Department for International Development

UKaid from the British people

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File Ref: PO 8183

Date: 21 June 2019

Contract Amendment No: 1

CALL DOWN CONTRACT FOR: The Centre for Global Disaster Protection – Managing Agent
CONTRACT NUMBER: PO 8183

With reference to the contract dated 6 August 2018, both Parties have in principle agreed to the following variations to the Contract:

Section 2, General Conditions of Framework Agreement

Schedule 1: Definitions

DELETE: definition of "**Charges**"
and
INSERT:
" **"Charges"** means the charges raised under or in connection with this Contract from time to time, which shall be calculated in a manner that is consistent with Section 4, Annex B (Schedule of Prices) and the eligible cost guidance."

Section 4, Appendix A – Form of Contract

Paragraph 1: Commencement and Duration of Services

DELETE: ("the End Date") 31 January 2020
and
INSERT: ("the End Date") 31 July 2021

Paragraph 3: Financial Limit

DELETE: "payments under this Call-down Contract shall not, exceed £2,562,339 ("the Financial Limit") and is exclusive of any government tax, if applicable as detailed in Annex B."

and

INSERT: “payments under this Call-down Contract shall not, exceed £3,843,508.5 (“the Financial Limit”) and is exclusive of any government tax, if applicable as detailed in Annex B.”

Paragraph 5: Key Personnel

DELETE in toto

and

INSERT:

“

REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED
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REDACTED	REDACTED
REDACTED	REDACTED

Operational Advisors

REDACTED	REDACTED
REDACTED	REDACTED
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REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED

Technical Surge Support

REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED
REDACTED	REDACTED

“

Paragraph 8: Intellectual Property

DELETE: in Clause 24.2A the words “universities and research institutions (together “Research Organisations”)” shall be deleted

and

INSERT “organisations carrying out primary research including universities and research institutions (together “Research Organisations”)”.

INSERT new paragraphs as follows, immediately after paragraph 9.1:

10. The Supplier shall ensure that all Supplier Personnel:

(a) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;

(b) are vetted in accordance with Good Industry Practice and in compliance with the Staff Vetting Procedure;

(c) shall be subject to pre-employment checks that include, as a minimum, employment history for the last three years, identity checks, unspent criminal convictions and right to work (including nationality and immigration status);

(d) obey all lawful instructions and reasonable directions of DFID (including, if so required by DFID, the ICT Policy) and provide the Services to the reasonable satisfaction of DFID; and

(e) comply with:

all reasonable requirements of DFID concerning conduct at DFID Sites, including any security requirements; and any DFID policies, provided to the Supplier or Supplier Personnel from time to time.

11. Protection of Personal Data

11.1 The Parties acknowledge that the factual activity carried out by each of them in relation to their obligations under this Framework Agreement and/or any Call Down contract will determine the status of each Party under the Data Protection Legislation. A Party may act as "Joint Controller" or a "Controller" or a "Processor" of certain Personal Data under this Contract. The Parties shall detail the envisaged status in Appendix A of the Terms of Reference (at Section 4 of the contract) and update it where appropriate.

11.2 Where a Party is Processing on behalf of the other Party who is the Controller

11.2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, DFID is the Controller and the Supplier is the Processor unless otherwise specified in Appendix A of the Terms of Reference (at Section 4 of the contract). The only processing that the Processor is authorised to do is listed in Appendix A of the Terms of Reference by the Controller and may not be determined by the Processor.

11.2.2 The Processor shall notify the Controller immediately if it considers that any of Controller's instructions infringe the Data Protection Legislation.

11.2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the 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.

11.2.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with the Appendix A referred to in Clause 11.2.1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, 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:

a. nature of the data to be protected;

b. harm that might result from a Data Loss Event;

c. state of technological development; and

d. cost of implementing any measures;

(c) ensure that:

I. the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Appendix A referred to in Clause 11.2.1);

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 clause;

b. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

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 this Agreement; and

d. have undergone adequate training in the use, care, protection and handling of Personal Data; and

(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:

a. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

b. the Data Subject has enforceable rights and effective legal remedies;

c. 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

d. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data.

(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 Agreement unless the Processor is required by Law to retain the Personal Data.

11.2.5 Subject to clause 11.2.6, the Processor shall notify the Controller without due delay and in any event within 48 hours if 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 this Agreement;

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 Data Loss Event.

11.2.6 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 11.2.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly 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 the Controller 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 Data Loss Event;

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.

11.2.7 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. 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 GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and

c. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

11.2.8 Where the Supplier is the Processor it shall allow for audits of its Data Processing activity by the DFID or its DFID's designated auditor.

11.2.9 Each party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

11.2.10 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

a. notify the Controller in writing of the intended Sub-processor and processing;

b. obtain the written consent of the Controller;

c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and

d. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

11.2.11 The Processor shall remain fully liable for all acts or omissions of any Sub-processor

11.2.12 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause 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 this Agreement

11.2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. DFID may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

11.3 Where the Parties both Control Personal Data Independently

11.3.1 With respect to Personal Data which a Party acts as Controller but which is not under the Joint Control (because the Parties determine the means and purposes of processing Personal Data independently of each other) each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller and with this Clause 11.3.

11.3.2 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 33(1)(a), (b), (c) and (d) of the GDPR, and the

measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

11.3.3 Each Party shall promptly (and without undue delay) notify the other Party if in relation to any Personal Data processed by it as independent Controller in the performance of its obligations or the exercise of its rights under this Legal Services Contract if:

(a) it receives a complaint, notice or communication which relates to either Party's actual or alleged non-compliance with the Data Protection Legislation; or

(b) it becomes aware of a Personal Data Breach;

and shall provide the other Party with such assistance and cooperation as is reasonably requested by the other Party in order to address and resolve the complaint, notice, communication or Personal Data Breach.

11.3.4 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (**the "Claim Losses"):** the Party responsible for the relevant breach shall be responsible for the Claim Losses.

11.3.5 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 appropriate for them to retain such Personal Data under applicable Data Protection Law 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 the purposes of complying with Law or as otherwise required by this Contract), and taking all further actions as may be necessary or desirable to ensure its compliance with Data Protection Law Legislation and its privacy policy.

11.4 Where the Parties both Controllers of Personal Data Jointly

11.4.1 Where the Parties jointly determine the purposes of means of processing Personal Data in accordance with GDPR Article 26, the Parties shall identify the applicable Personal Data under Joint Control in Appendix A and the Parties shall enter into a Joint Controller Agreement based on the terms outlined in Appendix B in replacement of Clause 11 which shall not apply for any such the Personal Data under Joint Control.

12. Safeguarding

12.1 For the purposes of this Clause 12, "**Reasonable Measures**" shall mean:

all reasonable endeavours expected to be taken by a professional and prudent supplier in the Supplier's industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together **"Serious Misconduct**") as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):

(a) clear and detailed policies and guidance for Supplier Personnel, Supplier Providers and where appropriate, beneficiaries;

(b) developing, implementing and maintaining a safeguarding plan throughout the term (including

monitoring);

(c) provision of regular training to Supplier Personnel, Supplier Providers and where appropriate, beneficiaries

(d) clear reporting lines and whistleblowing policies in place for Supplier Personnel, Supplier Providers and beneficiaries,

(e) maintaining detailed records of any allegations of Serious Misconduct and regular reporting to DFID and the Appropriate Authorities (where relevant) of any such incidents; and

(f) any other Good Industry Practice measures (including any innovative solutions).

12.2 The Supplier shall take all Reasonable Measures to prevent Serious Misconduct by the Supplier Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement ("**Supplier Providers**") and shall have in place at all times robust procedures which enable the reporting by Supplier Personnel, Supplier Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Supplier or Supplier Personnel to investigate such reports.

12.3 The Supplier shall take all Reasonable Measures to ensure that the Supplier Personnel and Supplier Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Supplier Personnel or Supplier Provider as to the age of the person. Furthermore, the Supplier shall ensure that the Supplier Personnel and Supplier Providers do not engage in 'transactional sex' which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Supplier Personnel and the Supplier Providers. For the avoidance of doubt, such 'transactional sex' shall be deemed to be Serious Misconduct in accordance with Clause 12.1.

12.4 The Supplier shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Supplier Personnel and Supplier Providers to DFID, including DFID's Counter Fraud Section at reportingconcerns@dfid.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.

12.5 The Supplier shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the Supplier Personnel and Supplier Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to DFID as soon as is reasonably practicable.

12.6 The Supplier shall not engage as Supplier Personnel or Supplier Provider for the purposes of the Services any person whose previous record or conduct known to the Supplier (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.

12.7 The Supplier shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Supplier acknowledges may include vetting of the Supplier Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Supplier Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where DFID reasonably

believes that there is an increased risk to safeguarding in the performance of the Services, the Supplier shall comply with any reasonable request by DFID for additional vetting to be undertaken.

12.8 Failure by the Supplier to:

12.8.1 put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or

12.8.2 fully investigate allegations of Serious Misconduct; or

12.8.3 report any complaints to DFID and where appropriate, the relevant authorities (including law enforcement)

shall be a material Default of this Contract and shall entitle DFID to terminate this Contract with immediate effect.

INSERT the following directly after paragraph 12.8.3:

Additional definitions.

"Appropriate Authorities" means any and/or all of (as may be relevant under the circumstances) the UK government bodies and/or government bodies/agencies in the territory where Serious Misconduct may have or is suspected of having taken place, which have responsibility for safeguarding, recording, investigating, enforcing and/or determining allegations of Serious Misconduct and which may include (but shall not be limited to), the DFID, the National Crime Agency, UK Police force, local territory police forces, and social services

"Controller, **Processor**, **Data Subject**, **Personal Data**, **Personal Data Breach**, **Data Protection Officer"** take the meaning given in the GDPR.

"Data Protection Legislation" (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent]to the extent that it relates to processing of personal data and privacy; (iiii) all applicable Law about the processing of personal data and privacy.

"Data Protection Impact Assessment": an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.

"Data Loss Event": any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

"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.

"DPA 2018": Data Protection Act 2018

"GDPR" the General Data Protection Regulation *(Regulation (EU) 2016/679)*.

"Joint Control" means Personal Data which under the Control of Joint Controllers in accordance with GDPR Article 26;

"Processor Personnel: means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement and/or call down contract

"Sexual Abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions, and all sexual activity with someone under the age of 18, regardless of local age of majority or consent under the laws of the territory in which it takes place and regardless of any mistaken belief (by the relevant individual) as to the age of a child;

"Sexual Exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes. Includes profiting monetarily, socially, or politically from sexual exploitation of another;

"Sexual Harassment" means unwelcome sexual advances (also but not exclusively without touching). It includes requests for sexual favours, or other verbal or physical behaviour of a sexual nature, which may create a hostile or offensive environment.

"Sub-processor": any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.

"Supplier Provider" means persons engaged and/or controlled by or on behalf of the Supplier pursuant to any activities undertaken by the Supplier under this Agreement.

Section 4, Annex A – Terms of Reference

INSERT at the end of the Terms of Reference:

General Data Protection Regulations (GDPR)

Please refer to the details of the GDPR relationship status and personal data (where applicable) for this project as detailed in Appendix A, paragraph 11 in Section 4 of the contract.

INSERT:
Appendix A: of Section 4 Annex A (Terms of Reference) Schedule of Processing, Personal Data and Data Subjects as attached.

Section 4, Annex B - Schedule of Prices

INSERT at the end of the Schedule of Prices:

Addendum to the Schedule of Prices as attached, Addendum to Annex B – June 2019.

2. These amendments relate to:

   a) A time extension to the contract
   b) An increase to the financial limit of £1,281,169.5
   c) The update to the programme budget as shown in Annex B
   d) The update of the definition of Charges within Section 2 General Conditions of Framework Agreement
   e) The update of clauses within Section 4 Appendix A Form of Contract

3. Please confirm in writing by signing and returning one copy of this letter, within **15 working days** of the date

of signature on behalf of DFID that you accept the variations set out herein.

4. The Contract, including any previous variation, shall remain effective and unaltered except as amended by this letter.

5. Words and expressions in this letter shall have the meanings given to them in the Contract.

Signed by an authorised signatory for and on behalf of the Secretary of State for International Development	Name: Position: Signature: Date:
Signed by an authorised signatory for and on behalf of the Supplier	Name: Signature: Date:

Enc

Appendix A: of Section 4, Annex A (Terms of Reference) Schedule of Processing, Personal Data and Data Subjects

Addendum to Annex B - June 2019

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Appendix A: of Section 4, Annex A (Terms of Reference) Schedule of Processing, Personal Data and Data Subjects

Description	Details
Identity of the Controller and Processor for each Category of Data Subject	The Parties acknowledge that for the purposes of the Data Protection Legislation, the following status will apply to personal data under this contract**:** 1) The Parties acknowledge that Clause 11.2 and 11.4 (Section 4 of the contract) shall not apply for the purposes of the Data Protection Legislation as the **Parties are independent Controllers** in accordance with Clause 11.3 in respect of Personal Data necessary for the administration and / or fulfilment of this contract. 2) For the avoidance of doubt the Supplier shall provide **anonymised data** sets for the purposes of reporting on this project and so DFID shall not be a Processor in respect of Personal Data necessary for the administration and / or fulfilment of this contract.

Summary of the Managing Agent's costs and disbursements for both the original contract period and the contract extension period:

REDACTED

Schedule of Prices

REDACTED