrics indicate look and feel, messages and content have resonated with people whilst outperforming past campaigns. • Gained greater feedback from over 55s, people w/LTCs, carers & people with learning disabilities. • Consumer research useful for providing a hook at the launch; ideally more timely research and data analysis will lead every future spike - with learnings from all - for increasingly targeted public voice activity.

				<ul style="list-style-type: none"> • Partnership support has been valued and stakeholder toolkit 'well-used' - strongest support from charities/ NHS. • Social media advertising has been an effective way of reaching millions, driving awareness and feedback. Agency Grayling has enhanced capacity (especially handling ad management and reporting). • Explicit tracking of how paid social media advertising drives to feedback submissions in place March 2021 onwards. • Photography commissioned and project managed by HW excellent, and a key contributor to attaining the reach, engagement and low click-through rates achieved on social media. • Organic social media, and most digital assets (infographics and illustrations) have performed well, so build on this to invest in increased proportion of static assets. Some video content performed ok (LD & A / Carers) • Multi-disciplinary team essential to campaign; build on this to involve more experts such as inspector. <p>Lesson learnt – challenges</p> <ul style="list-style-type: none"> • 'Law of diminishing returns' of 9-month campaign; media coverage & web visits generally drop after launch. • Difficult to maintain media and partner interest without timely data/insights and photography for releases. • Need time for more advanced conversations with stakeholders and to reach more local Govt & social care orgs. • Need at least 3-4 weeks for audience exploration per spike (message testing, partner feedback, FAQs and assets) • Draft messaging, web content, social content and case studies needed 3-4 weeks in advance of launch. • Workshops for people with Learning Disabilities valuable and in progress - lack of Choice Support resource an issue.
--	--	--	--	---

				<ul style="list-style-type: none"> • Case studies process to be refined and stories approved before production. Animation time-consuming/costly. • Reliance on social media ads risky, esp. with tightening FB and Google privacy rules & simplified analysis/targeting. • Increase variety and volume of digital assets produced for organic activity (keep discreet from paid ads). • Feedback from men and people from Black and Asian communities underrepresented - a sector-wide challenge. • No demographic profiling of CQC form submissions is available – this is an area of development for 21-22. <p>We will share the full evaluations with the successful supplier.</p>
13	17/02/2022	The brief references requiring a new campaign brand – what is the reasoning for this and is this off the back of wider brand positioning work the CQC may be undertaking?	24/02/2022	<p>CQC is not undertaking an organisation rebrand.</p> <p>In looking to develop a new campaign for 2022/23 we'd want to test new platforms against Because We All Care to understand if 17/02/2022this, messaging and creatives still resonated best with our audiences.</p>
14	17/02/2022	Are there any barriers to success we should be aware of and factor into our response?	24/02/2022	<p>Limitations include:</p> <ul style="list-style-type: none"> • Facebooks recently introduced restrictions on targeting • CQC: Our GFC currently does not capture equalities monitoring information • Restrictions on including a Facebook pixel (ie we don't have one), however HW has a FB pixel • CQC: Website is not yet mobile friendly (this is in progress) • HW: Overreliance on Facebook
15	17/02/2022	What evaluation tools do you currently have in place for marketing/comms or do you require the appointed supplier to recommend these to you?	24/02/2022	<p>Social media – Meltwater, Sprout Social, FB analytics Website: Hotjar and Google analytics Media (National, regional, trade) Gorkana Volume of forms/ feedback – Internal Power Bi Dashboard, CRM</p>

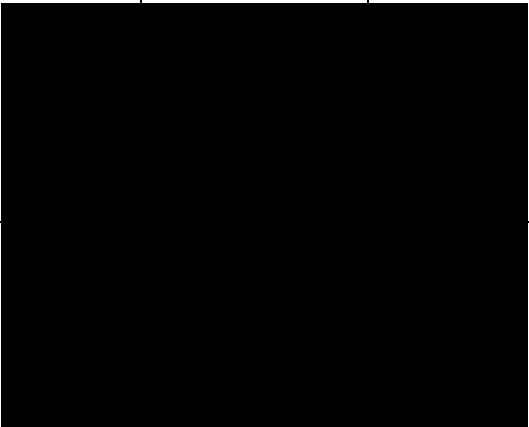
				We would expect the supplier to report on data captured through the business/advertising portals on the platform they advertise on.
16	17/02/2022	Consumer research Does CQC have a research partner it uses regularly, or would part of the supplier's involvement be to map and onboard the right research partner(s) to deliver against specific audiences?	24/02/2022	There may be the opportunity to work with other suppliers during the duration of the contract, however, at this point it is unknown and therefore would ask the suppliers to please include market research, and the costs within the cost envelope.
17	17/02/2022	Programme delivery Does the CQC have other agencies in place and if so, how do you see them working together/split of responsibilities?	24/02/2022	As above
18	18/02/2022	What has led to you refreshing the campaign, was there anything specific you want to change up or address?	24/02/2022	<p>Because We All Care was develop during the pandemic, through focus group testing and 1:1 interviews with a range of participants including carers, people with a long-term condition. We tested 4 platforms and explored motivators and barriers to feeding back along with messaging and design creatives to gain insights on which most resonated with people to encourage them to feedback about their, or a loved one's care. This resulted in the development of Because We All Care in July 2020. It is also developed as a platform which other stakeholders can use to gather feedback about care.</p> <p>The refresh of Because We All Care, based in testing as described above, resulted in us launching an iteration of our 2020 campaign – there wasn't anything specific we wanted to change, we wanted to make sure our insights were still current, and the platform still resonated with people to create a platform to help encourage people to feedback about care.</p>
19	18/02/2022	Can you explain your in-house team set-up and what they are responsible for delivering for the campaign?	24/02/2022	There is a Campaign Lead at CQC and the equivalent at HWE. We hold weekly Campaign Account Management meetings; these include representatives across CQC and HWE Engagement teams.
20	18/02/2022	Do you have a bank of case studies for filming purposes or is the selected agency partner responsible for identifying suitable candidates?	24/02/2022	CQC don't have a standard bank we source on a need's basis, HWE have developed a bank of case studies to call

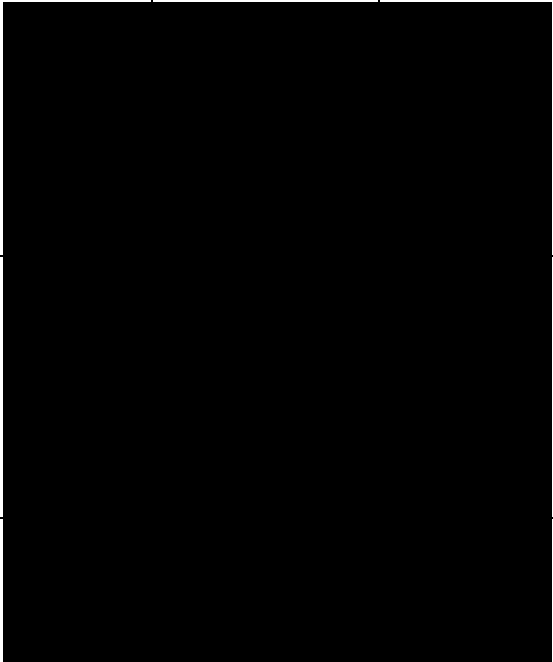
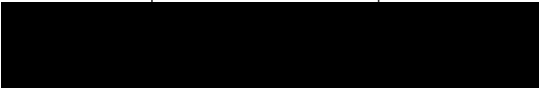
				<p>upon based on priority issues, such as dentistry and accessible communications. We have a mechanism of recruiting case studies either through feedback form (provided consent has been given by a person providing feedback) or through engaging with local Healthwatch, or through social media channels.</p> <p>CQC source case studies through our own and earned channels but also welcome the successful agency to help source and identify case studies and people's stories.</p>
21	18/02/2022	In terms of the Commercial Envelope: can you provide guidance on usual weighting / splits in a campaign for Paid media, production, agency fees etc.	24/02/2022	Given the designated outcomes we are looking to be guided by the supplier on how to most effectively split budget.
22	18/02/2022	Can you confirm if this is an 'always on' campaign throughout the year, or if you'd like to push the campaign messaging etc at specific points in the year (ie awareness days)	24/02/2022	Organically we look to optimise messaging through awareness days but would also welcome the supplier to identify creative opportunities to amplify our campaign on awareness days throughout the year.
25	18/02/2022	What exactly does success look like for this campaign / do you have another campaign you previously delivered that can serve as a benchmark?	24/02/2022	<p>Previous public behaviour change campaigns delivered by CQC and Health-watch have achieved:</p> <ul style="list-style-type: none"> • all CQC feedback routes 25% increase from same period previous year (online CQC feedback form submissions 62% higher than the same period the previous year) • HWE feedback from submissions 23% higher than the same period the previous year • Find your local Healthwatch page views 68% higher than the same period the previous year. <p>Full evaluations will be shared with the successful agency.</p>

Order Schedule 5 (Pricing Details)

INVOICES WILL BE PAID WITHIN 30 DAYS IN ARREARS, INVOICES NEED TO QUOTE A VALID PURCHASE ORDER NUMBER TO ENABLE PAYMENT AND SENT TO THE FOLLOWING ADDRESS:

Care Quality Commission
T70 Payables F175
Phoenix House
Topcliffe Lane
Wakefield
WF3 1WE
Or alternately email to: sbs.apinvoicing@nhs.net

Item no	Module Name	Module Element	Number of days	Total cost (excluding VAT)	Total cost (including VAT)
1.	a) Campaign implementation and evaluation activity for an established campaign in 2022				
1a)	Campaign preparation	Estimated based on the anticipated delivery of: <ul style="list-style-type: none">Planning and budget set upStrategy review, channel and tactical planningConsumer research management and delivery for x4 spikes			

		<ul style="list-style-type: none"> Development of all campaign materials for x4 spikes (e.g., media content, social media content, creative visual asset design) Case study management and content creation x2 			
1b)	Campaign implementation	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> Media outreach for x4 spikes Management and reporting of digital activations for x4 spikes 			
1c)	Campaign evaluation	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> Delivery of campaign evaluation report and recommendations for x4 spikes 			
1d)	Other activity and potential costs	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> Account management fee (including project meetings and client liaison) <p><i>£27,000 reserved for campaign preparation and delivery costs to be determined, for example:</i></p> <ul style="list-style-type: none"> Advertising budget Additional asset creation (e.g., video, photography) Consumer research costs Travel and subsistence allowance 			
2.	b) 2023 end to end campaign planning (for delivery in 2023 calendar year)				

2a)	Campaign planning, research and development.	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> • Planning and budget set up • Insight work and development of new campaign platforms (including development of branding options) • Audience testing (e.g., planning and delivery of focus groups, delivery of insights report) • Delivery and agreement of overarching campaign strategy and channel/tactical plans 			
2b)	Campaign preparation	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> • Case study recruitment • Recruitment of ambassadors/partners • Consumer research management and delivery <p><i>Please note, additional asset development would be delivered in Year 2.</i></p>			
2c)	Other activity and potential costs	<p>Estimated based on the anticipated delivery of:</p> <ul style="list-style-type: none"> • Account management fee (including project meetings and client liaison) 			

		<i>£6,060 reserved for campaign planning costs to be determined, for example:</i> <ul style="list-style-type: none"><i>• Audience testing recruitment costs and incentives</i><i>• Consumer research costs</i>			
Total Cost					

Order Schedule 6 (ICT Services) – NOT USED

1. Definitions

1.1. 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

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

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:

oods or Services are (or are to be) provided; or
gency manages, organises or otherwise directs the provision or the use of the Goods or Services; or

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;

2. When this Schedule should be used

2.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Goods or Services.

3. Client due diligence requirements

3.1. The Agency shall satisfy itself of all relevant details, including but not limited to, details relating to the following;

- 3.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
- 3.1.2. operating processes and procedures and the working methods of the Buyer;
- 3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Goods or Services of the Clients Assets; and
- 3.1.4. 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.

3.2. The Agency confirms that it has advised the Client in writing of:

- 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
- 3.2.2. the actions needed to remedy each such unsuitable aspect; and 3.2.3. a timetable for and the costs of those actions.

4. Licensed software warranty

4.1. The Agency represents and warrants that:

4.1.1. 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;

4.1.2. all components of the Specially Written Software shall:

4.1.2.1. be free from material design and programming errors;

4.1.2.2. perform in all material respects in accordance with the relevant specifications contained in Order Schedule 14 (Service Levels) and Documentation; and

4.1.2.3. not infringe any IPR.

5. Provision of ICT Services

5.1. The Agency shall:

- 5.1.1. 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;
- 5.1.2. 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;
- 5.1.3. ensure that the Agency System will be free of all encumbrances;
- 5.1.4. 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;
- 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Goods or Services;

6. Standards and Quality Requirements

- 6.1. 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**").

- 6.2. 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.
- 6.3. Following the approval of the Quality Plans, the Agency shall provide all Goods or Services in accordance with the Quality Plans.
- 6.4. The Agency shall ensure that the Agency Personnel shall at all times during the Order Contract Period:

- 6.4.1. be appropriately experienced, qualified and trained to supply the Goods or Services in accordance with this Contract;
- 6.4.2. 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
- 6.4.3. 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.

7. ICT Audit

- 7.1. The Agency shall allow any auditor access to the Agency premises to:

- 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
- 7.1.2. review any records created during the design and development of the Agency System and pre-operational environment such as information relating to Testing;

7.1.3. review the Agency 's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

8.1. 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.

8.2. 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.

8.3. The Agency shall give as much notice as is reasonably practicable to the Client prior to carrying out any Emergency Maintenance.

8.4. 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.

6. Intellectual Property Rights in ICT

9.1. Assignments granted by the Agency: Specially Written Software

9.1.1. 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:

- 9.1.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software; and
- 9.1.1.2. 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"**).

9.1.2. The Agency shall:

- 9.1.2.1. inform the Client of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
- 9.1.2.2. 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
- 9.1.2.3. 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.

9.1.3. 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.

9.2. Licences for non-COTS IPR from the Agency and third parties to the Buyer

9.2.1. Unless the Client gives its Approval the Agency must not use any:

- a) of its own Existing IPR that is not COTS Software;
- b) third party software that is not COTS Software

9.2.2. 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.

9.2.3. 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:

9.2.3.1. 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

9.2.3.2. 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.

9.2.4. 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.

9.2.5. 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.

9.3. Licenses for COTS Software by the Agency and third parties to the Buyer

- 9.3.1. 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.
- 9.3.2. 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.
- 9.3.3. 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 licensee 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.
- 9.3.4. 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:

- 9.3.4.1. will no longer be maintained or supported by the developer; or
- 9.3.4.2. will no longer be made commercially available

9.4. Client's right to assign/novate licences

9.4.1. The Client may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:

9.4.1.1. a Central Government Body; or

9.4.1.2. 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.

9.4.2. 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.

9.5. Licence granted by the Buyer

9.5.1. 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 neces-

sary 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).

9.6. Open Source Publication

9.6.1. 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:

9.6.1.1. suitable for publication by the Client as Open Source; and 9.6.1.2. based on
Open Standards (where applicable),

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

9.6.2. The Agency hereby warrants that the Specially Written Software and the New IPR:

- 9.6.2.1. 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;
- 9.6.2.2. 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;
- 9.6.2.3. do not contain any material which would bring the Client into disrepute;
- 9.6.2.4. can be published as Open Source without breaching the rights of any third party;
- 9.6.2.5. 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
- 9.6.2.6. do not contain any Malicious Software.

9.6.3. 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:

- 9.6.3.1. 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

- 9.6.3.2. 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.

9.7. Malicious Software

- 9.7.1. 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.

- 9.7.2. 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.

- 9.7.3. 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:

- 9.7.3.1. 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

9.7.3.2. 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).

9.8. Agency Furnished Terms -

9.9. Software Licence Terms

9.9.1.1. Terms for licensing of non-COTS third party software in accordance with Paragraph 9.2.3 are detailed in [insert reference to relevant Schedule].

9.9.1.2. Terms for licensing of COTS software in accordance with Paragraph 9.3 are detailed in [insert reference to relevant Schedule]

9.10. Software as a Service Terms

9.10.1.1. Additional terms for provision of a Software as a Service solution are detailed in [insert reference to relevant Schedule].

9.11. Software Support & Maintenance Terms

9.11.1.1. 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 longterm 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

1.1 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;

2. BCDR Plan

- 2.1 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.
- 2.2 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:

2.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Goods or Services; and

2.2.2 the recovery of the Goods or Services in the event of a Disaster

2.3 The BCDR Plan shall be divided into three sections:

2.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

2.3.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and

2.3.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").

2.4 Following receipt of the draft BCDR Plan from the 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.

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

3.1 Section 1 of the BCDR Plan shall:

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

- (c) 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
 - (d) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Agency (and any Subcontractors) and for the Client;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Client has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Client as required by the Client to inform decisions in support of the Client's business continuity plans.

3.2 The BCDR Plan shall be designed so as to ensure that:

- 3.2.1 the Goods or Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
- 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
- 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
- 3.2.4 it details a process for the management of disaster recovery testing.

- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Goods or Services and the business operations supported by the provision of Goods or Services.
- 3.4 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.

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

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

4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Goods or Services; and

- 4.1.2 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.

- 4.2 The Business Continuity Plan shall:

4.2.1 address the various possible levels of failures of or disruptions to the provision of Goods or Services;

4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Goods or Services;

4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (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

4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

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

5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the 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.

5.2 The Agency's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:

5.2.1 loss of access to the Client Premises;

5.2.2 loss of utilities to the Client Premises;

5.2.3 loss of the Agency's helpdesk or CAFM system;

5.2.4 loss of a Subcontractor;

5.2.5 emergency notification and escalation process;

5.2.6 contact lists;

5.2.7 staff training and awareness;

5.2.8 BCDR Plan testing;

5.2.9 post implementation review process;

5.2.10 any applicable Performance Indicators (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;

5.2.11 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;

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

5.2.13 testing and management arrangements.

6. Review and changing the BCDR Plan

6.1 The Agency shall review the BCDR Plan:

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

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

6.1.3 where the 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.

6.2 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.

6.3 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.

6.4 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.

6.5 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.

7. Testing the BCDR Plan

7.1 The Agency shall test the BCDR Plan:

7.1.1 regularly and in any event not less than once in every Contract Year; 7.1.2 in the event of any major reconfiguration of the Goods or Services

7.1.3 at any time where the Client considers it necessary (acting in its sole discretion).

7.2 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.

7.3 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.

7.4 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.

- 7.5 The Agency shall, within twenty (20) Working Days of the conclusion of each test, provide to the Client a report setting out:

7.5.1 the outcome of the test;

7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and

7.5.3 the Agency's proposals for remedying any such failures.

- 7.6 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.

8. Invoking the BCDR Plan

- 8.1 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.

9. Circumstances beyond your control

- 9.1 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

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

"Breach of Security"	the occurrence of:
-----------------------------	--------------------

- a) any unauthorised access to or use of the 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

- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the 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.

2. Complying with security requirements and updates to them

- 2.1 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.
- 2.2 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.

- 2.3 Where the Security Policy applies the Client shall notify the Agency of any changes or proposed changes to the Security Policy.
- 2.4 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.
- 2.5 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.

3. Security Standards

- 3.1 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.
- 3.2 The Agency shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:

3.2.1 is in accordance with the Law and this Contract; 3.2.2

as a minimum demonstrates Good Industry Practice;

3.2.3 meets any specific security threats of immediate relevance to the Goods or Services and/or the Government Data; and

3.2.4 where specified by the Client in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.

3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Agency from time to time.

3.4 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.

4. Security Management Plan

4.1 Introduction

4.1.1 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.

4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

- a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Agency;
- c) 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;
- d) 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;
-) 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;

- f) 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
- g) 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.

4.3 Development of the Security Management Plan

4.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the 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.

4.3.2 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.

4.3.3 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.

4.3.4 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.

4.4 Amendment of the Security Management Plan

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Agency at least annually to reflect:

- a) emerging changes in Good Industry Practice;
- b) any change or proposed change to the Goods or Services and/or associated processes;
- c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
- d) any new perceived or changed security threats; and
- e) any reasonable change in requirements requested by the Client.

4.4.2 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:

- a) suggested improvements to the effectiveness of the Security Management Plan;
- b) updates to the risk assessments; and
- c) suggested improvements in measuring the effectiveness of controls.

4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the 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.

4.4.4 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.

5. Security breach

5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Agency shall:

5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Client) necessary to:

- a) minimise the extent of actual or potential harm caused by any Breach of Security;
- b) remedy such Breach of Security to the extent possible and protect the integrity of the 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;
- c) prevent an equivalent breach in the future exploiting the same cause failure; and
- d) 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.

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

Part B – Annex 1: Baseline security requirements

1. Handling Classified information

- 1.1 The Agency shall not handle Client information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Agency shall seek additional specific guidance from the Client.

2. End user devices

- 2.1 When Government Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the National Cyber Security Centre ("NCSC") to at least Foundation Grade, for example, under the NCSC Commercial Product Assurance scheme ("CPA").
- 2.2 Devices used to access or manage Government Data and services must be under the management authority of Client or Agency and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Client. Unless otherwise agreed with the Client in writing, all Agency devices are expected to meet the set of security requirements set out in the End User Devices Security Guidance (<https://www.ncsc.gov.uk/guidance/end-user-device-security>). Where the guidance highlights shortcomings in a particular

platform the Agency may wish to use, then these should be discussed with the Client and a joint decision shall be taken on whether the residual risks are acceptable. Where the Agency wishes to deviate from the NCSC guidance, then this should be agreed in writing on a case by case basis with the Client.

3. Data Processing, Storage, Management and Destruction

3.1 The Agency and Client recognise the need for the Client's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Agency must be able to state to the Client the physical locations in which data may be stored, processed and managed from, and what legal and regulatory DPSs Government Data will be subject to at all times.

3.2 The Agency shall agree any change in location of data storage, processing and administration with the Client in accordance with Clause 14 (Data protection).

3.3 The Agency shall:

~~3.3.1 provide the Client with all Government Data on demand in an agreed open format;~~

3.3.2 have documented processes to guarantee availability of Government Data in the event of the Agency ceasing to trade;

3.3.3 securely destroy all media that has held Government Data at the end of life of that media in line with Good Industry Practice; and

3.3.4 securely erase any or all Government Data held by the Agency when requested to do so by the Client.

4. Ensuring secure communications

- 4.1 The Client requires that any Government Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA.
- 4.2 The Client requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

5. Security by design

- 5.1 The Agency shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Government Data.
- 5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Agency) the Agency shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a NCSC certification (<https://www.ncsc.gov.uk/section/products-services/ncsc-certification>) for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Agency).

6. Security of Agency Staff

- 6.1 Agency Staff shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.
- 6.2 The Agency shall agree on a case by case basis Agency Staff roles which require specific government clearances (such as 'SC') including system administrators with privileged access to IT systems which store or process Government Data.
- 6.3 The Agency shall prevent Agency Staff who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Government Data except where agreed with the Client in writing.
- 6.4 All Agency Staff that have the ability to access Government Data or systems holding Government Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Client in writing, this training must be undertaken annually.
- 6.5 Where the Agency or Subcontractors grants increased ICT privileges or access rights to Agency Staff, those Agency Staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

7. Restricting and monitoring access

- 7.1 The Agency shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Agency) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least

privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Agency shall retain an audit record of accesses.

8. Audit

8.1 The Agency shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Agency audit records should (as a minimum) include:

8.1.1 ~~Logs to facilitate the identification of the specific asset which makes every outbound~~ request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Agency). To the extent the design of the Goods or Services allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, fire-walls and routers.

8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Agency) and shall include: privileged account log-on and log-off events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.

8.2 The Agency and the Client shall work together to establish any additional audit and monitoring requirements for the ICT Environment.

8.3 The Agency shall retain audit records collected in compliance with this Paragraph 8 for a period of at least 6 Months.

Part B – Annex 2 - Security Management Plan

Where we engage 3rd party suppliers as part of our service provision to clients, if we pass client personal data to those suppliers, we assess their security & privacy program and ensure we have appropriate contracts in place with them as we are required to do in line with GDPR requirements. Where personal data is not passed onto a sub-processor, but the nature of the client business data was sensitive, we would similarly assess any sub-processor party to client sensitive data. We use www.OneTrust.com to undertake such assessments.

Order Schedule 10 (Exit Management)

1. Definitions

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

"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;

has the meaning given to it in
Paragraph 8.2.3 of this Schedule.

"Transferring Contracts"

2. **Agency must always be prepared for contract exit**

2.1 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.

2.2 During the Contract Period, the Agency shall promptly:

2.2.1 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

2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Agency provides the Goods or Services ("**Registers**").

2.3 The Agency shall:

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the 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.

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

- 2.5 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.

3. Assisting re-competition for Goods or Services

- 3.1 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**").

- 3.2 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.
- 3.3 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).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Goods or Services; and not be disadvantaged in any procurement process compared to the Agency.

4. Exit Plan

- 4.1 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.
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Goods or Services will transfer to the Replacement Agency and/or the Client;
- 4.3.3 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;
- 4.3.4 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;
- 4.3.5 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;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Agency in connection with the supply of the Goods or Services;
- 4.3.7 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;
- 4.3.8 proposals for the disposal of any redundant Goods or Services and materials;
- 4.3.9 how the Agency will ensure that there is no disruption to or degradation of the Goods or Services during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Client or a Replacement Agency.

4.4 The Agency shall:

4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:

- (a) every six (6) months throughout the Contract Period; and
- (b) no later than twenty (20) Working Days after a request from the Client for an up-to-date copy of the Exit Plan;
- (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Goods or Services (including all changes under the Variation Procedure); and

4.4.2 jointly review and verify the Exit Plan if required by the Client and promptly correct any identified failures.

4.5 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.

4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Agency.

5. Termination Assistance

5.1 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:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 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.

5.2 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:

5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and

5.2.2 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.

5.3 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.

5.4 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).

6. Termination Assistance Period

6.1 Throughout the Termination Assistance Period the Agency shall:

6.1.1 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;

6.1.2 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;

- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Client;
- 6.1.4 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;
- 6.1.5 at the Client's request and on reasonable notice, deliver up-to-date Registers to the Client;
- 6.1.6 seek the Client's prior written consent to access any Client Premises from which the de-installation or removal of Agency Assets is required.

- 6.2 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.
- 6.3 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.

7. Obligations when the contract is terminated

- 7.1 The Agency shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Agency's performance of the Goods or Services and the Termination Assistance), the Agency shall:

7.2.1 vacate any Client Premises;

7.2.2 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;

7.2.3 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:

- (a) such information relating to the Goods or Services as remains in the possession or control of the Agency; and
- (b) 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.

7.3 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.

8. Assets, Sub-contracts and Software

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

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

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

8.2 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:

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

8.2.2 which, if any, of:

(a) the Exclusive Assets that are not Transferable Assets; and

(e) the Non-Exclusive Assets,
the Client and/or the Replacement Agency requires the continued use of; and

8.2.3 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.

8.3 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.

8.4 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.

8.5 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:

8.5.1 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

8.5.2 procure a suitable alternative to such assets, the Client or the Replacement Agency to bear the reasonable proven costs of procuring the same.

8.6 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.

8.7 The Client shall:

8.7.1 ~~accept assignments from the Agency or join with the Agency in procuring a novation of each Transferring Contract; and~~

8.7.2 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.

8.8 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.

8.9 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.

9. No charges

9.1 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.

10.Dividing the bills

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be

apportioned between the Client and/or the Replacement and the Agency as follows:

- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
 - 10.1.2 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
 - 10.1.3 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

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

a delay in the Achievement of a Milestone by its Milestone Date; or

"Delay"

a) 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;

_____ has the meaning given to it in Paragraph 7.1;

Implementation Period"

2. Agreeing and following the Implementation Plan

2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Agency shall provide a further draft Implementation Plan 30 days after the Order Contract Start Date.

2.2 The draft Implementation Plan:

2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Client may otherwise require; and

2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Agency.

2.3 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.

2.4 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.

2.5 The Agency shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Client on such performance.

3. Reviewing and changing the Implementation Plan

3.1 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.

3.2 The Client shall have the right to require the Agency to include any reasonable changes or provisions in each version of the Implementation Plan.

3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.

3.4 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.

4. Security requirements before the Start Date

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 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.

5. What to do if there is a Delay

5.1 If the Agency becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:

- 5.1.1 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;
 - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
 - 5.1.3 comply with the Client's instructions in order to address the impact of the Delay or anticipated Delay; and
 - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.
-

6. Compensation for a Delay

6.1 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:

6.1.1 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;

6.1.2 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:

- (a) 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
- (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;

- 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
- 6.1.4 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
- 6.1.5 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).
- 6.1.6 Implementation Plan
- 6.1.7 The Implementation Period will be a [six (6)] Month period.
- 6.1.8 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.
- 6.1.9 In accordance with the Implementation Plan, the Agency shall:
- 6.1.10 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;
- 6.1.11 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;
- 6.1.12 liaise with the incumbent Agency to enable the full completion of the Implementation Period activities; and
- 6.1.13 produce a Implementation Plan, to be agreed by the Client, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 6.1.14 The Implementation Plan will include detail stating:
- 6.1.15 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

- 6.1.16 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.
- 6.1.17 In addition, the Agency shall:
- 6.1.18 appoint an 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;
- 6.1.19 mobilise all the Services specified in the Specification within the Order Contract;
- 6.1.20 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:
- 6.1.21 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
- 6.1.22 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.
- 6.1.23 manage and report progress against the Implementation Plan;
- 6.1.24 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;
- 6.1.25 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

6.1.26 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 in Order Schedule 4 (Proposal) pages 7 - 14 (see sections from Campaign Planning to Measuring Advantage)

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Part B – Testing – NOT USED

1. Definitions

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

	any constituent parts of the Goods or Services;
"Component"	
"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;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"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

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

"Testing Procedures"	the applicable testing procedures and Test Success Criteria set out in this Schedule.
-----------------------------	---

2. How testing should work

2.1 All Tests conducted by the Agency shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.

2.2 The Agency shall not submit any Deliverable for Testing:

- 2.2.1 unless the Agency is reasonably confident that it will satisfy the relevant Test Success Criteria;
- 2.2.2 until the Client has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
- 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).

2.3 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.

2.4 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

3. Planning for testing

3.1 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.

3.2 The final Test Strategy shall include:

3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;

3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;

3.2.3 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;

3.2.4 the procedure to be followed to sign off each Test;

3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;

3.2.6 the names and contact details of the Client and the Agency's Test representatives;

3.2.7 a high level identification of the resources required for Testing including Client and/or third party involvement in the conduct of the Tests;

3.2.8 the technical environments required to support the Tests; and

3.2.9 the procedure for managing the configuration of the Test environments.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

4. Preparing for Testing

4.1 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.

4.2 Each Test Plan shall include as a minimum:

4.2.1 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

4.2.2 a detailed procedure for the Tests to be carried out.

4.3 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.

5. Passing Testing

5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

6. How Goods or Services will be tested

6.1 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).

6.2 Each Test Specification shall include as a minimum:

6.2.1 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;

6.2.2 a plan to make the resources available for Testing;

6.2.3 Test scripts;

6.2.4 Test pre-requisites and the mechanism for measuring them; and

6.2.5 expected Test results, including:

- (a) a mechanism to be used to capture and record Test results; and
- (b) a method to process the Test results to establish their content.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

7. Performing the tests

- 7.1 Before submitting any Goods or Services for Testing the Agency shall subject the relevant Goods or Services to its own internal quality control measures.
- 7.2 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.
- 7.3 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.
- 7.4 The Client may raise and close Test Issues during the Test witnessing process.

7.5 The Agency shall provide to the Client in relation to each Test:

- 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
- 7.5.2 the final Test Report within 5 Working Days of completion of Testing.

- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Goods or Services, including:

7.6.1 an overview of the Testing conducted;

7.6.2 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;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 7.6.3 the Tests that were not completed together with the Agency's explanation of why those Tests were not completed;
- 7.6.4 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
- 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
-
- 7.7 When the Agency has completed a Milestone it shall submit any Goods or Services relating to that Milestone for Testing.
- 7.8 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.
- 7.9 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.

8. Discovering Problems

8.1 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.

8.2 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 8.3 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.

9. Test witnessing

- 9.1 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.
- 9.2 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.
- 9.3 The Test Witnesses:

~~9.3.1 shall actively review the Test documentation;~~

- 9.3.2 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;

9.3.3 shall not be involved in the execution of any Test;

- 9.3.4 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;

- 9.3.5 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;

- 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

9.4 may require the Agency to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

10. Auditing the quality of the test

10.1 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.

10.2 The Agency shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.

10.3 The Client will give the Agency at least 5 Working Days' written notice of the Client's intention to undertake a Testing Quality Audit.

10.4 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.

10.5 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.

10.6 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

11. Outcome of the testing

11.1 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.

11.2 If the Goods or Services (or any relevant part) do not satisfy the Test Success Criteria then the Client shall notify the Agency and:

11.2.1 the Client may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;

11.2.2 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

11.2.3 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.

11.3 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

11.4 The Client shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:

11.4.1 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

11.4.2 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.

11.5 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).

11.6 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.

11.7 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.

11.8 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.

11.9 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:

11.9.1 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

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

11.9.2 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.

12. Risk

12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

12.1.1 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

12.1.2 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Annex 1: Test Issues – Severity Levels

1. Severity 1 Error

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

2. Severity 2 Error

- 2.1 This is an error for which, as reasonably determined by the Client, there is no practicable workaround available, and which:

~~2.1.1 causes a Component to become unusable;~~

2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or

2.1.3 has an adverse impact on any other Component(s) or any other area of the Goods or Services;

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

3. Severity 3 Error

3.1 This is an error which:

3.1.1 causes a Component to become unusable;

3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or

3.1.3 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;

4. Severity 4 Error

4.1 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.

RM6124 – Communications Marketplace DPS
Project Version: v1.0

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

5. Severity 5 Error

5.1 This is an error that causes a minor problem, for which no work-around is required, and which has no impact on the current Test, or other areas of the Goods or Services.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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 14 (Service Levels)

1. Definitions

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

_____ **“Critical Service** _____ has the meaning given to it in the Order
Form; Level Failure”

"Service Credits"	_____
_____	any service credits specified in the Annex to Part A of
_____	this Schedule being payable by the Agency to the
	Client in respect of any failure by the Agency to meet
	one or more Service Levels;

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

"Service Credit Cap" has the meaning given to it in the Order Form;

"Service Level Failure" means a failure to meet the Service Level Performance Measure in respect of a Service Level;

"Service Level Performance and Measure" shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule;

"Service Level Threshold" shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

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

- 2.1 The Agency shall at all times provide the Goods or Services to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Agency acknowledges that any Service Level Failure shall entitle the Client to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Client as a result of the Agency's failure to meet any Service Level Performance Measure.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

2.3 The Agency shall send Performance Monitoring Reports to the Client detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.

2.4 A Service Credit shall be the Client's exclusive financial remedy for a Service Level Failure except where:

2.4.1 the Agency has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or

2.4.2 the Service Level Failure:

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

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

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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

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

3. Critical Service Level Failure

3.1 On the occurrence of a Critical Service Level Failure

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

3.1.2 the Client shall be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Agency in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Part A: Service Levels and Service Credits

1. Service Levels

If the level of performance of the Agency:

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

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

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

1.a.1 require the Agency to immediately take all remedial action that is reasonable to mitigate the impact on the Client and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.a.2 instruct the Agency to comply with the Rectification Plan Process;

1.a.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Agency to the Client; and/or

1.a.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

2. Service Credits

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

Annex A to Part A: Services Levels and Service Credits Table –TBC

Service Levels			
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold
Accurate and timely billing of Client	Accuracy /Timelines	at least 98% at all times	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Access to Client support	Availability	at least 98% at all times	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure

The Service Credits shall be calculated on the basis of the following formula:
Example:

Formula: x% (Service Level Performance Measure) - x% (actual Service Level performance)	=	x% of the Charges payable to the Client as Service Credits to be deducted from the next Invoice payable by the Client
Worked example: 98% (e.g. Service Level Performance Measure requirement for accurate and timely billing Service Level) - 75% (e.g. actual performance achieved against this Service Level in a Service Period)	=	23% of the Charges payable to the Client as Service Credits to be deducted from the next Invoice payable by the Client]

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Part B: Performance Monitoring

3. Performance Monitoring and Performance Review

3.1 Within twenty (20) Working Days of the Start Date the Agency shall provide the Client with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

3.2 The Agency shall provide the Client with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

3.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;

3.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;

3.2.3 details of any Critical Service Level Failures;

3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;

3.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and

3.2.6 such other details as the Client may reasonably require from time to time.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Agency and the Client of the Performance Monitoring Reports. The Performance Review Meetings shall:

3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Agency at such location and time (within normal business hours) as the Client shall reasonably require;

3.3.2 be attended by the Agency's Representative and the Client's Representative; and

3.3.3 be fully minuted by the Agency and the minutes will be circulated by the Agency to all attendees at the relevant meeting and also to the Client's Representative and any other recipients agreed at the relevant meeting.

3.4 ~~The minutes of the preceding Month's Performance Review Meeting will be~~ agreed and signed by both the Agency's Representative and the Client's Representative at each meeting.

3.5 The Agency shall provide to the Client such documentation as the Client may reasonably require in order to verify the level of the performance by the Agency for any specified Service Period.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

4. Satisfaction Surveys

4.1 The Client may undertake satisfaction surveys in respect of the Agency's provision of the Goods or Services. The Client shall be entitled to notify the Agency of any aspects of their performance of the provision of the Goods or Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Order Schedule 15 (Order Contract Management)

1. Definitions

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

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

2. Managing the contract

2.1. 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

2.2. 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.

2.3. During the Contract Period, the Agency will:

2.3.1. 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

2.3.2. promptly inform the Client of any actual or anticipated problems relating to provision of the Goods or Services. Receipt of communication from

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

the Agency by the Client does not absolve the Agency from its responsibilities, obligations or liabilities under the Contract.

2.4. 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.

2.5. 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.

3. 3. Approvals and Authority

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

3.1. For the purposes of this Order Schedule 15, any reference to Client Approval means written approval in one of the following ways:

3.1.1. the Client issuing a purchase order bearing the signature of an Authorised Client Approver;

3.1.2. email from the individual business email address of an Authorised Client Approver; or

3.1.3. the signature of an Authorised Client Approver on the Agency’s documentation.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

3.2. The Agency will seek the Client's prior Approval of:

3.2.1. any estimates or quotations for any costs to be paid by the Client that are not agreed in a Statement of Work; and

3.2.2. any creative treatments, including but not limited to scripts, messaging, storyboards, copy, layouts, design, artwork, or proposed marketing activity.

3.3. 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

3.4. 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.

3.5. 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.

4. Monitoring Campaign Performance

4.1. 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.

4.2. The Agency will fully comply with all remote access requests.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

4.3. 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.

4.4. The Agency and the Client will agree a plan to address Audit findings to optimise campaign performance.

5. Contract Risk Management

5.1. Both Parties will proactively manage risks attributed to them under the terms of this Contract.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

5.2. The Agency will develop, operate, maintain and amend, as agreed with the Client, processes for:

5.2.1. the identification and management of risks;

5.2.2. the identification and management of issues; and

5.2.3. monitoring and controlling project plans.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

6. International Work

6.1. 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Annex: Contract Boards – NOT APPLICABLE

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

Order Schedule 16 (Benchmarking)

1. DEFINITIONS

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

"Benchmark Review"	a review of the Goods or Services carried out in accordance with this Schedule to determine whether those Goods or Services represent Good Value;
---------------------------	---

"Benchmarked Goods or Services"	any Goods or Services included within the scope of a Benchmark Review pursuant to this Schedule;
--	--

"Comparable Rates"	the Charges for Comparable Goods or Services;
---------------------------	---

"Comparable Goods or Services"	deliverables that are identical or materially similar to the Benchmarked Goods or Services (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Goods or Services exist in the market, the Agency shall propose an
---------------------------------------	---

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

approach for developing a comparable
Goods or Services benchmark;

"Comparison Group"

a sample group of organisations providing
Comparable Goods or Services which
consists of organisations which are either of
similar size to the Agency or which are
similarly structured in terms of their
business and their service offering so
as to be fair comparators with the
Agency or which, are best practice
organisations;

"Equivalent Data"

data derived from an analysis of the
Comparable Rates and/or the Comparable
Goods or Services (as applicable) provided
by the Comparison Group ;

"Good Value"

that the Benchmarked Rates are within the
Upper Quartile; and

"Upper Quartile"

in respect of Benchmarked Rates, that
based on an analysis of Equivalent Data, the
Benchmarked Rates, as compared to the
range of prices for Comparable Goods
or Services, are within the top 25% in
terms of best value for money for the
recipients of Comparable Goods or
Services.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

2. When you should use this Schedule

- 2.1 The Agency acknowledges that the Client wishes to ensure that the Goods or Services represent value for money to the taxpayer throughout the Contract Period.
- 2.2 This Schedule sets to ensure the Contracts represent value for money throughout and that the Client may terminate the Contract by issuing a Termination Notice to the Agency if the Agency refuses or fails to comply with its obligations as set out in Paragraphs 3 of this Schedule.
- 2.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

3. Benchmarking

3.1 How benchmarking works

- 3.1.1 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.
- 3.1.2 The Client may, by written notice to the Agency, require a Benchmark Review of any or all of the Goods or Services.
- 3.1.3 The Client shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Contract Commencement Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.4 The purpose of a Benchmark Review will be to establish whether the Benchmarked Goods or Services are, individually and/or as a whole, Good Value.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 3.1.5 The Goods or Services that are to be the Benchmarked Goods or Services will be identified by the Client in writing.
- 3.1.6 Upon its request for a Benchmark Review the Client shall nominate a benchmarker. The Agency must approve the nomination within ten (10) Working Days unless the Agency provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Client may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.7 The cost of a benchmarker shall be borne by the Client (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Goods or Services are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Agency and the relevant portion shall be reimbursed by the Client.

3.2 Benchmarking Process

- 3.2.1 The benchmarker shall produce and send to the Client, for Approval, a draft plan for the Benchmark Review which must include:

(a) a proposed cost and timetable for the Benchmark Review;

(b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

(c) a description of how the benchmarker will scope and identify the Comparison Group.

3.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.

3.2.3 The Client must give notice in writing to the Agency within ten (10) Working Days after receiving the draft plan, advising the bench-marker and the Agency whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.

3.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.

3.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:

(a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Agency's professional judgment using:

- (i) market intelligence;
- (ii) the benchmarker's own data and experience;
- (iii) relevant published information; and
- (iv) pursuant to Paragraph 3.2.7 below, information from other suppliers or purchasers on Comparable Rates;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
- (c) using the Equivalent Data, calculate the Upper Quartile;
- (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.

3.2.6 The Agency shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Agency agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.

3.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:

- (a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
- (b) exchange rates;
- (c) any other factors reasonably identified by the Agency, which, if not taken into consideration, could unfairly cause the Agency's pricing to appear non-competitive.

3.3 Benchmarking Report

3.3.1 For the purposes of this Schedule "**Benchmarking Report**" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

3.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Client, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:

- (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Goods or Services as a whole are, Good Value;
- (b) if any of the Benchmarked Goods or Services are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Goods or Services as a whole Good Value; and
- (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Agency has calculated whether or not the Bench-marked Goods or Services are, individually or as a whole, Good Value.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

3.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Client in accordance with Clause 24 (Changing the contract).

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Order Schedule 18 (Background Checks) NOT USED

1. When you should use this Schedule

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

0. Definitions

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

2. Relevant Convictions

3.1 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.

3.2 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):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (c) 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Annex 1 – Relevant Convictions

[Insert Relevant Convictions here]

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Order Schedule 19 (Scottish Law) – NOT USED

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Order Schedule 20 (Brief) –

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

1. Executive summary

The Care Quality Commission (CQC) is the independent regulator of health and social care in England. We make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve. We do this by registering, monitoring, inspection and rating, enforcement and through the use of our independent voice. Read CQC's strategy from 2021:

<https://www.cqc.org.uk/about-us/our-strategy-plans/new-strategy-changing-world-health-social-care-cqcs-strategy-2021>

Healthwatch England and the network of 151 local Healthwatch services act as the public's independent health and social care champion. Nationally and locally, we support people to share their experiences of care, as well as providing advice and information. We use the experiences that people share with us to tell health and care decision-makers how services can be improved.

Healthwatch England is part of CQC but works independently and under a separate brand. Read more about Healthwatch <https://www.healthwatch.co.uk/what-we-do>

CQC and Healthwatch work jointly on public behaviour change campaigns to drive more people to share their feedback on care experiences. People's experiences of care are fundamental to understanding care quality and improving services across the NHS, independent healthcare and social care services. Read more about previous CQC and Healthwatch campaigns

<https://www.cqc.org.uk/get-involved/share-your-experience/because-we-all-care>

We require a supplier that can support delivery of our joint behaviour change campaigns. We run our campaigns in line with Government Communication Service (GCS) best practice guidance. Read more about GCS <https://gcs.civilservice.gov.uk/guidance/marketing/behaviour-change/>

In the 2022/2023 business year we require a supplier that will support implementation activity and evaluation for an established campaign in 2022 **and** develop a new campaign brand and implementation plan for launch in the 2023 calendar year.

The contract will be established covering the 2022/2023 business year, with the option for further extensions in subsequent business years up to 2024/2025.

CQC and Healthwatch will share extensive existing audience research on motivations and barriers to giving feedback on care, previous campaign strategies, and detailed evaluation of previous campaigns with the successful supplier.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

For CQC, campaign work is one strand of a larger programme of work to increase the volume and range of people's experiences of care CQC has access to. CQC will share the overarching strategy for increasing the volume and range of people's experiences of care with the successful supplier.

Our primary outcome measures for campaigns include: the quantity of feedback about care experiences received and the proportion of feedback from specific target audiences. (e.g. individuals from seldom heard communities). The capture mechanism is:

- <https://www.cqc.org.uk/give-feedback-on-care> CQC online feedback form
- Experiences of care shared direct with CQC through telephone, email.
- <https://www.healthwatch.co.uk/have-your-say> Healthwatch online feedback form and feedback shared directly with local Healthwatch services.

In addition to our primary outcome measure being the volume of experiences of care shared direct with CQC and Healthwatch, both organisations also want our behaviour change campaign work to support a longer-term ambition to create a cultural shift to normalise and make routine the act of giving feedback about care.

2. Background

Previous public behaviour change campaigns delivered by CQC and Healthwatch have achieved:

- all CQC feedback routes **25% increase** from same period previous year (online CQC feedback form submissions **62% higher** than the same period the previous year)
- HWE feedback from submissions 23% higher than the same period the previous year.

We seek a supplier who will work collaboratively with CQC and Healthwatch colleagues. CQC and Healthwatch in-house teams will deliver the following:

- Overall campaign project management and evaluation.
- National and regional news media
- Partner engagement – including contracted partnerships with 'Tell us about your care' partners - <https://www.cqc.org.uk/get-involved/share-your-experience/tell-us-about-your-care-partnerships>
- Organic social media
- Health and Social care services (provider) engagement
- CQC and Healthwatch staff engagement
- Parliamentary and government engagement
- CQC Experts By Experience engagement <https://www.cqc.org.uk/about-us/jobs/experts-experience>
- Measurement of our primary behaviour objective (volumes of experiences shared through CQC and Healthwatch channels and proportion of feedback from target audiences)¹⁰

Whilst CQC and Healthwatch will lead on delivery of engagement and campaign implementation activity through the above channels, we welcome a supplier who can help us take a creative approach to how we engage with and make best use of them to achieve our behaviour change objective.

¹⁰ CQC channels include – contacts to all regulated health and social care providers in England (includes all hospitals, GP practices, care homes, dentists, care at home services), a network of hundreds of individual Experts by Experience, hundreds of CQC inspectors, and a reach of over 200,000 across our social channels.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

3. The requirement

2022/2023 business year requirements (Year 1)

The successful supplier will join us mid-way through the implementation phase of our 2022 calendar year campaign. This campaign is a refresh of our successful Because We All Care campaign.

Further 'spikes' of activity for planned campaign delivery in 2022 calendar year will target:

- people with a long-term condition,
- over 55s,
- people who are deaf or hard of hearing, and
- people with a learning disability and autistic people.

Throughout each of these broadly 1 month long 'spikes' we also seek to reach people from within the above segmented population groups who are more likely to experience poorer health outcomes¹¹.

Towards the end of the 2022 calendar year the successful supplier will support CQC and Healthwatch colleagues to make an informed decision about whether to further re-refresh our Because We All Care campaign platform for activity in the 2023 calendar year or to develop a new end to end campaign.

We require a supplier who can deliver the following:

a) Campaign implementation and evaluation activity for an established campaign (Because We All Care) in 2022:

- Work collaboratively with CQC and Healthwatch in-house teams
- Grounded in audience insight and evidence, review our campaign strategy and implementation plan for the 2022 calendar year and bring their creative and professional expertise to:
- make proposals for campaign implementation activity for the remaining audience focused-spikes – giving particular consideration to how accessibility requirements can be used as a creative opportunity.
 - o develop a suite of new, editable, campaign assets for organic, earned and paid activity using the existing Because We All Care platform
 - o develop proposals for digital advertising approach and lead implementation
 - o support campaign implementation. Delivery likely to include:
 - lead delivery of timely consumer research surveys and findings report – ahead of each audience focus
 - case study filming and photography
 - consumer media implementation (National, trade & regional media delivered by CQC in-house team)
 - paid for digital marketing

¹¹ Includes: Deprivation, Age: People who are 80+ years old, Age: Looked after children and care leavers, Disability: People with a learning disability or autistic people, Disability: People with severe mental ill health, Disabled people with physical or sensory impairments, Disability: People with dementia. Ethnicity: People who are from Black and minority ethnic communities, Gender identity: Trans, non-binary and intersex people, Inclusion health groups of socially excluded people, Sexual orientation: Lesbian, gay and bisexual people, People who have experienced domestic abuse, including children from families where domestic abuse has occurred, People who are overweight or obese.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- compliment and maximise the impact of campaign work which will be delivered in-house by CQC and Healthwatch colleagues
 - work with other relevant external suppliers as required
 - Evaluation of the activity led by the supplier against agreed KPIs
- b) 2023 end to end campaign planning (for delivery in 2023 calendar year):
- From summer 2022 - guided by CQC and Healthwatch confirmation of target audiences for 2023 campaign delivery, undertake audience testing to inform decision re continuation of Because We All Care platform into 2023 calendar year, or development of a new campaign platform. Please note – CQC/Healthwatch campaign target audiences are likely to increasingly focus on people most likely to receive poor care.
 - Based on the above decision:
 - Develop an agile campaign strategy detailing the planning, implementation and evaluation of an England-wide campaign that will deliver CQC and Healthwatch outcomes for volumes of feedback received and the proportion of feedback from target audiences.
 - Give particular consideration to how accessibility requirements can be used as a creative opportunity
 - Compliment and maximise the impact of campaign work which will be delivered in-house by CQC and Healthwatch colleagues
 - Support with implementation of the above strategy which may include the following:
 - Consumer research surveys (see further detail below)
 - Platform development – brand and visual identity (design concepts), message development and audience testing
 - Channel strategy, tactics and planning, including consumer media and paid-for social
 - Content and asset development, including case study filming, photography, social (graphics, infographics, video content (including case studies and people's stories), podcasts and more (to be determined according to strategy and budget)
 - Campaign implementation (e.g. securing the support of new partners or campaign advocates, implementation of paid-for activity and consumer media)
 - Carrying out other activities as and when required
 - Channel monitoring and final evaluation report at the end of each campaign spike and then a final evaluation of the campaign in its entirety.

Consumer research

Considerations for consumer research:

Robust insights sit at the centre of our campaigns. Survey data will be published on the CQC and Healthwatch website(s) and we expect to receive questions from journalists specifically in relation to our data due to the nature of being the independent regulator of health and adult social care. We expect the supplier or its subcontractor to support us to answer queries received. Findings must be statistically significant and robust both at national and regional (to local authority area) breakdowns:

- Develop survey questions in conjunction with CQC and Healthwatch ahead of each campaign spike
- Liaison with research company

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- Manage questions to go into the field
- Return raw data for analysis
- Analysis of raw data into key findings – both at national and regional levels (focusing on what will best support CQC and Healthwatch to achieve the desired behaviour change outcomes)
- Comparison of data
- Quality assurance of data, including reviewing national and regional press releases to review statistical data

Paid digital advertising

CQC and Healthwatch have a substantial organic social media following supported by people, NHS and social care providers, key stakeholders including trade associations and the voluntary and community sector representing people who use services.

Considerations for digital advertising:

- Opportunity for split testing of creatives (e.g. cost per reach, cost per click through, cost per feedback completion) with the expectation that adjustments to content and channels can be made based on what we learn as we go

4. Cost Envelope

Cost Envelope
£120,000 (Inc VAT), £100,000.00 (Ex VAT) (Year 1) Year 2 £125,000 (Inc VAT), £104,166.66 (Ex VAT) Year 3 £125,000 (Inc VAT), £104,166.66 (Ex VAT) Full value amount £350k (Inc VAT) across the 3 years if contract extended, this will be subject to <u>budget availability</u>

5. Duration of Contract

Start Date	End Date	Extension Options (If Applicable)
May 2022	April 2023	2 x 12 months Extension options subject to budget availability - not guaranteed

6. Authority Responsibilities

- Appoint a CQC representative within the Engagement team to act as the contract manager who will be the main point of contact for the supplier.
- Share with the supplier all relevant information in relation to our work
- Attend regular contract management and service delivery meetings – the expectation is these will be at least weekly in planning and launch periods
- Ensure payments are made promptly and in line with the contract.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

7. Supplier Responsibilities

The supplier shall:

- Appoint a contract and/or a programme manager to oversee the work and liaise with/report as required to CQC's programme manager;
- Agree the nature and frequency of meetings required with CQC;
- Attend regular contract management meetings to discuss delivery of the contract.
- Perform quality assurance on all aspects of the programme delivery;
- Provide CQC with timely and ongoing evaluation and quality assurance information relating to the campaign delivery;
- Provide CQC with updates on costs and progress as required.
- Provide expertise and guidance regarding successful campaign planning and delivery.
- Attend a post contract review with CQC to review whether the objectives of the contract were met, to review the benefits achieved and to identify any lessons learnt for future projects.

8. Contract Management Arrangements

There will be a clear programme plan with deliverables and key performance indicators which will be monitored by CQC and the supplier.

Additionally, the supplier will be expected to:

- Communicate and meet (e.g. online) frequently with CQC as agreed;
- Work within agreed key performance indicators relating to quality, delivery of products and levels of service;
- Measure performance and provision of service on an ongoing basis against specific target dates;
- Provide reports on progress to the contract manager / programme manager;
- Attend key meetings in person to review progress and discuss the service, as required by the contract manager / programme manager
- Attend a post contract review with the CQC to review whether the objectives of the contract were met, to review the benefits achieved; and
- Identify any lessons learnt for future programmes.

9. Key Performance Indicators (KPIs)

We want to set ambitious targets for our behaviour change campaign work, grounded in the results we have achieved to date. The indicators below are indicative for campaign inputs and outcomes. Informed by the successful supplier's bid these will be refined and expanded as needed.

Indicator	Measured by	Target	Review Frequency
20% increase in people feeding back on care being share via CQC and Healthwatch England online feedback forms during the national launch, and subsequent spikes of activity (comparing to the same period the previous year)	CQC / Healthwatch measures via CQC Power Bi Dashboard, and CQC Google Analytics	To commence at the end of each campaign period (national	

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

		launch and spikes)	
Proportion of feedback generated by campaigns from specific target audiences	CQC / Healthwatch measures		
Cost per outcome	The unit cost per behaviour change		
Engagements/ interactions online	<p>The % of impressions generating an interaction (share/like/comment)</p> <p>Actions which involve active engagement (e.g. typing, not just 'one-click' endorsements)</p>		
Stated/intended behaviour change	<p>The proportion of target audience that claim they will act in accordance with campaign aim</p> <p>Absolute number and proportion of target audience</p>		
<p>Paid social media:</p> <p>Exceed 4.17% CTR for Facebook/Instagram</p> <p>Exceed 1.7% CTR for Twitter</p> <p>% conversions from paid for activity from campaign digital advertising to completing GCQC give feedback on care form / Healthwatch feedback form</p>	Analytics measured by agency, and CQC and Healthwatch Google Analytics	Ongoing through campaign periods	At least each week when paid for activity is running
<p>For 2022 calendar year delivery – development of a creative, agile campaign implementation plan that compliments (builds on and doesn't duplicate) an existing overarching strategy which includes in-house delivery activity.</p> <p>This will demonstrate how the proposed activity and its scheduling will deliver maximum benefit for CQC and Healthwatch against our defined outcomes</p>	Delivery of a plan that meets the indicators	Within two – four weeks of the contract	Within two – four weeks of the contract
Development of agile campaign strategy detailing the planning, implementation and evaluation of an	Delivery of a plan that meets the indicators	Summer 2022	

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

England-wide campaign to run from early 2023. This will demonstrate how the proposed activity and its scheduling will deliver maximum benefit for CQC and Healthwatch against our defined outcomes			
Content creation – e.g. Consumer research survey – timely ahead of each audience focus Filming of case studies and people's stories Editable social media assets (ppt and Illustrator formats) Print materials	Volume of content by type		
Reach - Aggregate audience reach - Reported online reach (as reported by digital platforms) - Estimated offline reach (reported audience reach for of-line media)	Absolute number and proportion of target audience	Ongoing activity, updates given at weekly calls	Within one month of campaign launch but flexible
Evaluation reports on the campaign activity delivered up to end March 2023.	Reports in word or ppt. The agency to present.	Within one month after the end of each campaign period of activity (National launch and spikes)	

10. Milestones

The table below sets out a proposed timetable of activity. Please note that this is intended as a guide and is subject to change. We will work with the successful supplier upon commencement of the contract to agree the programme for delivery.

Description	Target Date	Action to Achieve Milestone	Review Date
Initial meeting introduction CQC and agency	Within 7 days of the contract being awarded	Set up meeting	
Proposal for campaign implementation activity for the remaining audience focused-spikes	Within 30 days of the contract being awarded		
KPIs for supplier-led campaign implementation activity in 2022 (for the remaining audience focused-spikes)	Within 30 days of the contract being awarded		

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

Delivery of agreed 2022 campaign activity	Across 2022 calendar year		
Evaluation of supplier-led campaign activity	Q4 2022		
Develop an agile campaign strategy detailing the planning, implementation and evaluation of an England-wide campaign for delivery in 2023 that will deliver CQC and Healthwatch outcomes for volumes of feedback received.	Q3 2022		
KPIs for supplier-led campaign implementation activity in 2023	Q4 2022		

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Order Schedule 21 (Northern Ireland Law) – NOT USED

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Order Schedule 23 (HMRC Terms) – NOT USED

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In each Contract, unless the context otherwise requires:

- 1.3.1 the singular includes the plural and vice versa;
- 1.3.2 reference to a gender includes the other gender and the neuter;
- 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
- 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
- 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
- 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;

- 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
- 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
- 1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;
- 1.3.12 where the Client is a Central Government Body it shall be treated as contracting with the Crown as a whole;
- 1.3.13 any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred;

1.3.14 unless otherwise provided, references to "**Buyer**" or "**Client**" shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to "**Order Contract**" and "**Contract**" shall be construed as including Exempt Order Contracts.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Additional Insurances"	insurance requirements relating to an Order Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
"Admin Fee"	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees;
"Advertising Regulations"	a present or future applicable code of practice or adjudication of the Committee of Advertising Practice, Broadcast Committee of Advertising Practice or the Advertising Standards Authority (including any applicable modification, extension or replacement

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	thereof), together with other UK laws, statutes and regulations which are directly applicable to the Goods or Services;
"Affected Party"	the Party seeking to claim relief in respect of a Force Majeure Event;
"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Agency"	the person, firm or company identified in the DPS Appointment Form;
"Agency Assets"	all assets and rights used by the Agency to provide the Goods or Services in accordance with the Order Contract but excluding the Client Assets;
"Agency Authorised Representative"	the representative appointed by the Agency named in the DPS Appointment Form, or later defined in a Order Contract;
"Agency's Confidential Information"	any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Agency (including the Agency Existing IPR) trade secrets, Know-How, and/or personnel of the Agency; any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>reasonably to be considered to be confidential and which comes (or has come) to the Agency's attention or into the Agency's possession in connection with a Contract;</p> <p>Information derived from any of (a) and (b) above;</p>
"Agency's Contract Manager"	the person identified in the Order Form appointed by the Agency to oversee the operation of the Order Contract and any alternative person whom the Agency intends to appoint to the role, provided that the Agency informs the Client prior to the appointment;
"Agency Equipment"	The Agency's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Agency (but not hired, leased or loaned from the Client) in the performance of its obligations under this Order Contract;
"Agency Marketing Contact"	shall be the person identified in the DPS Appointment Form;
"Agency Non-Performance"	where the Agency has failed to:
	Achieve a Milestone by its Milestone Date;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>provide the Service and/or Goods in accordance with the Service Levels; and/or</p> <p>comply with an obligation under a Contract;</p>
"Agency Profit"	<p>in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of an Order Contract for the relevant period;</p>
"Agency Profit Margin"	<p>in relation to a period or a Milestone (as the context requires), the Agency Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;</p>
"Agency Staff"	<p>all directors, officers, employees, agents, consultants and contractors of the Agency and/or of any Subcontractor engaged in the performance of the Agency's obligations under a Contract;</p>
"Approval"	<p>the prior written consent of the Client and "Approve" and "Approved" shall be construed accordingly;</p>
"Audit"	<p>the Relevant Authority's right to:</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

verify the accuracy of the Charges and any other amounts payable by a Client under an Order Contract (including proposed or actual variations to them in accordance with the Contract);

verify the costs of the Agency (including the costs of all Subcontractors and any third-party suppliers) in connection with the provision of the Services;

verify the Open Book Data;

verify the Client's and each Subcontractor's compliance with the Contract and applicable Law;

identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Agency of the purpose or objective of its investigations;

identify or investigate any circumstances which may impact upon the financial stability of the Agency, , and/or any Subcontractors or their ability to provide the Goods or Services;

obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

review any books of account and the internal contract management accounts kept by the Agency in connection with each Contract including job or activity level accounts and reconciliations of estimated to actual Charges and costs (including the costs of all Subcontractors, any third-party suppliers, any group or associated companies and any travel and subsistence costs recharged by the Agency);

carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;

enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources;

monitor the performance of a Statement of Work against its objectives; or

verify the accuracy and completeness of any Management Information delivered or required by the DPS Contract;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Auditor"	the Relevant Authority's internal and external auditors;
	<p>the Relevant Authority's statutory or regulatory auditors;</p> <p>the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>HM Treasury or the Cabinet Office or GCS;</p> <p>any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and</p> <p>successors or assigns of any of the above;</p>
"Authorised Client Approver"	any personnel of the Client who have the authority to contractually bind the Buyer in all matters relating to an Order Contract. They must be named in the applicable Statement of Work, and the Agency must be notified if they change;
"Authorised Agency Approver"	any personnel of the Agency who have the authority to contractually bind the Agency in all matters relating to an Order Contract. They must be named in the applicable Statement of Work, and the Buyer must be notified if they change;
"Authority"	CCS and each Client;
"Authority Cause"	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Agency;
"BACS"	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Branding Guidance"	the agency marketing toolkit which includes logos and guidance provided by CCS to the Agency;
"Brief"	a statement issued by the Client detailing its requirements in respect of Goods or Services issued in accordance with the Order Procedure and included as Order Schedule 20 (Order Specification);
"Buyer"	means the Client;
"CCS"	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
"CCS Authorised Representative"	the representative appointed by CCS from time to time in relation to the DPS Contract initially identified in the DPS Appointment Form;
"Central Government Body"	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:
	Government Department; Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); Non-Ministerial Department; or Executive Agency;
"Change in Law"	any change in Law which impacts on the supply of the Goods or Services and performance of the Contract which comes into force after the Start Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Charges"	the prices (exclusive of any applicable VAT), payable to the Agency by the Client under the Order Contract, as set out in the Order Form, for the full and proper performance by the Agency of its obligations under the Order Contract less any Deductions and the GCS Management Charge;
"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
"Client"	the relevant public sector purchaser identified as such in the Order Form;
"Client Assets"	the Client's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Client and which is or may be used in connection with the provision of the Goods or Services which remain the property of the Client throughout the term of the Contract;
"Client Authorised Representative"	the representative appointed by the Client from time to time in relation to the Order Contract initially identified in the Order Form;
"Client Premises"	premises owned, controlled or occupied by the Client which are made available for use by the Agency or its Subcontractors for the provision of the Goods or Services (or any of them);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Commercially Sensitive Information"	the Confidential Information listed in the DPS Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Agency, its IPR or its business or which the Agency has indicated to the Authority that, if disclosed by the Authority, would cause the Agency significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Goods or Services to another Client of the Agency that are the same or similar to the Goods or Services;
"Compliance Officer"	the person(s) appointed by the Agency who is responsible for ensuring that the Agency complies with its legal obligations;
"Confidential Information"	means any information, however and whenever it is conveyed, that relates to the business, affairs, developments, trade secrets, Briefs, Know-How, personnel and suppliers of CCS, the Client or the Agency, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " confidential ") or which ought reasonably to be considered to be confidential;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Conflict of Interest"	a conflict between the financial or personal duties of the Agency or the Agency Staff and the duties owed to CCS or any Client under a Contract, in the reasonable opinion of the Client or CCS;
"Contract"	either the DPS Contract or the Order Contract, as the context requires;
"Contract Period"	the term of either a DPS Contract or Order Contract on and from the earlier of the:
	a) applicable Start Date; or
	b) the Effective Date
	up to and including the applicable End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Agency;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly;

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

“Controller”	has the meaning given to it in the UK GDPR;
“Core Terms”	CCS’ terms and conditions for common goods and services which govern how Agencies must interact with CCS and Clients under DPS Contracts and Order Contracts;
"Costs"	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Agency in providing the Goods or Services:
	the cost to the Agency or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Agency Staff, including:
	base salary paid to the Agency Staff; employer's National Insurance contributions; pension contributions; car allowances; any other contractual employment benefits; staff training; work place accommodation;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>work place IT equipment and tools reasonably necessary to provide the Goods or Services (but not including items included within limb (b) below); and</p> <p>reasonable recruitment costs, as agreed with the Client;</p>
	<p>costs incurred in respect of Agency Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Agency Assets by the Agency to the Client or (to the extent that risk and title in any Agency Asset is not held by the Agency) any cost actually incurred by the Agency in respect of those Agency Assets;</p> <p>operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Agency in the provision of the Goods or Services; and</p> <p>Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Goods or Services;</p>
	<p>but excluding:</p>
	<p>Overhead;</p> <p>financing or similar costs;</p>
	<p>maintenance and support costs to the extent that these relate to maintenance and/or support Goods or Services provided beyond the Order Contract Period whether in relation to Agency Assets or otherwise;</p> <p>taxation;</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>finances and penalties;</p> <p>amounts payable under Order Schedule 16 (Benchmarking) where such Schedule is used; and</p> <p>non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	The UK GDPR, as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy;
"Data Protection Liability Cap"	the amount specified in the DPS Appointment Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Data Subject"	has the meaning given to it in the UK GDPR;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Delay Payments (if applicable), or any other deduction which the Client is paid or is payable to the Client under a Order Contract;
"Default"	any breach of the obligations of the Agency (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Agency, of its Subcontractors or any Agency Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Agency is liable to the Relevant Authority;
"Default Management Charge"	has the meaning given to it in Paragraph 8.1.1 of DPS Schedule 5 (Management Charges and Information);
"Delay Payments"	the amounts (if any) payable by the Agency to the Client in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Goods or Services"	Service and/or Goods that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Goods or Services or Milestone in accordance with the terms of an Order Contract as confirmed and accepted by the Client by the either (a) confirmation in writing to the Agency; or (b) where Order Schedule 13 (Implementation Plan and Testing) is used issue by the Client of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 34 (Resolving disputes);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Documentation"	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Agency to the Client under a Contract as:
	would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Client to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Goods or Services is required by the Agency in order to provide the Goods or Services; and/or has been or shall be generated for the purpose of providing the Goods or Services;
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter of Tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
"DPA 2018"	the Data Protection Act 2018;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"DPS Appointment Form"	the document outlining the DPS Incorporated Terms and crucial information required for the DPS Contract, to be executed by the Agency and CCS;
"DPS Contract"	the DPS agreement established between CCS and the Agency in accordance with Regulation 33 by the DPS Appointment Form for the provision of the Goods or Services to Clients by the Agency pursuant to the FTS Notice;
"DPS Contract Period"	the period from the DPS Start Date until the End Date of the DPS Contract;
"DPS Expiry Date"	the scheduled date of the end of the DPS Contract as stated in the DPS Award Form;
"DPS Incorporated Terms"	the contractual terms applicable to the DPS Contract specified in the DPS Award Form;
"DPS Optional Extension Period"	such period or periods beyond which the DPS Contract Period may be extended as specified in the DPS Appointment Form;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"DPS Price(s)"	the price(s) applicable to the provision of the Goods or Services set out in DPS Schedule 3 (DPS Prices);
"DPS Special Terms"	any additional terms and conditions specified in the DPS Appointment Form incorporated into the DPS Contract;
"DPS Start Date"	the date of start of the DPS Contract as stated in the DPS Appointment Form;
"DPS Suppliers"	all suppliers able to bid for work following the conclusion of the procurement under the FTS Notice;
"DPS Tender Response"	the tender submitted by the Agency to CCS and annexed to or referred to in DPS Schedule 2 (DPS Tender);
"Due Diligence Information"	any information supplied to the Agency by or on behalf of the Authority prior to the Start Date;
"Effective Date"	the date on which the final Party has signed the Contract;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"EIR"	the Environmental Information Regulations 2004;
"Electronic Invoice"	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
"End Date"	the earlier of:
	the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	environment, including any written environmental policy of the Client;
"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Client in the first Contract Year specified in the Order Form;

"Estimated Yearly Charges"	means for the purposes of calculating each Party's annual liability under clause 11.2:
	i) in the first Contract Year, the Estimated Year 1 Charges; or
	ii) in the any subsequent Contract Years, the Charges paid or payable in the previous Order Contract Year; or
	iii) after the end of the Order Contract, the Charges paid or payable in the last Contract Year during the Order Contract Period;
"Exempt Buyer"	a public sector purchaser that is: eligible to use the DPS Contract; and
	a) is entering into an Exempt Order Contract that is not subject to (as applicable) any of:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<ul style="list-style-type: none"> i) the Regulations; ii) the Concession Contracts Regulations 2016 (SI 2016/273); iii) the Utilities Contracts Regulations 2016 (SI 2016/274); iv) the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848); v) the Remedies Directive (2007/66/EC); vi) Directive 2014/23/EU of the European Parliament and Council; vii) Directive 2014/24/EU of the European Parliament and Council; viii) Directive 2014/25/EU of the European Parliament and Council; or ix) Directive 2009/81/EC of the European Parliament and Council;
“Exempt Order Contract”	the contract between the Exempt Buyer and the Agency for Services which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the DPS Contract;
“Exempt Procurement Amendments”	any amendments, refinements or additions to any of the terms of the DPS Contract made through the Exempt Order Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"Exit Day"	shall have the meaning in the European Union (Withdrawal) Act 2018;
"Expiry Date"	the DPS Expiry Date or the Order Expiry Date (as the context dictates);
"Extension Period"	the DPS Optional Extension Period or the Order Optional Extension Period as the context dictates;
"Filter Categories"	The number of Categories specified in DPS Schedule 1 (Specification), if applicable;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Force Majeure Event"	any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including:
	<ul style="list-style-type: none"> a) riots, civil commotion, war or armed conflict; b) acts of terrorism; c) acts of government, local government or regulatory bodies; a) fire, flood, storm or earthquake or other natural disaster,
	but excluding any industrial dispute relating to the Agency, the Agency Staff or any other failure in the Agency or the Subcontractor's supply chain;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Further Competition Procedure"	the further competition procedure described in DPS Schedule 7 (Order Award Procedure);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"GCS"	the professional body for public service communicators working in government departments, agencies and arm's length bodies;
"GCS Management Charge"	the sum specified in the DPS Appointment Form payable by Central Government Bodies to the Agency on behalf of CCS;
"General Anti-Abuse Rule"	a) the legislation in Part 5 of the Finance Act 2013 and; and b) any future legislation introduced into parliament to counteract Tax advantages arising from abusive arrangements to avoid National Insurance contributions;
"General Change in Law"	a Change in Law where the change is of a general legislative nature (including Tax or duties of any sort affecting the Agency) or which affects or relates to a Comparable Supply;
"Goods"	goods made available by the Agency as specified in DPS Schedule 1 (Specification) and in relation to an Order Contract as specified in the Order Form;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which:
	<ul style="list-style-type: none"> i) are supplied to the Agency by or on behalf of the Authority; or ii) the Agency is required to generate, process, store or transmit pursuant to a Contract;
"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"ICT Policy"	the Client's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Order Start Date (a copy of which has been supplied to the Agency), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:
	<ul style="list-style-type: none"> a) details of the impact of the proposed Variation on the Goods or Services and the Agency's ability to meet its other obligations under the Contract; b) details of the cost of implementing the proposed Variation; c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the DPS Prices/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; d) a timetable for the implementation, together with any proposals for the testing of the Variation; and e) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Goods or Services set out in Order Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Agency and the Client;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Control"	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly;
"Indexation"	the adjustment of an amount or sum in accordance with DPS Schedule 3 (DPS Prices) and the relevant Order Form;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of a Contract specified in the DPS Appointment Form or the Order Form, as the context requires;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Insolvency Event"	with respect to any person, means:
	<p>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:</p> <p>(i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</p> <p>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</p> <p>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;</p> <p>(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within 14 days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(ii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
"Intellectual Property Rights" or "IPR"	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"Invoicing Address"	the address to which the Agency shall invoice the Client as specified in the Order Form;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Goods or Services or otherwise provided and/or licensed by the Agency (or to which the Agency has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same income tax and National Insurance

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies;
“Joint Controller Agreement”	the agreement (if any) entered into between the Relevant Authority and the Agency substantially in the form set out in Annex 2 of Joint Schedule 11 (<i>Processing Data</i>);
“Joint Controllers”	where two or more Controllers jointly determine the purposes and means of Processing;
"Key Performance Indicators" or "KPIs"	the performance measurements and targets in respect of the performance of the DPS Contract set out in DPS Schedule 4 (DPS Management);
"Key Staff"	the individuals (if any) identified as such in the Order Form;
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	any Subcontractor:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>a) which is relied upon to deliver any work package within the Goods or Services in their entirety; and/or</p> <p>b) which, in the opinion of CCS or the Client performs (or would perform if appointed) a critical role in the provision of all or any part of the Goods or Services; and/or</p> <p>c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Order Contract,</p>
	<p>and the Agency shall list all such Key Subcontractors on the Platform and in the Key Subcontractor Section in the Order Form;</p>
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods or Services but excluding know-how already in the other Party's possession before the applicable Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply;
"Letter of Appointment Template"	the template in DPS Schedule 6 (Letter of Appointment Template and Order Schedules);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Management Charge"	the sum specified on the Platform payable by the Agency to CCS in accordance with DPS Schedule 5 (Management Charges and Information);
"Management Information" or "MI"	the management information specified in DPS Schedule 5 (Management Charges and Information);
"MI Default"	means when two (2) MI Reports are not provided in any rolling six (6) month period;
"MI Failure"	means when an MI report:
	<ul style="list-style-type: none"> a) contains any material errors or material omissions or a missing mandatory field; or b) is submitted using an incorrect MI reporting Template; or c) is not submitted by the reporting date (including where a declaration of no business should have been filed);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"MI Report"	means a report containing Management Information submitted to the Authority in accordance with DPS Schedule 5 (Management Charges and Information);
"MI Reporting Template"	means the form of report set out in the Annex to DPS Schedule 5 (Management Charges and Information) setting out the information the Agency is required to supply to the Authority;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"Moral Rights"	all rights described in Part I, Chapter IV of the Copyright Designs and Patents Act 1988 and any similar rights of authors anywhere in the world;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	<p>a. IPR in items created by the Agency (or by a third party on behalf of the Agency) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p>
	<p>b. IPR in or arising as a result of the performance of the Agency's obligations under a Contract and all updates and amendments to the same;</p>
	<p>but shall not include the Agency's Existing IPR;</p>
"Occasion of Tax Non-Compliance"	<p>where:</p>
	<p>a) any Tax return of the Agency submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p>
	<p>i) a Relevant Tax Authority successfully challenging the Agency under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any Tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>ii) the failure of an avoidance scheme which the Agency was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</p> <p>b) any Tax return of the Agency submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for Tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
"Open Book Data"	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Order Contract, including details and all assumptions relating to:</p>
	<p>a) the Agency's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Goods or Services;</p> <p>b) operating expenditure relating to the provision of the Goods or Services including an analysis showing:</p> <p>i) the unit costs and quantity of Goods and any other consumables and bought-in Goods or Services;</p> <p>ii) staff costs broken down into the number and grade/role of all Agency Staff (free of any contingency) together with a list of actual hours worked from the time recording system and agreed rates against each grade;</p> <p>iii) a list of Costs underpinning those rates for each grade, being the agreed rate less the Agency Profit Margin; and</p> <p>iv) Reimbursable Expenses, if allowed under the Order Form;</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<ul style="list-style-type: none"> c) Overheads; d) all interest, expenses and any other third-party financing costs incurred in relation to the provision of the Goods or Services; e) the Agency Profit achieved over the DPS Contract Period and on an annual basis; f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Agency; g) an explanation of the type and value of risk and contingencies associated with the provision of the Goods or Services, including the amount of money attributed to each risk and/or contingency; and h) the actual Costs profile for each Service Period;
"Order"	means an order for the provision of the Goods or Services placed by a Client with the Agency under a Contract;
"Order Contract"	the contract between the Client and the Agency (entered into pursuant to the provisions of the DPS Contract), which consists of the terms set out and referred to in the Order Form including any subsequently agreed Statements of Work;
"Order Contract Period"	the Contract Period in respect of the Order Contract;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Order Expiry Date"	the scheduled date of the end of a Order Contract as stated in the Order Form;
"Order Form"	a completed Letter of Appointment Template (or equivalent information issued by the Client) used to create a Order Contract;
"Order Incorporated Terms"	the contractual terms applicable to the Order Contract specified under the relevant heading in the Order Form;
"Order Initial Period"	the Initial Period of an Order Contract specified in the Order Form;
"Order Optional Extension Period"	such period or periods beyond which the Order Initial Period may be extended as specified in the Order Form;
"Order Procedure"	the process for awarding an Order Contract pursuant to Clause 2 (How the contract works) and DPS Schedule 7 (Order Award Procedure);
"Order Special Terms"	any additional terms and conditions specified in the Order Form incorporated into the applicable Order Contract;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Order Start Date"	the date of start of an Order Contract as stated in the Order Form;
"Other Contracting Authority"	any actual or potential Client under the DPS Contract;
"Overhead"	those amounts which are intended to recover a proportion of the Agency's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Agency Staff and accordingly included within limb (a) of the definition of "Costs";
"Parliament"	takes its natural meaning as interpreted by Law;
"Party"	in the context of the DPS Contract, CCS or the Agency, and in the context of an Order Contract the Client or the Agency. "Parties" shall mean both of them where the context permits;
"Personal Data"	has the meaning given to it in the UK GDPR;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

“Personal Data Breach”	has the meaning given to it in the UK GDPR;
“Personnel”	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
“Platform”	The online application operated on behalf of CCS to facilitate the technical operation of the DPS;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
“Processing”	has the meaning given to it in the GDPR;
“Processor”	has the meaning given to it in the GDPR;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Progress Meeting"	a meeting between the Client Authorised Representative and the Agency Authorised Representative;
"Progress Meeting Frequency"	the frequency at which the Agency shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
"Progress Report"	a report provided by the Agency indicating the steps taken to achieve Milestones or delivery dates;
"Progress Report Frequency"	the frequency at which the Agency shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
"Prohibited Acts"	a) to directly or indirectly offer, promise or give any person working for or engaged by a Client or any other public body a financial or other advantage to:
	<ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity;
	b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	<p>improper performance of a relevant function or activity in connection with each Contract; or</p> <p>c) committing any offence:</p> <p>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</p> <p>ii) under legislation or common law concerning fraudulent acts; or</p> <p>iii) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</p> <p>d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
"Proposal"	the tender submitted by the Agency in response to the Client's Brief following a Further Competition Procedure and set out at Order Schedule 4 (Order Proposal);
"Protective Measures"	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in DPS Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the DPS Contract or Order Schedule 9 (Security), if applicable, in the case of an Order Contract.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Recall"	a request by the Agency to return Goods to the Agency or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information;
"Rectification Plan"	The Agency's plan (or revised plan) to rectify its breach using the template in Joint Schedule 10 (Rectification Plan) which shall include:
	<ul style="list-style-type: none"> a) full details of the Default that has occurred, including a root cause analysis; b) the actual or anticipated effect of the Default; and c) the steps which the Agency proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);
"Rectification Plan Process"	the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process);
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Reimbursable Expenses"	the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Client's expenses policy current from time to time, but not including:
	<ul style="list-style-type: none"> a) travel expenses incurred as a result of Agency Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and b) subsistence expenses incurred by Agency Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Relevant Authority"	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
"Relevant Authority's Confidential Information"	<ul style="list-style-type: none"> a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR); b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

	information derived from any of the above;
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Agency is established;
"Reminder Notice"	a notice sent in accordance with Clause 10.5 given by the Agency to the Client providing notification that payment has not been received on time;
"Replacement Agency"	any third-party provider of Replacement Goods or Services appointed by or at the direction of the Client from time to time or where the Client is providing Replacement Goods or Services for its own account, shall also include the Client;
"Replacement Goods or Services"	any deliverables which are substantially similar to any of the Goods or Services and which the Client receives in substitution for any of the Goods or Services following the Order Expiry Date, whether those goods are provided by the Client internally and/or by any third party;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Replacement Subcontractor"	a Subcontractor of the Replacement Agency to whom Transferring Agency Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
"Request For Information"	a request for information or an apparent request relating to a Contract for the provision of the Goods or Services or an apparent request for such information under the FOIA or the EIRs;
"Required Insurances"	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in of Part B of Order Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Order Schedule 13 is not used in this Contract) granted by the Buyer when the Agency has met all of the requirements of an Order, Achieved a Milestone or a Test;
"Security Management Plan"	the Agency's security management plan prepared pursuant to Order Schedule 9 (Security) (if applicable);
"Security Policy"	the Client's security policy, referred to in the Order Form, in force as at the Order Start Date (a copy of which has been supplied to the Agency) , as updated from time to time and notified to the Agency;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Self Audit Certificate"	means the certificate in the form as set out in DPS Schedule 8 (Self Audit Certificate);
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Levels"	any service levels applicable to the provision of the Goods or Services under the Call Off Contract (which, where Call Off Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Order Form;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Services"	services made available by the Agency as specified in DPS Schedule 1 (Specification) and in relation to a Order Contract as specified in the Order Form;
"Service Transfer"	any transfer of the Goods or Services (or any part of the Goods or Services), for whatever reason, from the Agency or any Subcontractor to a Replacement Agency or a Replacement Subcontractor;
"Service Transfer Date"	the date of a Service Transfer;
"Sites"	any premises (including the Client Premises, the Agency's premises or third party premises) from, to or at which:
	<p>a) the Goods or Services are (or are to be) provided; or</p> <p>b) the Agency manages, organises or otherwise directs the provision or the use of the Goods or Services;</p>
"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 enterprises;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Special Terms"	any additional Clauses set out in the DPS Appointment Form or Order Form which shall form part of the respective Contract;
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Client and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Goods or Services is not reasonably foreseeable at the Start Date;
"Specification"	the specification set out in DPS Schedule 1 (Specification), as may, in relation to an Order Contract, be supplemented by the Order Form;
"Standards"	any:
	<ul style="list-style-type: none"> a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Agency would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in DPS Schedule 1 (Specification); c) standards detailed by the Client in the Order Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Start Date"	in the case of the DPS Contract, the date specified on the DPS Appointment Form, and in the case of an Order Contract, the date specified in the Order Form;
"Statement of Work"	a supplemental Order under an Order Contract to refine the Goods or Services needed to complete the Brief;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than an Order Contract or the DPS Contract, pursuant to which a third party:
	<ul style="list-style-type: none"> a) provides the Goods or Services (or any part of them); b) provides facilities or services necessary for the provision of the Goods or Services (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Goods or Services (or any part of them);
"Subcontractor"	any person other than the Agency, who is a party to a Sub-Contract and the servants or agents of that person;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Subprocessor"	any third party appointed to process Personal Data on behalf of that Processor related to a Contract;
"Supplier"	means the Agency;
"Supplier Assets"	all assets and rights used by the Agency to provide the Goods or Services in accordance with the Order Contract but excluding the Client Assets;
"Supplier Authorised Representative"	the representative appointed by the Agency named in the DPS Appointment Form, or later defined in an Order Contract;
"Supplier's Confidential Information"	<ul style="list-style-type: none"> c) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Agency (including the Agency Existing IPR) trade secrets, Know-How, and/or personnel of the Agency; d) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Agency's attention or into the Agency's possession in connection with a Contract; e) Information derived from any of (a) and (b) above;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Supplier's Contract Manager"	the person identified in the Order Form appointed by the Agency to oversee the operation of the Order Contract and any alternative person whom the Agency intends to appoint to the role, provided that the Agency informs the Buyer prior to the appointment;
"Supplier Equipment"	the Agency's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Agency (but not hired, leased or loaned from the Client) in the performance of its obligations under this Order Contract;
"Supplier Marketing Contact"	shall be the person identified in the DPS Appointment Form;
"Supplier Non-Performance"	where the Agency has failed to:
	<ul style="list-style-type: none"> c) Achieve a Milestone by its Milestone Date; d) provide the Goods and/or Services in accordance with the Service Levels; and/or e) comply with an obligation under a Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of a Order Contract for the relevant period;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Agency Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supporting Documentation"	sufficient information in writing to enable the Client to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Order Contract detailed in the information are properly payable;
"Tax"	a) all forms of taxation whether direct or indirect; b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction; c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above, in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Test Issue"	any variance or non-conformity of the Goods or Services from their requirements as set out in an Order Contract;
"Test Plan"	a plan:
	<p>a) for the Testing of the Goods or Services; and</p> <p>b) setting out other agreed criteria related to the achievement of Milestones;</p>
"Tests"	any tests required to be carried out pursuant to an Order Contract as set out in the Test Plan or elsewhere in an Order Contract and "Tested" and "Testing" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Agency for the purpose of providing the Goods or Services;
"Transferring Supplier Employees"	those employees of the Agency and/or the Agency's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Transparency Information"	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for –
	<p>(i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and</p> <p>(ii) Commercially Sensitive Information;</p>
"Transparency Reports"	the information relating to the Goods or Services and performance of the Contracts which the Agency is required to provide to the Buyer in accordance with the reporting requirements in Order Schedule 1 (Transparency Reports);
"UK GDPR"	the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
"Variation"	any change to a Contract;
"Variation Form"	the form set out in Joint Schedule 2 (Variation Form);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Variation Procedure"	the procedure set out in Clause 24 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Worker"	any one of the Agency Staff which the Client, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Goods or Services;
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form;
"Work Day"	8.0 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

"Work Hours"	the hours spent by the Agency Staff properly working on the provision of the Goods or Services including time spent travelling (other than to and from the Agency's offices, or to and from the Sites) but excluding lunch breaks.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

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:	[delete as applicable: CCS / Client] ("CCS" "the Client") And [insert name of Agency] ("the Agency")	
Contract name:	[insert name of contract to be changed] ("the Contract")	
Contract reference number:	[insert contract reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete as applicable: CCS/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:	<ul style="list-style-type: none"> ● This Contract detailed above is varied as follows: ● [CCS/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]

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the 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

Client 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

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 3 (Insurance Requirements)

1. THE INSURANCE YOU NEED TO HAVE

1.1 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:

1.1.1 the DPS Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

1.1.2 the Order Contract Effective Date in respect of the Additional Insurances.

1.2 The Insurances shall be:

1.2.1 maintained in accordance with Good Industry Practice;

1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;

1.2.3 taken out and maintained with insurers of good financial standing and good reputation in the international insurance market; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

1.2.4 maintained for at least six (6) years after the End Date.

1.3 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

2.1 Without limiting the other provisions of this Contract, the Agency shall:

2.1.1 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;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Agency is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

0. WHAT HAPPENS IF YOU AREN'T INSURED

3.1 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.

3.2 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

4. EVIDENCE OF INSURANCE YOU MUST PROVIDE

- 4.1 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

- 5.1 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

- 6.1 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.

- 6.2 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

- 7.1 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.
- 7.2 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.
- 7.3 Where any Insurance requires payment of a premium, the Agency shall be liable for and shall promptly pay such premium.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

7.4 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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 one 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.
-

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 4 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

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

No.	Date	Item(s)	Duration of Confidentiality
	N/A		

Joint Schedule 5 (Corporate Social Responsibility)

1. What we expect from the Agency

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

2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Agency shall support CCS and the Client in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:

2.1.1 eliminate discrimination, harassment or victimisation of any kind; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3. Modern Slavery, Child Labour and Inhumane Treatment

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

3.1 The Agency:

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Agency Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world.
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Client and Modern Slavery Helpline.

4. Income Security

4.1 The Agency shall:

- 4.1.1 ensure that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Agency Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.3 ensure that all Workers are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

particulars of their wages for the pay period concerned each time that they are paid;

4.1.4 not make deductions from wages:

- (a) as a disciplinary measure
- (b) except where permitted by law; or
- (c) without expressed permission of the worker concerned;

4.1.5 record all disciplinary measures taken against Agency Staff; and

4.1.6 ensure that Agency Staff are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

5.1 The Agency shall:

5.1.1 ensure that the working hours of Agency Staff comply with national laws, and any collective agreements;

5.1.2 Ensure that the working hours of Agency Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;

5.1.3 ensure that use of overtime is used responsibly, taking into account:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (a) the extent;
 - (b) frequency; and
 - (c) hours worked;
-
- by individuals and by the Agency Staff as a whole;

5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.

5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:

5.3.1 this is allowed by national law;

5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;

5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and

5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

5.4 All Agency Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability

6.1 The Agency shall meet the applicable Government Buying Standards applicable to Goods or Services which can be found online at:

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 6 (Key Subcontractors)

1. Restrictions on certain subcontractors

- 1.1 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.
- 1.2 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.
- 1.3 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:

- 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Goods or Services or may be contrary to its interests;
- 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- 1.3.3 the proposed Key Subcontractor employs unfit persons.

- 1.4 The Agency shall provide CCS and the Client with the following information in respect of the proposed Key Subcontractor:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
- 1.4.2 the scope/description of any Goods or Services to be provided by the proposed Key Subcontractor;
- 1.4.3 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;
- 1.4.4 for the Client, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Order Contract Period; and
- 1.4.5 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.

- 1.5 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:

- 1.5.1 a copy of the proposed Key Sub-Contract; and
- 1.5.2 any further information reasonably requested by CCS and/or the Client.

- 1.6 The Agency shall ensure that each new or replacement Key Sub-Contract shall include:

- 1.6.1 provisions which will enable the Agency to discharge its obligations under the Contracts including without limitation Order Schedule 15 (Order Contract Management);

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

1.6.2 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;

1.6.3 a provision enabling CCS and the Client to enforce the Key Sub-Contract as if it were the Agency;

1.6.4 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;

1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Agency under the DPS Contract in respect of:

- (a) the data protection requirements set out in Clause 14 (Data protection);
- (b) the confidentiality requirements set out in Clause 15 (What you must keep confidential);
- (c) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
- (d) the obligation not to embarrass CCS or the Client or otherwise bring CCS or the Client into disrepute;
- (e) 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
- (f) the conduct of audits set out in Clause 6 (Record keeping and reporting);

1.6.6 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

1.6.7 a provision restricting the ability of the Key Subcontractor to subcontract 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 7 (Financial Difficulties)

1. Definitions

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

"Credit Rating Threshold"

the minimum credit rating level for the Monitored Company as set out in Annex 2;

"Financial Distress Event"

the occurrence of one or more of the following events:

- a) the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;
- b) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;
- c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Company;
- d) Monitored Company committing a material breach of covenant to its lenders;
- e) a Key Subcontractor (where applicable) notifying CCS that the Agency has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; or
- f) any of the following:
 - i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;
 - ii) non-payment by the Monitored Company of any financial indebtedness;
 - iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

- iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company

in each case which CCS reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of any Contract and delivery of the Goods or Services in accordance with any Order Contract;

"Financial Distress Service Continuity Plan"

a plan setting out how the Agency will ensure the continued performance and delivery of the Goods or Services in accordance with [each Order] Contract in the event that a Financial Distress Event occurs;

"Rating Agencies"

the rating agencies listed in Annex 1.

2. When this Schedule applies

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive termination or expiry of this Contract:
 - 2.2.1 under the DPS Contract until the later of (a) the termination or expiry of the DPS Contract or (b) the latest date of termination or expiry of any Order contract entered into under the DPS Contract (which might be after the date of termination or expiry of the DPS Contract); and
 - 2.2.2 under the Order Contract until the termination or expiry of the Order Contract.

3. What happens when your credit rating changes

- 3.1 The Agency warrants and represents to CCS that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in Annex 2.
- 3.2 The Agency shall promptly (and in any event within five (5) Working Days) notify CCS in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.
- 3.3 The Agency shall:
 - 3.3.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
 - 3.3.2 promptly notify (or shall procure that its auditors promptly notify) CCS in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and, in any event, ensure that such notification is made

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

within 10 Working Days of the date on which the Agency first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

- 3.4 For the purposes of determining whether a Financial Distress Event has occurred the credit rating of the Monitored Company shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Monitored Company at or below the applicable Credit Rating Threshold.

4. What happens if there is a financial distress event

- 4.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if CCS becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Agency), the Agency shall have the obligations and CCS shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying CCS that the Agency has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, CCS shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Agency ten (10) Working Days to:
- 4.2.1 rectify such late or non-payment; or
 - 4.2.2 demonstrate to CCS's reasonable satisfaction that there is a valid reason for late or non-payment.]
- 4.3 The Agency shall and shall procure that the other Monitored Companies shall:
- 4.3.1 at the request of CCS meet CCS as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of each Contract and delivery of the Goods or Services in accordance each Order Contract; and
 - 4.3.2 where CCS reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance of each Contract and delivery of the Goods or Services in accordance with each Order Contract:
 - (a) submit to CCS for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event); and
 - (b) provide such financial information relating to the Monitored Company as CCS may reasonably require.
- 4.4 If CCS does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Agency of its reasons and the Agency shall take those reasons into account in the preparation of a further

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

draft Financial Distress Service Continuity Plan, which shall be resubmitted to CCS within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by CCS or referred to the Dispute Resolution Procedure.

- 4.5 If CCS considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.
- 4.6 Following Approval of the Financial Distress Service Continuity Plan by CCS, the Agency shall:
- 4.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance of each Contract and delivery of the Goods or Services in accordance with each Order Contract;
- 4.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to CCS for its Approval, and the provisions of Paragraphs 4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
- 4.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 4.7 Where the Agency reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify CCS and subject to the agreement of the Parties, the Agency may be relieved of its obligations under Paragraph 4.64.6.
- 4.8 CCS shall be able to share any information it receives from the Client in accordance with this Paragraph with any Buyer who has entered into an Order Contract with the Agency.

5. When CCS or the Client can terminate for financial distress

- 5.1 CCS shall be entitled to terminate this Contract and Clients shall be entitled to terminate their Order Contracts for material Default if:
- 5.1.1 the Agency fails to notify CCS of a Financial Distress Event in accordance with Paragraph 3.4;
- 5.1.2 CCS and the Agency fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 5.1.3 the Agency fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.
- 5.2 If the Contract is terminated in accordance with Paragraph 5.1, Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply as if the Contract had been terminated under Clause 10.4.1.

6. What happens If your credit rating is still good

- 6.1 Without prejudice to the Agency's obligations and CCS' and the Client's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:
 - 6.1.1 the Agency shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
 - 6.1.2 CCS shall not be entitled to require the Agency to provide financial information in accordance with Paragraph 4.3.2(b).

ANNEX 1: RATING AGENCIES

Dun & Bradstreet

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

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 [CCS/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 [CCS/Client]			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Reasons for Rejection (if applicable)	[add reasons]		
Signed by [CCS/Client]		Date:	

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 8 (Guarantee) – NOT USED

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Joint Schedule 11 (Processing Data)

Definitions

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

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

Status of the Controller

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

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

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

Where one Party is Controller and the other Party its Processor

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (b) an assessment of the necessity and proportionality of the Processing in relation to the Goods or Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
 - (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, including in the case of the 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:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that:
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

9. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
 - (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
 - (a) notify the Controller in writing of the intended Subprocessor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 14. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- 16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the 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

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

Independent Controllers of Personal Data

- 18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 8 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 22. The Parties shall only provide Personal Data to each other:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
 - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

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.

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: Nimali de Silva, Care Quality Commission, 2 Redman Place, 2nd Floor, London, E20 1JQ
- 1.2 The contact details of the Agency's Data Protection Officer are: Matt Roberts, matt.roberts@huntsworth.com, Data Privacy Manager
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation:</p> <p>The Parties are Independent Controllers of Personal Data</p> <p>Data is processed to support public awareness raising and behaviour change campaigns in the form of consumer research polls. Data gathered during these polls to create relevant content for the targeted audience, including for video, photography and written case studies — will sit on CQCs website. Targeting through social platforms the agency will build audiences to target through social media platforms. These audiences will be built within those platforms. CQC will have no access to personal data.</p>
Duration of the Processing	01 st May 2022 – 30 th April 2023 (noting that the duration of the contract is until 31 st April 2023, with the option to extend for a further 1 year + 1 year (1+1). Contract extension is subject to budget availability and agreement between CQC and the Contractor.
Nature and purposes of the Processing	<p>To gather public feedback, attitudes, needs and characteristics which can be used to develop content e.g. videos. Activity includes:</p> <ul style="list-style-type: none"> Consumer research polls asking 2000 people about their experiences of health or social care (before each campaign 'spike') <p>Video and written case studies</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

Type of Personal Data	<p>Data is only stored for case studies, this includes:</p> <ul style="list-style-type: none"> Names, email addresses, phone number, their experiences of using services. <p>The consumer poll surveys collect data to be able to segment into: age range, region (location) and experiences on a point scale. No personal data is shared.</p> <p>Social media targeting will allow us to segment the audience to reach identified population groups, for example: age range, ethnicity, gender, location etc. again we will have no access to personal data.</p>
Categories of Data Subject	<p>Suppliers: videographer, designer, consumer and potentially national media contacts</p> <p>Members of the public (case studies)</p> <p>Members of the public (digital advertising)</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>CQC policies are in place for the retention and destruction of data. The agency will also abide by their own file retention scheme under GDPR.</p> <p>Will not hold personal data longer than required and would be reasonable.</p>

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

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/Relevant Authority]:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) 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
- (e) 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.

2. Undertakings of both Parties

2.1 The Agency and the Relevant Authority each undertake that they shall:

- (a) report to the other Party every [x] months on:

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) 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;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) 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;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) 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 time-scales set out in the Data Protection Legislation;
- (d) 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;
- (e) request from the Data Subject only the minimum information necessary to provide the Goods or Services and treat such extracted information as Confidential Information;
- (f) 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;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (g) 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:
 - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
 - (ii) 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
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) 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
- (j) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

2.2 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.

3. Data Protection Breach

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 3.1 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:
- (a) 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
 - (b) all reasonable assistance, including:
 - (i) 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;
 - (ii) 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;
 - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
 - (iv) 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.
- 3.2 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:
- (a) the nature of the Personal Data Breach;
 - (b) the nature of Personal Data affected;
 - (c) the categories and number of Data Subjects concerned;
 - (d) the name and contact details of the Agency's Data Protection Officer or other relevant contact from whom more information may be obtained;

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Agency shall permit:

- (a) 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
- (b) 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.

4.2 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.

5. Impact Assessments

5.1 The Parties shall:

- (a) 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
- (b) 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.

6. 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

7. Liabilities for Data Protection Breach

- 7.1 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:
- (a) 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;
 - (b) 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
 - (c) 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).
- 7.2 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.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- (a) if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
- (b) if the Agency is responsible for the relevant Personal Data Breach, then the Agency shall be responsible for the Claim Losses: and
- (c) 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.

7.4 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*).

9. Sub-Processing

9.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) 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
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. 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.

0. Visibility of Sub-Contract Opportunities in the Supply Chain

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

DPS Schedule 6 (Letter of Appointment and Order Schedules)

Crown Copyright 2021

- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Agency.
- 2.3 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.
- 2.4 Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Agency on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in the Contract, the 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:
 - (a) the total contract revenue received directly on the Contract;
 - (b) the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
 - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the 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.
- 3.3 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.

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021

Annex 1
Supply Chain Information Report template



Supply Chain Information
Report templat

DPS Schedule 6 (Letter of Appointment and Order Schedules)
Crown Copyright 2021