Attachment 5 -

Letter of Appointment

Call-Off Schedules

Joint Schedules

CCCS24A09 – Provision of a Creative Solution

Campaign Solutions 2

Reference Number

RM6125

**Please read the RM6125 overview of terms and conditions (read first) document first**

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Campaign Solutions 2

**Introduction to Terms and Conditions**

The Terms and Condition of the Campaign Solutions 2 framework agreement are provided in two legally binding contracts:

* Framework Contract - this will be the overarching contract between CCS and the individual agencies successfully awarded a place on the Campaign Solutions 2 Framework Agreement.
* Call-Off Contract - this provides the terms and conditions of the contract for clients appointing an agency through the framework agreement.

Core Terms

These are the main legal terms which apply to both the Framework Contract and the Call-Off contract. The Core Terms govern the agency’s relationship with CCS at framework level and with each client at call-off level.

The Core Terms are supplemented with a number of Schedules, comprising:

•       Framework schedules

•       Joint schedules (for framework and call-off)

•       Call-off schedules

The Framework Contract

This comprises:

* The Specification which sets out the range of campaign services to be provided through the Framework Agreement (Framework Schedule 1)
* The process clients must follow to appoint an agency (Framework Schedule 7 - Call-Off Award Procedure)
* The tender and rates submitted by the Agency in this tender process
* The Core Terms and Joint Schedules of the contract which apply to both the Framework and the Call-Off Contract as above
* Specific Framework Schedules relating to the framework contract between CCS and the Agency

The Call-Off Contract

Please note the Call-Off Contract should be read in conjunction with the Framework Contract. It is governed by the Core Terms as above and comprises: 

* Joint Schedules as in the Framework Contract
* The Letter of Appointment template which is used to form the contract between the Client and the Agency and incorporates Joint and Call-Off Schedules plus any special terms  (Framework Schedule 6)
* Specific Call-Off Schedules relating to the contract between the Client and the Agency

The process

To appoint an agency through the framework, clients will follow the process outlined in the Schedule 7 of the Framework Contract.

The Client will then use the Letter of Appointment template and incorporate the Joint and Call-Off Schedules in Framework Schedule 6 to form the Call-Off contract with the Agency.

Clients will complete the Call-Off schedules to suit their individual brief and can omit Call-Off Schedules which are not relevant to the contract. The optional schedules are highlighted in yellow and can be amended by the client to suit the requirement.

There are optional Call-Off terms which will only apply to certain clients (MOD and HMRC) and clients subject to Scottish or Northern Ireland laws. These are available as separate documents and do not need to form part of the Call-Off Contract unless required, if they form part of the Call Off Contract they will be legally binding.

The contracts follow the Public Sector Contract which presents the terms and schedules in a modular format. We have brought elements together into single documents but have retained the numbering of the individual terms and schedules for wider consistency. This means the clause numbering is not consecutive.

**Letter of Appointment Template and Call-Off Schedules (Framework Schedule 6)**

**Letter of Appointment**

The Agency is one of a number of agencies appointed by the Crown Commercial Service (CCS) to the Framework Agreement and is therefore able to enter into this Call-Off Contract.

This Letter of Appointment is issued in accordance with the provisions of the Framework Contract RM6125 between CCS and the Agency, dated 03/04/2024.

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

Bespoke briefing templates for Lots 3 and 4 are available upon request from these agencies.

CALL-OFF LOT(S):

|  |  |
| --- | --- |
| **Order Number:** | CCCS24A09 |
| **From:** | 11/04/2025 |
| **To:** | 10/04/2027 |

|  |  |
| --- | --- |
| **Call-Off Start Date:** | 11/04/2025 |
| **Call-Off Expiry Date:** | 10/04/2027 |
| **Call-Off Initial Period:** | One (1) year |
| **Call-Off Optional Extension Period:** | One (1) year – 10/04/2027 |

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

|  |  |
| --- | --- |
| **Key Staff:** | REDACTED TEXT under FOIA Section 40, Personal Information |
| **Guarantor(s)** | N/A |

|  |  |
| --- | --- |
| **Call-Off Contract Charges (including any applicable discount(s), but excluding VAT):** | REDACTED TEXT under FOIA Section 43, Commercial Interests |
| **Liability** | **See Clause 11 of the Core Terms**  **Estimated Year 1 Charges:** |
| **Additional Insurance Requirements** | n/a |
| **Client billing address for invoicing:** | REDACTED TEXT under FOIA Section 40, Personal Information |

|  |  |
| --- | --- |
| **Special Terms** | **None** |

PROGRESS REPORT FREQUENCY

* **Monthly Performance:** On the first Working Day of each calendar month, this will include providing a status update of performance and financials, against KPIs, etc
* **Monthly Finance report**: Overarching finance report detailing all agreed scope of works and the actual spend to date against each and forecast remaining
* **Weekly Finance report:** Provide a weekly finance tracker detailing spend to date against each deliverable, split by fee and production costs. Fee reporting to detail grade, rate and hours charged.
* **Operational Delivery Status Updates**: Weekly as when required for key projects that require regular update and monitoring

PROGRESS MEETING FREQUENCY

* Contract Review meetings: monthly, date to be agreed between both parties
* Operational meeting to include spend and progress reporting (as required): weekly

KEY SUBCONTRACTOR(S)

REDACTED TEXT under FOIA Section 40, Personal Information

COMMERCIALLY SENSITIVE INFORMATION

1. Rate card (commercial workbook) - Team member rates- these figures are discounted for the framework and not known publicly

2. Case studies - confidential figures regarding success of the projects and increased revenues being in the public domain

3. Social Value- social value metrics are confidential

4. All intellectual property and strategy description - confidential

Duration of confidentiality: Indefinite

SOCIAL VALUE COMMITMENT

The Agency agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (Call-Off Proposal)

SERVICE CREDIT CAP

**Not applicable**

CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off 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 Call-Off Special Terms and Call-Off Special Schedules.
2. *Joint Schedule 1 (Definitions and Interpretation) RM6125*
3. *The following Schedules in equal order of precedence:*

* *Joint Schedules for RM6125*
  + *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)*
  + *Joint Schedule 10 (Rectification Plan)*
  + *Joint Schedule 11 (Processing Data)*
* *Call-Off Schedules for* ***CCCS24A09***
  + *Call-Off Schedule 1 (Transparency Reports)*
  + *Call-Off Schedule 2 (Staff Transfer)*
  + *Call-Off Schedule 3 (Continuous Improvement)*
  + *Call-Off Schedule 5 (Pricing Details)*
  + *Call Off Schedule 6 (ICT Services)*
  + *Call-Off Schedule 7 (Key Supplier Staff)*
  + *Call-Off Schedule 8 (Business Continuity and Disaster Recovery)*
  + *Call-Off Schedule 9 (Security)*
  + *Call-Off Schedule 10 (Exit Management)*
  + *Call-Off Schedule 14 (Service Levels)*
  + *Call-Off Schedule 15 (Call-Off Contract Management)*
  + *Call-Off Schedule 16 (Benchmarking)*
  + *Call-Off Schedule 18 (Background Checks)*
  + *Call-Off Schedule 20 (Call-Off Specification)*

1. CCS Core Terms
2. Joint Schedule 5 (Corporate Social Responsibility) RM6125
3. Call-Off Schedule 4 (Proposal) as long as any parts of the Call-Off 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 Call-Off 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 Deliverables.

FORMATION OF CALL-OFF CONTRACT

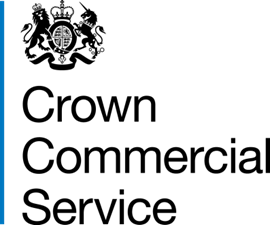
BY SIGNING AND RETURNING THIS LETTER OF APPOINTMENT (which may be done by electronic means) the Agency agrees to enter into a Call-Off Contract with the Client to provide the Deliverables in accordance with the terms of this letter and the Call-Off Incorporated Terms.

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

|  |  |  |  |
| --- | --- | --- | --- |
| **For and on behalf of the Agency:** | | * 1. For and on behalf of the Client: | |
| Signature: | REDACTED TEXT under FOIA Section 40, Personal Information | Signature: | REDACTED TEXT under FOIA Section 40, Personal Information |
| Name: | REDACTED TEXT under FOIA Section 40, Personal Information | Name: | REDACTED TEXT under FOIA Section 40, Personal Information |
| Role: | REDACTED TEXT under FOIA Section 40, Personal Information | Role: | REDACTED TEXT under FOIA Section 40, Personal Information |
| Date: |  | Date: |  |

**Annex A**

**Agency Proposal (SOR)**



**Attachment 3 – Statement of Requirements**

**Provision of a Creative Solution**

Contract Reference: CCCS24A09

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# PURPOSE

* 1. The Cabinet Office is responsible for the delivery of a wide range of communication campaigns. This includes both the delivery of planned campaigns as well as having the need to deliver priority communication campaigns at short notice. There are a number of communications teams in the Cabinet Office, including the Government Communications Service, which could require these services.
  2. There is a requirement for a Creative Solutions Agency that can deliver both planned campaigns and those delivered with a short turnaround, across the budget spectrum from low to higher cost, on a standby basis.
  3. The Agency could be asked to deliver a complete campaign solution or any of the individual capabilities such as communications strategy development and consultancy services, creative and concept development, PR, partnership or digital services. This includes solutions up to and including (but not limited to) the creation of master artwork.

# BACKGROUND TO THE CONTRACTING aUTHORITY

* 1. Government Communication Services (GCS) (hereafter referred to as ‘the Client’) within the Cabinet Office (CO), who are the Contracting Authority, is the professional body for public service communication professionals working in central government departments, agencies and arm’s length bodies. The contract will be with the Cabinet Office for this requirement.

#### GCS will be the lead Client, and will coordinate access to the Cabinet Office as and when required.

* 1. GCS’s purpose is to deliver world-class public service communications that support government priorities, enable the efficient and effective operation of public services and improve people’s lives. This would include working for and coordinating the work of other government departments. Work will need to be delivered at high speed and to the highest standard. Other teams across Government Communications Service and Cabinet Office who could use this contract include (but are not limited to):

### Government Communication Service International (GCSI) (part of GCS) works with governments, agencies and organisations across the world, including, but not restricted to Europe, Western Balkans, Ghana, Oman, Pakistan, Asia and Africa.

#### The GREAT Britain & Northern Ireland team (GREAT) (part of GCS) delivers international campaigns which are designed to build positive perceptions of the UK and drive tourism, trade, investment, international students and talent.

* + 1. The Cabinet Office’s National Security Communications Team (NSCT) was established in 2018 to improve the national security community’s use of communications to achieve UK objectives. Communications supports national security objectives by: building alliances; changing behaviour; framing context; and amplifying deterrence.

# Background to requirement/OVERVIEW of requirement

## The communications delivered by the client contribute to public service goals and support the Government’s priorities. The Agency may work across several of these areas, or on emerging priorities that are currently unforeseen.

## The current communications priorities for the year ahead are categorised under the following Missions:

## Kickstart economic growth (incl GREAT)

## Make Britain a clean energy superpower

## Take back our streets

## Break down barriers to opportunity

## Build an NHS fit for the future

* + 1. Public services (essential public information, revenue-raising, statutory or operational requirement)

### Everything else (including National Security Communications, essential BAU, statutory requirements, operationally necessary)

## To note, these priorities are subject to change during the duration of the contract.

## The Client also has a duty to the taxpayer to ensure its activities are delivered efficiently and effectively. This means providing value for taxpayer’s money and ensuring the activity meets the desired outcome.

# definitions

|  |  |
| --- | --- |
| Expression or Acronym | Definition |
| CO | Means Cabinet Office |
| GCS | Means Government Communications Services |

# scope of requirement

## Services within scope of this Contract shall include the following key areas:

* + 1. The Client requires an Agency to deliver communications campaign support on both a standby and planned campaign basis for an initial 1 year period with an option to extend for a further 1 year (1+1).
    2. The incumbent agency is currently contracted to provide end-to-end campaign solutions until May 2025 at the latest. This may be exhausted earlier should the contract value ceiling be maximised before the end date.
    3. This contract is being established to replace the existing contract. The Agency will help in the ambition to deliver world class campaigns, increase the professional skills, tools and systems of the Client to world class levels and to continually improve our efficiency and effectiveness. This new requirement will be primarily for communications strategy development and consultancy services, including (but not limited to): creative and concept development, PR, partnership or digital services. This will entail ad hoc creative and design projects but could include a full channel mix (including above and below the line channels, partnerships and consideration of low/no cost opportunities).
    4. The maximum contract ceiling for this contract is £15.6m; however, this is a demand-led requirement and there is no guarantee that the total services used under this contract will reach this value.
    5. As this will be a Standby contract, the Agency can be called upon for urgent work or where the demand cannot be met within other existing contractual arrangements.
    6. The Agency will need to be responsive, agile and able to act quickly whilst understanding the resource needs of each brief. Projects will often have to be delivered to tight timescales and the Agency will be expected to responsibly handle sensitive information. The Agency will need to be able to cope with multiple briefs being issued from the Client at the same time.
    7. The Agency will be able to operate both domestically and internationally and provide services through their established network of local suppliers and agencies, providing market knowledge and understanding of the local context (by using and gathering regional insight and evaluation). In exceptional circumstances, the Agency may be requested to produce content which is tailored to and in local languages and provide translation services and to work in a streamlined way with global leads. International locations will include but are not limited to the following key markets: but are not limited to the following locations: USA, Australia, India, China, Japan, Eastern Europe, France, Germany, Western Balkans, Tunisia, Nigeria, Ghana, Kenya, South Africa, the Sahel, Brazil, Mexico, Colombia, Georgia, Indonesia, Malaysia, Pakistan amongst others.
    8. The required locations may expand throughout the duration of the agreement and therefore the Agency may be required to expand their network and/or appoint subcontractors to deliver Client requirements. The Agency will need to have the ability to provide an international perspective and create globally applicable outputs, and in exceptional circumstances, utilise a global network with the ability to test and produce content for these markets. Language capability will also be crucial to both test and produce content aimed at international audiences.
    9. The Agency needs to ensure strong collaboration with cross agency groups, particularly with insight, media planning, media buying and content versioning and distribution teams.
    10. The Agency will ensure that they are innovative in their approach (e.g. considering Dynamic Content Optimisation, Addressable media, AI and other technologies) and are seeking to drive efficiency and value for money.
        1. Furthermore, the agency is required to be a key partner in digital creative personalisation campaigns, from DCO to fully addressable, and advise on emerging technologies that have the ability to scale cross-government.
    11. The Agency will be required to show expertise in interpreting data to produce compelling digital creative strategy. Creative strategy should be designed to be executed across a range of digital channels with cut-through messaging. We expect the Agency to bring marketing rigour to the digital marketing environment.

### Out of scope of this requirement

* 1. In parallel, the Client will be separately awarding a contract for content versioning and distribution of assets where suitable. The intention is that content versioning and distribution services will be accessed via this separate contract; however, there may be exceptional circumstances where the Client may wish to use this Campaign Solutions contract (the subject of this requirements document) to purchase this.
  2. The Client reserves the right to allocate the work accordingly based on this understanding. Prior to the end of the existing Campaign Solutions contract (May 2025 at the latest), the Client will determine whether the existing or new contract shall be used, based on value for money and campaign complexity (e.g. avoiding significant inconvenience or substantial duplication of costs for the Client where introductory work has already started).

### Media planning and media buying services are out of scope of this Contract.

### Role of the Agency

### The Agency will be the standby agency for Cabinet Office GCS. This team will include the Client, GCS International, Cabinet Office Communications and potentially other parts of the Cabinet Office, such as the National Security Communication Team. At times the Agency may also be required to work with other agencies of the Client. Work will range from full scale campaigns to smaller and low/no cost activities, as well as capability building.

### Management and staffing

* 1. The Agency must offer dedicated staff (at appropriate levels) and points of contacts including a nominated board level contact. Staffing levels must be sufficient and of the right calibre to meet the specific requirements set out in this brief. The Agency should set out its approach to account management in its response to this brief.
  2. The successful Agency will be capable of adding value in addition to proactively briefed projects. This is not prescriptive and should be dependent on the Agency’s own specialisms, the needs of government and the ease of delivery and likely impact.
  3. As part of the bid process bidders will be requested to indicate how much of a contract a bidder intends to subcontract (if any) and provide details of their proposed subcontractors. These subcontractors will be evaluated as part of the bid process.

# key milestones and Deliverables

* 1. Key milestones will be set for specific campaign briefs and communicated to the supplier at the kick off for each. This will be via email, and potentially by phone, video or face-to-face meetings as well. The successful Agency will be expected to be capable of providing substantive initial responses within tight turn-around periods where required.

## The Client will measure contract delivery against the following Milestones. The Agency shall note that these are not starting at the same time but shall follow a sequential frequency.

|  |  |  |
| --- | --- | --- |
| Milestone/Deliverable | Description | Timeframe and Delivery date |
| 1 | Kick off meeting/briefing on immediate requirements | Within one week of contract award |
| 2 | Contract Review meetings to be attended by Agency’s key staff | Monthly |
| 3 | Operational meeting to include spend and progress reporting (as required) | Weekly |
| 4 | Responding to commissions/ briefs | Within 48 hours |

### The Client shall provide access to:

### The GCS team and lead contacts per campaign;

### Content versioning and distribution agency;

### Media planning agencies;

### The media buying agency; and

* + 1. Research and evaluation agencies.

# MANAGEMENT INFORMATION/reporting

* 1. The Client expects the following management information and reporting:
     1. High level reporting on the delivery of milestones for specific campaigns at regular stand-ups (exact reporting level and frequency to be agreed through the mobilisation period for each campaign brief).
     2. Regular spend and progress reports and work package management meetings per campaign (exact reporting level and frequency to be agreed through the mobilisation period for each campaign brief).
     3. Monthly contract management meetings including detailed progress reports against milestones and forecast costs (exact format to be agreed through the mobilisation period).
     4. In circumstances where there arises a potential need for adhoc reporting, prior notice would be given.

# volumes

## This is a Call off Contract with zero commitment, therefore volumes cannot be guaranteed.

# continuous improvement

## The Agency shall continually improve the way in which the required Services are to be delivered throughout the Contract duration.

## The Agency should present new ways of working to the Client during the regular update meetings.

## Changes to the way in which the Services are to be delivered must be brought to the Client’s attention and agreed prior to any changes being implemented

# quality

* 1. The Agency will ensure that there is a technically qualified, dedicated delivery team providing consistent quality assured outputs and outcomes. All Agency delivery should be quality assured and signed off before presentation to the Client.

# PRICE

* 1. Prices at Stage One are to be submitted via the e-Sourcing Suite Attachment 4- Price Schedule excluding VAT and including all other expenses relating to contract delivery.
  2. Agencies will need to adhere to best practice for utilising budget and optimising the use of public money to achieve results and/or deliver a quality service.
  3. The value for this Call-Off Contract will be £15.6million, including any extension option. This is a maximum value; spend and values will not be guaranteed due to the call-off nature of the contract. Budget approval for subsequent years will need to be sought throughout the life of the contract.
  4. In-market agencies must have the ability to legally deliver Client requirements and to be paid by the UK Government with any international payments being raised in UK Pounds Sterling.
  5. Expenses shall only be recoverable where:
     1. The Order Form states that recovery is permitted; and
     2. They are Reimbursable Expenses and are supported by Supporting Documentation
  6. Reimbursable expenses will be confirmed in advance, aligning to civil service rules and adhering to best value. Any International travel shall be agreed in advance of the travel where there is a clear and agreed business need.

# STAFF AND CUSTOMER SERVICE

* 1. The Agency shall provide a sufficient level of dedicated resources throughout the duration of the work package in order to consistently deliver a quality service. The proposed resources can only be replaced with the agreement of the Client for a resource with the same level of experience and technical ability.
  2. The Agency’s resources assigned to the work package shall have the relevant qualifications and experience to deliver the work to the required standard. As part of your proposal, a pen portrait will be required for each member of the delivery team.
  3. The Agency shall ensure that staff understand the Client’s vision and objectives and will provide excellent customer service to the Client throughout the duration of the work package.
  4. It is intended that the Agency will work with other agencies designated by the client, including any incumbent agency who will transition over projects (whether complete or mid-flight) to any new supplier in an ordered way. A plan will be put in place for each campaign/project in question to ensure that assets (including all associated usage rights) are handed over in a timely manner and under the supervision of the Client.

# service levels and performance

## The Client will measure the quality of the Agency’s delivery by:

## The Client shall measure the quality of the Agency’s delivery by KPIs/SLAs agreed on an individual campaign basis. The targets below are examples only and KPIs/SLAs will be agreed between the Client and Agency for the specific project prior to the commencement of any work.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| KPI/SLA | Service Area | KPI/SLA description | Target | How measured |
| 1 | Delivery timescales | Response to briefs to be submitted to the Client within 48 hours | 100% | Measured by the Client’s delivery manager |
| 2 | Delivery timescales | 95% of creative assets to be delivered to specified Client level of professional quality and purpose within 3rd iteration by the specified delivery timescale | 95% | Measured by the Client’s delivery manager |
| 3 | Management reporting | Management reporting to 100% accuracy submitted on time and accurate | 100% | Measured by the Client’s delivery manager and receipt of documents |
| 4 | Management reporting | Attendance and high level reporting on the delivery of milestones at daily stand-ups (for projects defined by the Client) | 100% | Measured by the Client’s delivery manager |
| 5 | Management reporting | Weekly spend and progress report and work package management meeting | 100% | Measured by the Client’s delivery manager |
| 6 | Management reporting | Attendance of monthly contracts management meetings including detailed progress reports against milestones, KPIs and forecast cost (report provided by Supplier) | 100% | Measured by the Client’s delivery manager |
| 7 | Management reporting | Projects delivered should also include a post-project evaluation (for projects defined by the Client) Timing of evaluation to be defined by the Client. | 100% | Measured by the Client’s delivery manager |

* 1. The Client reserves the right to refine or include further KPIs or SLAs at the outset of each delivery milestone.
  2. The Client will maintain a record of Agency’s adherence to the agreed service level and performance timelines. Any non-adherence will result in performance review meetings between the Client and the Agency, to provide an explanation as to why the service level agreement was not met. Improvement plans will also be established here.
  3. Where the Agency fails to provide a Service Improvement Plan or fails to deliver the agreed Service Improvement Plan to the required standard, the Client reserves the right to seek early termination of the contract in accordance with the procedures set out in the Terms and Conditions.

# Security and CONFIDENTIALITY requirements

## The Client may require the Agency to provide staff with a minimum-security clearance of enhanced DBS for specific projects throughout the life of the Contract.

## As a minimum, the Client requires BPSS clearance.

## Should higher security clearance be required, for national security, the Client will provide as much notice as possible with details of the security clearance required if different from those specified above.

# payment AND INVOICING

* 1. Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables. The Agency will send invoices for payment to the Client quoting the appropriate purchase order number.
  2. Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.

1. REDACTED TEXT under FOIA Section 40, Personal Information

# CONTRACT MANAGEMENT

* 1. Attendance at Contract Review meetings shall be at the Agency’s own expense.
  2. As per section 8 above, communication will be maintained with the Agency through regular meetings (either virtually or in person) and email correspondence.

## Attendance at Contract Review meetings shall be at the Supplier’s own expense.

# Location

1. REDACTED TEXT under FOIA Section 40, Personal Information

**Annex B**

**Statement of Work**

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

To be completed post award

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. Where a Statement of Work would result in:
* a variation of the Services procured under this Call-Off Contract;
* an increase in the Charges agreed under this Call-Off Contract; or
* a change in the economic balance between the Parties to the detriment of the Client that is not provided for in this Call-Off Contract, the relevant term(s) will be will be dealt with as a proposed Variation to this Call-Off 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 and then rolling subject to notice.*  *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. |
| **Deliverables** | Set out a description of the Deliverables 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, or 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 HMG evaluation 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 Deliverables will be “subject to any third-party usage rights which are notified to the Client in accordance with this Call-Off Contract “. |
| **Inclusion of Additional Schedules** | The following Schedules are incorporated into this Statement of Work   |  |  | | --- | --- | | **Schedule Name** | **Incorporated** (Mark with ‘X’ if incorporated) | | Creative Advertising Services (online and/or offline) |  | | Social Media Services |  | | Public Relations |  | | Simple Software/website/app development |  | | Below the line/experiential |  | |
| **Project Plan:** | *Set out the timing of each phase of the project, any key dates and/ or delivery of the Services and/or the Deliverables (if known)* |
| **Contract Charges:** | *Set out the calculation of the Contract Charges [(including rules for the recovery of expenses)] 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.*  All rates should be less than the maximum rates set out in the Agency rate card submitted as part of the original framework evaluation as set out in Framework Schedule 3.  *Set out any payment terms specific to the Project.*  ***Examples of different wording for Contract Charges:***  *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*  *OR*  *The Contract Charges shall be calculated using the hourly charge out rates shown in [the Agency’s rate card, [provided that the total Contract Charges shall not exceed £ [...].] For the avoidance of doubt, the Contract Charges shall inclusive of all third-party costs.* |
| **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 Deliverables* |
| **Special Terms:** | *Set out any special terms that are intended to take precedence over the Call-Off Terms and/or the Schedules to the Call-Off Terms such as, security requirements, warranties, specific insurance requirements, any specific data reporting requirements etc..* |
| **Key Individuals:** | *Set out details of the key personnel from the Agency for this 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.* |

Signed by:……………………………..........

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………...................................................................

**Call-Off 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 Framework Contract, within three (3) Months of the Start Date the Agency shall submit to the Client for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.

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

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

**Annex A: List of Transparency Reports**

The 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 Framework 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.

**Call-Off Schedule 2 (Staff Transfer)**

[**Guidance note: Clients will need to take their own legal advice on this Schedule 2 and, in particular, on Part D (Pensions).**

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

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

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

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

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

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

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

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

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

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

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

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

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

**[Delete** if not applicable to the Call Off Contract]

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

# Part C: No Staff Transfer on the Start Date

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

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

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

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

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

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

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

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

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

**Part E: Staff Transfer on Exit**

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

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

* 1. At least 20 Working Days prior to the Service Transfer Date, the Agency shall provide to the Client or at the direction of the Client to any Replacement Agency and/or any Replacement Subcontractor (i) the Agency's Final Agency Personnel List, which shall identify the basis upon which they are Transferring Agency Employees and (ii) the Staffing Information in relation to the Agency’s Final Agency Personnel List (insofar as such information has not previously been provided).
  2. The Client shall be permitted to use and disclose information provided by the Agency under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Agency and/or Replacement Subcontractor.
  3. The Agency warrants, for the benefit of The Client, any Replacement Agency, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
  4. From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Agency agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Agency’s Provisional Agency Personnel List and shall not without the approval of the Client (not to be unreasonably withheld or delayed):
     1. replace or re-deploy any Agency Staff listed on the Agency Provisional Agency Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces
     2. make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Agency Staff (including pensions and any payments connected with the termination of employment);
     3. increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Agency Staff save for fulfilling assignments and projects previously scheduled and agreed;
     4. introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Agency's Provisional Agency Personnel List;
     5. increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
     6. terminate or give notice to terminate the employment or contracts of any persons on the Agency's Provisional Agency Personnel List save by due disciplinary process;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Call-Off Schedule 3 (Continuous Improvement)**

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

**Call-Off Schedule 4 (Winning Supplier’s Bid)**

REDACTED TEXT under FOIA Section 40, Personal Information

REDACTED TEXT under FOIA Section 43, Commercial Interests

**Call-Off Schedule 5 (Winning Supplier’s Commercial Bid)**

REDACTED TEXT under FOIA Section 43, Commercial Interests

**Call-Off Schedule 6 (ICT Services)**

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

|  |  |
| --- | --- |
| **"Agency System"** | the information and communications technology system used by the Agency in supplying the Deliverables, 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 Deliverables; |
| **"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 Deliverables; |
| **“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 a Deliverable; or  any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or |
|  | any failure of any Deliverable 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 Deliverable from passing any Test required under this Call Off Contract; or  any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable 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 Deliverable 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 Call Off 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 Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item; |
| **"Open Source Software"** | computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge; |
| **"Operating Environment"** | means the Client System and any premises (including the Client Premises, the Agency’s premises or third party premises) from, to or at which:  the Deliverables are (or are to be) provided; or  the Agency manages, organises or otherwise directs the provision or the use of the Deliverables; or  where any part of the Agency System is situated; |
| **"Permitted Maintenance"** | has the meaning given to it in paragraph 8.2 of this Schedule; |
| **"Quality Plans"** | has the meaning given to it in paragraph 6.1 of this Schedule; |
| **"Sites"** | has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Call Off Schedule shall also include any premises from, to or at which physical interface with the Client System takes place; |
| **"Software"** | Specially Written Software COTS Software and non-COTS Supplier and third party Software; |
| **"Software Supporting Materials"** | has the meaning given to it in paragraph 9.1 of this Schedule; |
| **"Source Code"** | computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software; |
| **"Specially Written Software"** | any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Agency (or by a Sub-Contractor or other third party on behalf of the Agency) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR; |

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

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

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

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

**Call-Off Schedule 7 (Key Agency Staff)**

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

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

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

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

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

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

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

1.5 The Agency shall:

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

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

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

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

**Call-Off Schedule 8 (Business Continuity and Disaster Recovery)**

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

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

1. **BCDR Plan**
   1. The Client and the Agency recognise that, where specified in Schedule 4 (Framework Management), CCS shall have the right to enforce the Client's rights under this Schedule.
   2. At least ninety (90) Working Days prior to the Start Date the Agency shall prepare and deliver to the Client for the Client’s written approval a plan (a **“BCDR Plan”**), which shall detail the processes and arrangements that the Agency shall follow to:
      1. ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
      2. the recovery of the Deliverables in the event of a Disaster
   3. The BCDR Plan shall be divided into three sections:
      1. Section 1 which shall set out general principles applicable to the BCDR Plan;
      2. Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
      3. Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
   4. Following receipt of the draft BCDR Plan from the Agency, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
2. **General Principles of the BCDR Plan (Section 1)**
   1. Section 1 of the BCDR Plan shall:
      1. set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
      2. provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Client by a Related Agency;
      3. contain an obligation upon the Agency to liaise with the Client and any Related Agencies with respect to business continuity and disaster recovery;
      4. detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Client and any of its other Related Agency in each case as notified to the Agency by the Client from time to time;
      5. contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
      6. contain a risk analysis, including:
         1. failure or disruption scenarios and assessments of likely frequency of occurrence;
         2. identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
         3. identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Agency; and
         4. a business impact analysis of different anticipated failures or disruptions;
      7. provide for documentation of processes, including business processes, and procedures;
      8. set out key contact details for the Agency (and any Subcontractors) and for the Client;
      9. identify the procedures for reverting to "normal service";
      10. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
      11. identify the responsibilities (if any) that the Client has agreed it will assume in the event of the invocation of the BCDR Plan; and
      12. provide for the provision of technical assistance to key contacts at the Client as required by the Client to inform decisions in support of the Client’s business continuity plans.
   2. The BCDR Plan shall be designed so as to ensure that:
      1. the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
      2. the adverse impact of any Disaster is minimised as far as reasonably possible;
      3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
      4. it details a process for the management of disaster recovery testing.
   3. The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
   4. The Agency shall not be entitled to any relief from its obligations under the Performance Indicators (PI’s) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Agency of this Contract.
3. **Business Continuity (Section 2)**
   1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
      1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
      2. the steps to be taken by the Agency upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
   2. The Business Continuity Plan shall:
      1. address the various possible levels of failures of or disruptions to the provision of Deliverables;
      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 Deliverables;
      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 Deliverables during any period of invocation of the Business Continuity Plan; and
      4. set out the circumstances in which the Business Continuity Plan is invoked.
4. **Disaster Recovery (Section 3)**
   1. The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Agency ensures continuity of the business operations of the Client supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
   2. The Agency's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
      1. loss of access to the Client Premises;
      2. loss of utilities to the Client Premises;
      3. loss of the Agency's helpdesk or CAFM system;
      4. loss of a Subcontractor;
      5. emergency notification and escalation process;
      6. contact lists;
      7. staff training and awareness;
      8. BCDR Plan testing;
      9. post implementation review process;
      10. any applicable Performance Indicators (PI’s) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
      11. details of how the Agency shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
      12. access controls to any disaster recovery sites used by the Agency in relation to its obligations pursuant to this Schedule; and
      13. testing and management arrangements.
5. **Review and changing the BCDR Plan**
   1. The Agency shall review the BCDR Plan:
      1. on a regular basis and as a minimum once every six (6) Months;
      2. within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
      3. where the Client requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Agency shall conduct such reviews in accordance with the Client’s written requirements. Prior to starting its review, the Agency shall provide an accurate written estimate of the total costs payable by the Client for the Client’s approval. The costs of both Parties of any such additional reviews shall be met by the Client except that the Agency shall not be entitled to charge the Client for any costs that it may incur above any estimate without the Client’s prior written approval.
   2. Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Agency within such period as the Client shall reasonably require.
   3. The Agency shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Client a report (a **"Review Report"**) setting out the Agency's proposals (the **"Agency's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
   4. Following receipt of the Review Report and the Agency’s Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Agency's Proposals. If the Parties are unable to agree Review Report and the Agency's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   5. The Agency shall as soon as is reasonably practicable after receiving the approval of the Agency's Proposals effect any change in its practices or procedures necessary so as to give effect to the Agency's Proposals. Any such change shall be at the Agency’s expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.
6. **Testing the BCDR Plan**
   1. The Agency shall test the BCDR Plan:
      1. regularly and in any event not less than once in every Contract Year;
      2. in the event of any major reconfiguration of the Deliverables
      3. at any time where the Client considers it necessary (acting in its sole discretion).
   2. If the Client requires an additional test of the BCDR Plan, it shall give the Agency written notice and the Agency shall conduct the test in accordance with the Client’s requirements and the relevant provisions of the BCDR Plan. The Agency's costs of the additional test shall be borne by the Client unless the BCDR Plan fails the additional test in which case the Agency's costs of that failed test shall be borne by the Agency.
   3. The Agency shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Client and shall liaise with the Client in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Client.
   4. The Agency shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Client. Copies of live test data used in any such testing shall be (if so required by the Client) destroyed or returned to the Client on completion of the test.
   5. The Agency shall, within twenty (20) Working Days of the conclusion of each test, provide to the Client a report setting out:
      1. the outcome of the test;
      2. any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
      3. the Agency's proposals for remedying any such failures.
   6. Following each test, the Agency shall take all measures requested by the Client to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Agency, at its own cost, by the date reasonably required by the Client.
7. **Invoking the BCDR Plan**
   1. In the event of a complete loss of service or in the event of a Disaster, the Agency shall immediately invoke the BCDR Plan (and shall inform the Client promptly of such invocation). In all other instances the Agency shall invoke or test the BCDR Plan only with the prior consent of the Client.
8. **Circumstances beyond your control**
   1. The Agency shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

**Call-Off Schedule 9 (Security)**

Call-Off Schedule 9 (Security)

# Supplier obligations

**Core requirements**

## The Supplier must comply with the core requirements set out in Paragraphs 4 to 9.

## Where the Buyer has selected an option in the table below, the Supplier must comply with the requirements relating to that option set out in the relevant Paragraph:

|  |  |  |
| --- | --- | --- |
| **Certifications** (see Paragraph 4) | | |
| The Supplier must have the following Certifications (or equivalent): | ISO/IEC 27001:2022 by a UKAS-recognised Certification Body | ☐ |
| Cyber Essentials Plus | ☐ |
| Cyber Essentials | ☒ |
| No certification required | ☐ |
| Subcontractors that Handle Government Data must have the following Certifications (or equivalent): | ISO/IEC 27001:2022 by a UKAS-recognised Certification Body | ☐ |
| Cyber Essentials Plus | ☐ |
| Cyber Essentials | ☒ |
| No certification required | ☐ |
| **Locations** (see Paragraph 5) | | |
| The Supplier and Subcontractors may store, access or Handle Government Data in: | the United Kingdom only | ☐ |
| a location permitted by and in accordance with any regulations for the time being in force made under section 17A of the Data Protection Act 2018 (adequacy decisions by the Secretary of State). | ☒ |
| anywhere in the world not prohibited by the Buyer | ☐ |
| **Staff Vetting Procedure** (see Paragraph 6) | | |
| The Buyer requires a Staff Vetting Procedure other than BPSS | | ☐ |
| Where an alternative Staff Vetting Procedure is required, that procedure is:  N/A | | |

**Optional requirements**

## Where the Buyer has selected an option in the table below, the Supplier must comply with the requirements of the corresponding Paragraph. Where the Buyer has not selected an option, the corresponding requirement does not apply.

|  |  |
| --- | --- |
| **Security Management Plan** (see Paragraph 1) | |
| The Supplier must provide the Buyer with a Security Management Plan detailing how the requirements for the options selected in this table have been met. | ☐ |
| **Buyer Security Policies** (see Paragraph 11) | |
| The Buyer requires the Supplier to comply with the following policies relating to security management:   * [**List Buyer security policies with which the Supplier and Sub-contractors must comply]** | ☐ |
| **Security testing** (see Paragraph 12) | |
| The Supplier must undertake security testing at least once every Contract Year and remediate any vulnerabilities, where it is technically feasible to do so | ☐ |
| **Cloud Security Principles** (see Paragraph 13) |  |
| The Supplier must assess the Supplier System against the Cloud Security Principles | ☐ |
| **Record keeping** (see Paragraph 14) | |
| The Supplier must keep records relating to Subcontractors, Sites, Third-party Tools and third parties | ☐ |
| **Encryption** (see Paragraph 15) | |
| The Supplier must encrypt Government Data while at rest or in transit | ☐ |
| **Protective Monitoring System** (see Paragraph 16) |  |
| The Supplier must implement an effective Protective Monitoring System | ☐ |
| **Patching** (see Paragraph 17) |  |
| The Supplier must patch vulnerabilities in the Supplier System promptly | ☐ |
| **Malware protection** (see Paragraph 18) |  |
| The Supplier must use appropriate Anti-virus Software | ☐ |
| **End-user Devices** (see Paragraph 19) |  |
| The Supplier must manage End-user Devices appropriately | ☐ |
| **Vulnerability scanning** (see Paragraph 20) | |
| The Supplier must scan the Supplier System monthly for unpatched vulnerabilities | ☐ |
| **Access control** (see Paragraph 21) |  |
| The Supplier must implement effective access control measures for those accessing Government Data and for Privileged Users | ☐ |
| **Remote Working** (see Paragraph 22) | |
| The Supplier may allow Supplier Staff to undertake Remote Working once an approved Remote Working Policy is in place | ☐ |
| **Backup and recovery of Government Data** (see Paragraph 23) | |
| The Supplier must have in place systems for the backup and recovery of Government Data | ☐ |
| **Return and deletion of Government Data** (see Paragraph 24) | |
| The Supplier must return or delete Government Data when requested by the Buyer | ☐ |
| **Physical security** (see Paragraph 25) | |
| The Supplier must store Government Data in physically secure locations | ☐ |
| **Security breaches** (see Paragraph 26) | |
| The Supplier must report any Breach of Security to the Buyer promptly | ☐ |

# Definitions

|  |  |
| --- | --- |
| **“Anti-virus Software”** | means software that:   * + 1. protects the Supplier System from the possible introduction of Malicious Software;     2. scans for and identifies possible Malicious Software in the Supplier System;     3. if Malicious Software is detected in the Supplier System, so far as possible:        1. prevents the harmful effects of the Malicious Software; and        2. removes the Malicious Software from the Supplier System; |
| **“BPSS”** | means the employment controls applied to any individual member of the Supplier Staff that performs any activity relating to the provision or management of the Services, as set out in “HMG Baseline Personnel Standard”, Version 7.0, June 2024 (<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>), as that document is updated from time to time; |
| **“Breach of Security”** | means the occurrence of:   * + 1. any unauthorised access to or use of the Services, the Sites, the Supplier System and/or the Government Data;     2. the loss (physical or otherwise), corruption and/or unauthorised disclosure of any Government Data, including copies of such Government Data; and/or     3. any part of the Supplier System ceasing to be compliant with the required Certifications;     4. the installation of Malicious Software in the Supplier System:     5. any loss of operational efficiency or failure to operate to specification as the result of the installation or operation of Malicious Software in the Supplier System; and     6. includes any attempt to undertake the activities listed in sub-Paragraph (a) where the Supplier has reasonable grounds to suspect that attempt:        1. was part of a wider effort to access information and communications technology operated by or on behalf of Central Government Bodies; or        2. was undertaken, or directed by, a state other than the United Kingdom; |
| **“Buyer Equipment”** | means any hardware, computer or telecoms devices, and equipment that forms part of the Buyer System; |
| **“Buyer Security Policies”** | means those securities specified by the Buyer in Paragraph 1.3; |
| **“Certifications”** | means one or more of the following certifications (or equivalent):   * + 1. ISO/IEC 27001:2022 by a UKAS-recognised Certification Body in respect of the Supplier System, or in respect of a wider system of which the Supplier System forms part; and     2. Cyber Essentials Plus; and/or     3. Cyber Essentials; |
| **“CHECK Scheme”** | means the NCSC’s scheme under which approved companies can conduct authorised penetration tests of public sector and critical national infrastructure systems and networks; |
| **“CHECK Service Provider”** | means a company which, under the CHECK Scheme:   * + 1. has been certified by the NCSC;     2. holds “Green Light” status; and     3. is authorised to provide the IT Health Check services required by Paragraph 7 (*Security Testing*); |
| **“Cloud Security Principles”** | means the NCSC’s document “Implementing the Cloud Security Principles” as updated or replaced from time to time and found at [https://www.ncsc.gov.uk/collection/cloud-security/ implementing-the-cloud-security-principles](https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles); |
| **“CREST Service Provider”** | means a company with an information security accreditation of a security operations centre qualification from CREST International; |
| **“Cyber Essentials”** | means the Cyber Essentials certificate issued under the Cyber Essentials Scheme; |
| **“Cyber Essentials Plus”** | means the Cyber Essentials Plus certificate issued under the Cyber Essentials Scheme; |
| **“Cyber Essentials Scheme”** | means the Cyber Essentials scheme operated by the NCSC; |
| **“Developed System”** | means the software or system that the Supplier is required to develop under this Contract; |
| **“End-user Device”** | means any personal computers, laptops, tablets, terminals, smartphones or other portable electronic devices used in the provision of the Services; |
| **“Expected Behaviours”** | means the expected behaviours set out and updated from time to time in the Government Security Classification Policy, currently found at paragraphs 12 to 16 and in the table below paragraph 16 of <https://www.gov.uk/government/publications/government-security-classifications/guidance-11-working-at-official-html>; |
| **“Government Security Classification Policy”** | means the policy, as updated from time to time, establishing an administrative system to protect information assets appropriately against prevalent threats, including classification tiers, protective security controls and baseline behaviours, the current version of which is found at [https://www.gov.uk/ government/publications/government-security-classifications](https://www.gov.uk/government/publications/government-security-classifications/guidance-11-working-at-official-html); |
| **“Handle”** | means any operation performed on data, whether or not by automated means, including collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of that data; |
| **“IT Health Check”** | means the security testing of the Supplier System; |
| **“NCSC”** | means the National Cyber Security Centre, or any successor body performing the functions of the National Cyber Security Centre; |
| **“NCSC Device Guidance”** | means the NCSC’s document “Device Security Guidance”, as updated or replaced from time to time and found at <https://www.ncsc.gov.uk/collection/device-security-guidance>; |
| **“Privileged User”** | means a user with system administration access to the Supplier System, or substantially similar access privileges; |
| **“Prohibition Notice”** | means the meaning given to that term by Paragraph 5.4. |
| **“Protective Monitoring System”** | has the meaning given to that term by Paragraph 16.1; |
| **“Relevant Conviction”** | means any previous or pending prosecution, conviction or caution (excluding any spent conviction under the Rehabilitation of Offenders Act 1974) relating to offences involving dishonesty, terrorism, immigration, firearms, fraud, forgery, tax evasion, offences against people (including sexual offences) or any other offences relevant to Services as the Buyer may specify; |
| **“Remote Location”** | means [the relevant Supplier Staff’s permanent home address authorised by the Supplier or Sub-contractor (as applicable) for Remote Working OR a location other than a Supplier’s or a Sub-contractor’s Site]; |
| **“Remote Working”** | means the provision or management of the Services by Supplier Staff from a location other than a Supplier’s or a Sub-contractor’s Site; |
| **“Remote Working Policy”** | the policy prepared and approved under Paragraph 22 under which Supplier Staff are permitted to undertake Remote Working; |
| **“Security Controls”** | means the security controls set out and updated from time to time in the Government Security Classification Policy, currently found at Paragraph 12 of <https://www.gov.uk/government/publications/government-security-classifications/guidance-15-considerations-for-security-advisors-html>; |
| **“Staff Vetting Procedure”** | means the procedure for vetting Supplier Staff set out in Paragraph 6; |
| **“Subcontractor Staff”** | means:   * + 1. any individual engaged, directly or indirectly, or employed, by any Subcontractor; and     2. engaged in or likely to be engaged in:        1. the performance or management of the Services; or        2. the provision of facilities or services that are necessary for the provision of the Services; |
| **“Third-party Tool”** | means any software used by the Supplier by which the Government Data is accessed, analysed or modified, or some form of operation is performed on it; |
| **UKAS-recognised Certification Body** | means:   * + 1. an organisation accredited by UKAS to provide certification of ISO/IEC27001:2013 and/or ISO/IEC27001:2022; or     2. an organisation accredited to provide certification of ISO/IEC27001:2013 and/or ISO/IEC27001:2022 by a body with the equivalent functions as UKAS in a state with which the UK has a mutual recognition agreement recognising the technical equivalence of accredited conformity assessment. |

# Part One: Core Requirements

# Handling Government Data

## The Supplier acknowledges that it:

### must only Handle Government Data that is classified as OFFICIAL; and

### must not Handle Government Data that is classified as SECRET of TOP SECRET.

## The Supplier must:

### not alter the classification of any Government Data

### if it becomes aware that it has Handled any Government Data classified as SECRET or TOP SECRET the Supplier must:

#### immediately inform the Buyer; and

#### follow any instructions from the Buyer concerning that Government Data.

## The Supplier must, and must ensure that Sub-contractors and Supplier Staff, when Handling Government Data, comply with:

### the Expected Behaviours; and

### the Security Controls.

# Certification Requirements

## Where the Buyer has not specified Certifications under Paragraph 1, the Supplier must ensure that it and any Subcontractors that Handle Government Data are certified as compliant with Cyber Essentials (or equivalent).

## Where the Buyer has specified Certifications under Paragraph 1, the Supplier must ensure that both:

### it; and

### any Subcontractor that Handles Government Data,

## are certified as compliant with the Certifications specified by the Buyer in Paragraph 1 (or equivalent certifications).

## The Supplier must ensure that the specified Certifications (or their equivalent) are in place for it and any relevant Subcontractor:

### before the Supplier or any Subcontractor Handles Government Data; and

### throughout the Term.

# Location

## Where the Buyer has not specified any locations or territories in Paragraph 1, the Supplier must not, and ensure that Subcontractors do not store, access or Handle Government Data outside:

### the United Kingdom; or

### a location permitted by and in accordance with any regulations for the time being in force made under section 17A of the Data Protection Act 2018 (adequacy decisions by the Secretary of State).

## Where the Buyer has specified locations or territories in Paragraph 1, the Supplier must, and ensure that all Subcontractors, at all times store, access or Handle Government Data only in or from the geographic areas specified by the Buyer.

## The Supplier must, and must ensure that its Subcontractors store, access or Handle Government Data in a facility operated by an entity where:

### the entity has entered into a binding agreement with the Supplier or Subcontractor (as applicable);

### that binding agreement includes obligations on the entity in relation to security management at least as onerous as those relating to Sub-contractors in this Schedule 16 (Security);

### the Supplier or Subcontractor has taken reasonable steps to assure itself that:

#### the entity complies with the binding agreement; and

#### the Subcontractor’s system has in place appropriate technical and organisational measures to ensure that the Sub-contractor will store, access, manage and/or Handle the Government Data as required by this Schedule 16 (Security);

### the Buyer has not given the Supplier a Prohibition Notice under Paragraph 5.4.

## The Buyer may by notice in writing at any time give notice to the Supplier that it and its Subcontractors must not undertake or permit to be undertaken the storage, accessing or Handling of Government Data in one or more countries or territories (a “**Prohibition Notice**”).

## Where the Supplier must and must ensure Subcontractors comply with the requirements of a Prohibition Notice within 40 Working Days of the date of the notice.

# Staff vetting

## The Supplier must not allow Supplier Staff, and must ensure that Subcontractors do not allow Subcontractor Staff, to access or Handle Government Data, if that person:

### has not completed the Staff Vetting Procedure; or

### where no Staff Vetting Procedure is specified in the Order Form:

#### has not undergone the checks required for the BPSS to verify:

##### the individual’s identity;

##### where that individual will work in the United Kingdom, the individual’s nationality and immigration status so as to demonstrate that they have a right to work in the United Kingdom; and

##### the individual’s previous employment history; and

##### that the individual has no Relevant Convictions; and

#### national security vetting clearance to the level specified by the Buyer for such individuals or such roles as the Buyer may specify.

## Where the Supplier considers it cannot ensure that a Sub-contractors will undertake the relevant security checks on any Sub-contractor Staff, it must:

### as soon as practicable, and in any event within 20 Working Days of becoming aware of the issue, notify the Buyer;

### provide such information relating to the Sub-contractor, its vetting processes and the roles the affected Sub-contractor Staff will perform as the Buyer reasonably requires; and

### comply, at the Supplier’s cost, with all directions the Buyer may provide concerning the vetting of the affected Sub-contractor Staff and the management of the Sub-contractor.

# Supplier assurance letter

## The Supplier must, no later than the last day of each Contract Year, provide to the Buyer a letter from its chief technology officer (or equivalent officer) confirming that, having made due and careful enquiry:

### the Supplier has in the previous year carried out all tests and has in place all procedures required in relation to security matters required by this Contract;

### it has fully complied with all requirements of this Schedule 16 (Security); and

### all Subcontractors have complied with the requirements of this Schedule 16 (Security) with which the Supplier is required to ensure they comply;

### the Supplier considers that its security and risk mitigation procedures remain effective.

# Assurance

## The Supplier must provide such information and documents as the Buyer may request in order to demonstrate the Supplier’s and any Subcontractors’ compliance with this Schedule 16 (Security).

## The Supplier must provide that information and those documents:

### at no cost to the Buyer;

### within 10 Working Days of a request by the Buyer;

### except in the case of original document, in the format and with the content and information required by the Buyer; and

### in the case of original document, as a full, unedited and unredacted copy.

# Use of Subcontractors and third parties

## The Supplier must ensure that Subcontractors and any other third parties that store, have access to or Handle Government Data comply with the requirements of this Schedule 16 (Security).

# Part Two: Additional Requirements

# Security Management Plan

## This Paragraph 10 applies only where the Buyer has selected this option in Paragraph 1.3.

**Preparation of Security Management Plan**

## The Supplier shall document in the Security Management Plan how the Supplier and its Sub-contractors shall comply with the requirements set out in this Schedule 16 (Security) and the Contract in order to ensure the security of the Supplier solution and the Buyer data.

## The Supplier shall prepare and submit to the Buyer within 20 Working Days of the date of this Contract, the Security Management Plan, which must include a description of how all the options selected in this schedule are being met along with evidence of the required certifications for the Supplier and any Subcontractors specified in Paragraph 3.

**Approval of Security Management Plan**

## The Buyer shall review the Supplier's proposed Security Management Plan as soon as possible and must issue the Supplier with either:

### an information security approval statement, which shall confirm that the Supplier may operate the service and process Buyer data; or

### a rejection notice, which shall set out the Buyer's reasons for rejecting the Security Management Plan.

## If the Buyer rejects the Supplier's proposed Security Management Plan, the Supplier must prepare a revised Security Management Plan taking the Buyer's reasons into account, which the Supplier must submit to the Buyer for review within 10 Working Days of the date of the rejection, or such other period agreed with the Buyer.

## The process set out in Paragraph 10.5 shall be repeated until such time as the Authority issues a Risk Management Approval Statement to the Supplier or terminates this Contract.

## The rejection by the Buyer of a second revised Security Management Plan is a material Default of this Contract.

**Updating Security Management Plan**

## The Supplier shall regularly review and update the Security Management Plan, and provide such to the Buyer, at least once each year and as required by this Paragraph.

**Monitoring**

## The Supplier shall notify the Buyer within 2 Working Days after becoming aware of:

### a significant change to the components or architecture of the Supplier System;

### a new risk to the components or architecture of the Supplier System;

### a vulnerability to the components or architecture of the Supplier System using an industry standard vulnerability scoring mechanism;

### a change in the threat profile;

### a significant change to any risk component;

### a significant change in the quantity of Personal Data held within the Service;

### a proposal to change any of the Sites from which any part of the Services are provided; and/or

### an ISO27001 audit report produced in connection with the Certification indicates significant concerns.

## Within 10 Working Days of such notifying the Buyer or such other timescale as may be agreed with the Buyer, the Supplier shall make the necessary changes to the Security Management Plan and submit the updated Security Management Plan to the Buyer for review and approval.

# Buyer Security Policies

## The Supplier must comply, when it provides the Services and operates and manages the Supplier System, with all Buyer Security Policies identified in the relevant option in Paragraph 1.3.

## If there is an inconsistency between the Buyer Security Policies and the requirement of this Schedule 16 (Security), then the requirements of this Schedule will prevail to the extent of that inconsistency.

# Security testing

## The Supplier must:

### before Handling Government Data;

### at least once during each Contract Year; and

## undertake the following activities:

### conduct security testing of the Supplier System (an “IT Health Check”) in accordance with Paragraph 12.2; and

### implement any findings, and remedy any vulnerabilities identified by the IT Health Check in accordance with Paragraph 12.3.

## In arranging an IT Health Check, the Supplier must:

### use only a CHECK Service Provider or CREST Service Provider to perform the IT Health Check;

### design and plan for the IT Health Check so as to minimise the impact of the IT Health Check on the Supplier System and the delivery of the Services;

### ensure that the scope of the IT Health Check encompasses the components of the Supplier System used to access, store, Handle or manage Government Data; and

### ensure that the IT Health Check provides for effective penetration testing of the Supplier System.

## The Supplier treat any vulnerabilities as follows:

### the Supplier must remedy any vulnerabilities classified as high in the IT Health Check report:

#### if it is technically feasible to do so, within 5 Working Days of becoming aware of the vulnerability and its classification; or

#### if it is technical feasible to remedy the vulnerability but not technically feasible to do so as required by Paragraph 12.3(a)(i), then as soon as reasonably practicable after becoming aware of the vulnerability and its classification;

### the Supplier must remedy any vulnerabilities classified as high in the IT Health Check report:

#### if it is technically feasible to do so, within 1 month of becoming aware of the vulnerability and its classification; or

#### if it is technical feasible to remedy the vulnerability but not technically feasible to do so as required by Paragraph 12.3(b)(i), then as soon as reasonably practicable after becoming aware of the vulnerability and its classification;

### the Supplier must remedy any vulnerabilities classified as medium in the IT Heath Check report:

#### if it is technically feasible to do so, within 3 months of becoming aware of the vulnerability and its classification; or

#### if it is technical feasible to remedy the vulnerability but not technically feasible to do so as required by Paragraph 12.3(c)(i), then as soon as reasonably practicable after becoming aware of the vulnerability and its classification;

### where it is not technically feasible to remedy the vulnerability, the Supplier must implement appropriate technical and organisational measures to mitigate the risk posed by the vulnerability.

# Cloud Security Principles

## The Supplier must ensure that the Supplier System complies with the Cloud Security Principles.

## The Supplier must assess the Supplier System against the Cloud Security Principles to assure itself that it complies with Paragraph 13.1:

### before Handling Government Data;

### at least once each Contract Year; and

### when required by the Buyer.

## Where the Cloud Security Principles provide for various options, the Supplier must document the option it has chosen to implement and its reasons for doing so.

## The Supplier must:

### keep records of any assessment that it makes under Paragraph 13.2; and

### provide copies of those records to the Buyer within 10 Working Days of any request by the Buyer.

# Information about Subcontractors, Sites and Third-party Tools

## The Supplier must keep the following records:

### for Subcontractors or third parties that store, have access to or Handle Government Data:

#### the Subcontractor or third-party’s name:

##### legal name;

##### trading name (if any); and

##### registration details (where the Subcontractor is not an individual), including:

###### country of registration;

###### registration number (if applicable); and

###### registered address;

#### the Certifications held by the Subcontractor or third party;

#### the Sites used by the Subcontractor or third party;

#### the Services provided or activities undertaken by the Subcontractor or third party;

#### the access the Subcontractor or third party has to the Supplier System;

#### the Government Data Handled by the Subcontractor or third party; and

#### the measures the Subcontractor or third party has in place to comply with the requirements of this Schedule 16 (Security);

### for Sites from or at which Government Data is accessed or Handled:

#### the location of the Site;

#### the operator of the Site, including the operator’s:

##### legal name;

##### trading name (if any); and

##### registration details (where the Subcontractor is not an individual);

#### the Certifications that apply to the Site;

#### the Government Data stored at, or Handled from, the site; and

### for Third-party Tools:

#### the name of the Third-party Tool;

#### the nature of the activity or operation performed by the Third-Party Tool on the Government Data; and

#### in respect of the entity providing the Third-Party Tool, its:

##### full legal name;

##### trading name (if any)

##### country of registration;

##### registration number (if applicable); and

##### registered address.

## The Supplier must update the records it keeps in accordance with Paragraph 14.1:

### at least four times each Contract Year;

### whenever a Subcontractor, third party that accesses or Handles Government Data, Third-party Tool or Site changes; or

### whenever required to go so by the Buyer.

## The Supplier must provide copies of the records it keeps in accordance with Paragraph 14.1 to the Buyer within 10 Working Days of any request by the Buyer.

# Encryption

## The Supplier must, and must ensure that all Subcontractors, encrypt Government Data:

### when stored at any time when no operation is being performed on it, including when stored on any portable storage media; and

### when transmitted.

# Protective Monitoring System

## The Supplier must, and must ensure that Subcontractors, implement an effective system of monitoring and reports, analysing access to and use of the Supplier System and the Government Data to:

### identify and prevent any potential Breach of Security;

### respond effectively and in a timely manner to any Breach of Security that does;

### identify and implement changes to the Supplier System to prevent future any Breach of Security; and

### help detect and prevent any potential criminal offence relating to fraud, bribery or corruption using the Supplier System,

## (the “**Protective Monitoring System**”).

## The Protective Monitoring System must provide for:

### event logs and audit records of access to the Supplier System; and

### regular reports and alerts to identify:

#### changing access trends;

#### unusual usage patterns; or

#### the access of greater than usual volumes of Government Data; and

### the detection and prevention of any attack on the Supplier System using common cyber-attack techniques.

# Patching

## The Supplier must, and must ensure that Subcontractors, treat any public releases of patches for vulnerabilities as follows:

### the Supplier must patch any vulnerabilities classified as “critical”:

#### if it is technically feasible to do so, within 5 Working Days of the public release; or

#### if it is technical feasible to patch the vulnerability but not technically feasible to do so as required by Paragraph 17.1(a)(i), then as soon as reasonably practicable after the public release;

### the Supplier must patch any vulnerabilities classified as “important”:

#### if it is technically feasible to do so, within 1 month of the public release; or

#### if it is technical feasible to patch the vulnerability but not technically feasible to do so as required by Paragraph 17.1(b)(i), then as soon as reasonably practicable after the public release;

### the Supplier must remedy any vulnerabilities classified as “other” in the public release:

#### if it is technically feasible to do so, within 2 months of the public release; or

#### if it is technical feasible to remedy the vulnerability but not technically feasible to do so as required by Paragraph 17.1(c)(i), then as soon as reasonably practicable after the public release;

### where it is not technically feasible to patch the vulnerability, the Supplier must implement appropriate technical and organisational measures to mitigate the risk posed by the vulnerability.

# Malware protection

## The Supplier shall install and maintain Anti-virus Software or procure that Anti-virus Software is installed and maintained on the Supplier System.

## The Supplier must ensure that such Anti-virus Software:

### prevents the installation of the most common forms of Malicious Software in the Supplier System;

### performs regular scans of the Supplier System to check for Malicious Software; and

### where Malicious Software has been introduced into the Supplier System, so far as practicable

#### prevents the harmful effects from the Malicious Software; and

#### removes the Malicious Software from the Supplier System.

# End-user Devices

## The Supplier must, and must ensure that all Subcontractors, manage all End-user Devices on which Government Data is stored or Handled in accordance with the following requirements:

### the operating system and any applications that store, Handle or have access to Government Data must be in current support by the vendor, or the relevant community in the case of open source operating systems or applications;

### users must authenticate before gaining access;

### all Government Data must be encrypted using a suitable encryption tool;

### the End-user Device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the End-user Device is inactive;

### the End-User Device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Government Data to ensure the security of that Government Data;

### the Supplier or Subcontractor, as applicable, can, without physical access to the End-user Device, remove or make inaccessible all Government Data stored on the device and prevent any user or group of users from accessing the device;

### all End-user Devices are within the scope of any required Certification.

## The Supplier must comply, and ensure that all Subcontractors comply, with the recommendations in NCSC Device Guidance as if those recommendations were incorporated as specific obligations under this Contract.

# Vulnerability scanning

## The Supplier must:

### scan the Supplier System at least once every month to identify any unpatched vulnerabilities; and

### if the scan identifies any unpatched vulnerabilities, ensure they are patched in accordance with Paragraph 17.

# Access control

## The Supplier must, and must ensure that all Subcontractors:

### identify and authenticate all persons who access the Supplier System before they do so;

### require multi-factor authentication for all user accounts that have access to Government Data or that are Privileged Users;

### allow access only to those parts of the Supplier System and Sites that those persons require;

### maintain records detailing each person’s access to the Supplier System.

## The Supplier must ensure, and must ensure that all Subcontractors ensure, that the user accounts for Privileged Users of the Supplier System:

### are allocated to a single, individual user;

### are accessible only from dedicated End-user Devices;

### are configured so that those accounts can only be used for system administration tasks;

### require passwords with high complexity that are changed regularly;

### automatically log the user out of the Supplier System after a period of time that is proportionate to the risk environment during which the account is inactive; and

### are:

#### restricted to a single role or small number of roles;

#### time limited; and

#### restrict the Privileged User’s access to the internet.

# Remote Working

## The Supplier must ensure, and ensure that Sub-contractors ensure, that:

* + 1. unless in writing by the Authority, Privileged Users do not undertake Remote Working;
    2. where the Authority permits Remote Working by Privileged Users, the Supplier ensures, and ensures that Sub-contractors ensure, that such Remote Working takes place only in accordance with any conditions imposed by the Authority.

## Where the Supplier or a Sub-contractor wishes to permit Supplier Staff to undertake Remote Working, it must:

### prepare and have approved by the Buyer the Remote Working Policy in accordance with this Paragraph;

### undertake and, where applicable, ensure that any relevant Sub-contractors undertake, all steps required by the Remote Working Policy;

### ensure that Supplier Staff undertake Remote Working only in accordance with the Remote Working Policy;

### may not permit any Supplier Staff of the Supplier or any Sub-contractor to undertake Remote Working until the Remote Working Policy is approved by the Buyer.

## The Remote Working Policy must include or make provision for the following matters:

### restricting or prohibiting Supplier Staff from printing documents in any Remote Location;

### restricting or prohibiting Supplier Staff from downloading any Government Data to any End-user Device other than an End User Device that:

#### is provided by the Supplier or Sub-contractor (as appropriate); and

#### complies with the requirements set out in Paragraph 3 (*End-user Devices*);

### ensuring that Supplier Staff comply with the Expected Behaviours (so far as they are applicable);

### giving effect to the Security Controls (so far as they are applicable); and

### for each different category of Supplier Staff subject to the proposed Remote Working Policy:

#### the types and volumes of Government Data that the Supplier Staff can Handle in a Remote Location and the Handling that those Supplier Staff will undertake;

#### any identified security risks arising from the proposed Handling in a Remote Location;

#### the mitigations, controls and security measures the Supplier or Sub-contractor (as applicable) will implement to mitigate the identified risks; and

#### the business rules with which the Supplier Staff must comply.

## The Supplier may submit a proposed Remote Working Policy to the Buyer for consideration at any time.

# Backup and recovery of Government Data

## The Supplier must ensure that the Supplier System:

### backs up and allows for the recovery of Government Data to achieve the recovery point and recovery time objectives specified by the Buyer, or in accordance with Good Industry Practice where the Buyer has not specified; and

### retains backups of the Government Data for the period specified by the Buyer, or in accordance with Good Industry Practice where the Buyer has not specified.

## The Supplier must ensure the Supplier System:

* + 1. uses backup location for Government Data that are physically and logically separate from the rest of the Supplier System;
    2. the backup system monitors backups of Government Data to:
       1. identifies any backup failure; and
       2. confirm the integrity of the Government Data backed up;
    3. any backup failure is remedied promptly;
    4. the backup system monitors the recovery of Government Data to:
       1. identify any recovery failure; and
       2. confirm the integrity of Government Data recovered; and
    5. any recovery failure is promptly remedied.

# Return and deletion of Government Data

## Subject to Paragraph 24.2, when requested to do so by the Buyer, the Supplier must, and must ensure that all Subcontractors:

### securely erase any or all Government Data held by the Supplier or Subcontractor using a deletion method that ensures that even a determined expert using specialist techniques can recover only a small fraction of the data deleted; or

### provide the Buyer with copies of any or all Government Data held by the Supplier or Subcontractor using the method specified by the Buyer.

## Paragraph 24.1 does not apply to Government Data:

### that is Personal Data in respect of which the Supplier is a Controller;

### to which the Supplier has rights to Handle independently from this Contract; or

* + 1. in respect of which, the Supplier is under an obligation imposed by Law to retain.

## The Supplier must, and must ensure that all Sub-contractors, provide the Buyer with copies of any or all Buyer Data held by the Supplier or Sub-contractor:

### when requested to do so by the Buyer; and

### using the method specified by the Buyer.

# Physical security

## The Supplier must, and must ensure that Subcontractors, store the Government Data on servers housed in physically secure locations.

# Breach of Security

## If the Supplier becomes aware of a Breach of Security that impacts or has the potential to impact the Government Data, it shall:

### notify the Buyer as soon as reasonably practicable after becoming aware of the breach, and in any event within [24] hours;

### provide such assistance to the Buyer as the Buyer requires until the Breach of Security and any impacts or potential impacts on the Buyer are resolved to the Buyer’s satisfaction;

### where the Law requires the Buyer to report a Breach of Security to the appropriate regulator provide such information and other input as the Buyer requires within the timescales specified by the Buyer; and

### where the Breach of Security results in the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data, undertake any communication or engagement activities required by the Buyer with the individuals affected by the Breach of Security.

**Call-Off Schedule 10 (Exit Management)**

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

|  |  |
| --- | --- |
| **"Exclusive Assets"** | 1. Agency Assets used exclusively by the Agency [or a Key Subcontractor] in the provision of the Deliverables; |
| **"Exit Information"** | 1. has the meaning given to it in Paragraph 3.1 of this Schedule; |
| **"Exit Manager"** | 1. the person appointed by each Party to manage their respective obligations under this Schedule; |
| **“Exit Plan”** | 1. the plan produced and updated by the Agency during the Initial Period in accordance with Paragraph 4 of this Schedule; |
| **"Net Book Value"** | 1. the current net book value of the relevant Agency Asset(s) calculated in accordance with the Framework Tender or Call-Off 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"** | 1. those Agency Assets used by the Agency [or a Key Subcontractor] in connection with the Deliverables but which are also used by the Agency [or Key Subcontractor] for other purposes; |
| **"Registers"** | 1. the register and configuration database referred to in Paragraph 2.2 of this Schedule; |
| **"Replacement Goods"** | 1. 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"** | 1. 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"** | 1. 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"** | 1. has the meaning given to it in Paragraph 5.1 of this Schedule; |
| **"Termination Assistance Period"** | 1. 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"** | 1. Exclusive Assets which are capable of legal transfer to the Client; |
| **"Transferable Contracts"** | 1. 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 Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| **"Transferring Assets"** | 1. has the meaning given to it in Paragraph 8.2.1 of this Schedule; |
| **"Transferring Contracts"** | 1. has the meaning given to it in Paragraph 8.2.3 of this Schedule. |

1. **Agency must always be prepared for contract exit**
   1. The Agency shall within 30 days from the Start Date provide to the Client a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
   2. During the Contract Period, the Agency shall promptly:
      1. create and maintain a detailed register of all Agency Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
      2. create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Agency provides the Deliverables

("**Registers**").

* 1. The shall:
     1. ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
     2. procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Client) at the request of the Client to the Client (and/or its nominee) and/or any Replacement Agency upon the Agency ceasing to provide the Deliverables (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 Deliverables.
  2. 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.
  3. 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.

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

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

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

in order for the Client and/or its Replacement Agency to provide the Deliverables 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 Deliverables or the Replacement Goods and/or Replacement Services.

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

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

**Call-Off Schedule 14 (Service Levels)**

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

|  |  |
| --- | --- |
| **“Critical Service Level Failure”**  **“Service Credits”**  **“Service Credit**  **Cap”** | has the meaning given to it in the Order Form;  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;  Has the meaning given to it in the Order Form; |
| **"Service Level Failure"** | 1. means a failure to meet the Service Level Performance Measure in respect of a Service Level; |
| **"Service Level Performance Measure"** | 1. shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and |
| **"Service Level Threshold"** | 1. shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule. |

1. **What happens if you don’t meet the Service Levels**
   1. The Agency shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
   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.
   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.
   4. A Service Credit shall be the Client’s exclusive financial remedy for a Service Level Failure except where:
      1. the Agency has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
      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

* + 1. the Client is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (CCS and Client Termination Rights).
  1. 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:
     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. 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

1. **Critical Service Level Failure**

On the occurrence of a Critical Service Level Failure:

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

**Part A: Service Levels and Service Credits**

1. **Service Levels**

If the level of performance of the Agency:

* 1. is likely to or fails to meet any Service Level Performance Measure; or
  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. 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;
    2. instruct the Agency to comply with the Rectification Plan Process;
    3. if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Agency to the Client; and/or
    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).

1. **Service Credits** 
   * 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.
     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.

**Annex A to Part A: Services Levels and Service Credits Table**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| KPI/SLA | Service Area | KPI/SLA description | Target | How measured |
| 1 | Delivery timescales | Response to briefs to be submitted to the Client within 2 working days | 100% | Measured by the Client’s delivery manager |
| 2 | Delivery timescales | 95% of creative assets to be delivered to specified Client level of professional quality and purpose within 3rd iteration by the specified delivery timescale | 95% | Measured by the Client’s delivery manager |
| 3 | Management reporting | Management reporting to 100% accuracy submitted on time and accurate | 100% | Measured by the Client’s delivery manager and receipt of documents |
| 4 | Management reporting | Attendance and high level reporting on the delivery of milestones at daily stand-ups (for projects defined by the client) | 100% | Measured by the Client’s delivery manager |
| 5 | Management reporting | Weekly spend and progress report and work package management meeting | 100% | Measured by the Client’s delivery manager |
| 6 | Management reporting | Monthly contracts management meetings including detailed progress report against milestones, KPIs and forecast cost | 100% | Measured by the Client’s delivery manager |
| 7 | Management reporting | Projects delivered should also include a post-project evaluation (for projects defined by the client) | 100% | Measured by the Client’s delivery manager |

**Part B: Performance Monitoring**

1. **Performance Monitoring and Performance Review**
   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.
   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 3.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
      1. for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
      2. a summary of all failures to achieve Service Levels that occurred during that Service Period;
      3. details of any Critical Service Level Failures;
      4. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
      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. 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:
      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;
      2. be attended by the Agency's Representative and the Client’s Representative; and
      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.
   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.
   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.
2. **Satisfaction Surveys**
   1. The Client may undertake satisfaction surveys in respect of the Agency's provision of the Deliverables. The Client shall be entitled to notify the Agency of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

**Call-Off Schedule 15 (Call-Off 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 Deliverables shall be managed day-to-day.

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 Deliverables. These will be included in a Statement of Work and may include start and end dates for each stage of the proposed Deliverables.

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 Deliverables, 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 Deliverables. Receipt of communication from 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 Deliverables 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. **Approvals and Authority**

3.1 For the purposes of this Contract, 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, or

3.1.2 e-mail from the individual business e-mail address of an Authorised Client Approver, or

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

3.2 Any reference to Agency Approval means written approval in one of the following ways:

3.2.1 e-mail from the individual business e-mail address of an Authorised Agency Approver, or

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

3.3 The Agency will seek the Client’s prior Approval of:

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

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

3.4 The Agency will seek the Client’s prior Approval of any draft Deliverables. The Client’s Approval will be the Agency’s authority to proceed with the use of the relevant Deliverables.

3.5 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.

3.6 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.

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.

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.

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.

Annex: Contract Boards

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

[Guidance note: Details of additional boards to be inserted.]

**Call-Off Schedule 16 (Benchmarking)**

1. **DEFINITIONS**
   1. In this Schedule, the following expressions shall have the following meanings:

|  |  |
| --- | --- |
| **"Benchmark Review"** | 1. a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value; |
| **"Benchmarked Deliverables"** | 1. any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule; |
| **"Comparable Rates"** | 1. the Charges for Comparable Deliverables; |
| **"Comparable Deliverables"** | 1. deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Agency shall propose an approach for developing a comparable Deliverables benchmark; |
| **"Comparison Group"** | 1. a sample group of organisations providing Comparable Deliverables 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"** | 1. data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group; |
| **"Good Value"** | 1. that the Benchmarked Rates are within the Upper Quartile; and |
| **"Upper Quartile"** | 1. 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 Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables. |

1. **When you should use this Schedule**
   1. The Agency acknowledges that the Client wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
   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.
   3. Amounts payable under this Schedule shall not fall with the definition of a Cost.
2. **Benchmarking**
   1. **How benchmarking works**
      1. The Client and the Agency recognise that, where specified in Framework Schedule 4 (Framework Management), the Client may give CCS the right to enforce the Client's rights under this Schedule.
      2. The Client may, by written notice to the Agency, require a Benchmark Review of any or all of the Deliverables.
      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.
      4. The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
      5. The Deliverables that are to be the Benchmarked Deliverables will be identified by the Client in writing.
      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.
      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 Deliverables 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.
   2. **Benchmarking Process**
      1. The benchmarker shall produce and send to the Client, for Approval, a draft plan for the Benchmark Review which must include:
         1. a proposed cost and timetable for the Benchmark Review;
         2. 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
         3. a description of how the benchmarker will scope and identify the Comparison Group.
      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. The Client must give notice in writing to the Agency within ten (10) Working Days after receiving the draft plan, advising the benchmarker 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.
      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.
      5. Once it has received the Approval of the draft plan, the benchmarker shall:
         1. 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:
            1. market intelligence;
            2. the benchmarker’s own data and experience;
            3. relevant published information; and
            4. pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;
         2. by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
         3. using the Equivalent Data, calculate the Upper Quartile;
         4. determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
      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.
      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:
         1. the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
         2. exchange rates;
         3. 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. Benchmarking Report
      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;
      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:
         1. include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
         2. if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
         3. 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 Benchmarked Deliverables are, individually or as a whole, Good Value.
      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).

**Call-Off Schedule 18 (Background Checks)**

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

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

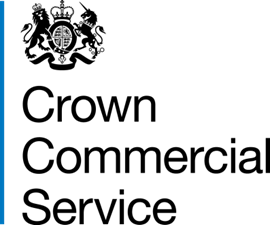
1. **Definitions**

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

1. **Relevant Convictions**
   * 1. The Agency must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.
     2. Notwithstanding Paragraph 2.1.1 for each member of Agency Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Client owes a special duty of care, the Agency must (and shall procure that the relevant Sub-Contractor must):
        1. carry out a check with the records held by the Department for Education (DfE);
        2. conduct thorough questioning regarding any Relevant Convictions; and
        3. ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

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

**Call-Off Schedule 20 (Call-Off Specification)**



**Attachment 3 – Statement of Requirements**

**Provision of a Creative Solution**

Contract Reference: CCCS24A09

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# PURPOSE

* 1. The Cabinet Office is responsible for the delivery of a wide range of communication campaigns. This includes both the delivery of planned campaigns as well as having the need to deliver priority communication campaigns at short notice. There are a number of communications teams in the Cabinet Office, including the Government Communications Service, which could require these services.
  2. There is a requirement for a Creative Solutions Agency that can deliver both planned campaigns and those delivered with a short turnaround, across the budget spectrum from low to higher cost, on a standby basis.
  3. The Agency could be asked to deliver a complete campaign solution or any of the individual capabilities such as communications strategy development and consultancy services, creative and concept development, PR, partnership or digital services. This includes solutions up to and including (but not limited to) the creation of master artwork.

# BACKGROUND TO THE CONTRACTING aUTHORITY

* 1. Government Communication Services (GCS) (hereafter referred to as ‘the Client’) within the Cabinet Office (CO), who are the Contracting Authority, is the professional body for public service communication professionals working in central government departments, agencies and arm’s length bodies. The contract will be with the Cabinet Office for this requirement.

#### GCS will be the lead Client, and will coordinate access to the Cabinet Office as and when required.

* 1. GCS’s purpose is to deliver world-class public service communications that support government priorities, enable the efficient and effective operation of public services and improve people’s lives. This would include working for and coordinating the work of other government departments. Work will need to be delivered at high speed and to the highest standard. Other teams across Government Communications Service and Cabinet Office who could use this contract include (but are not limited to):

### Government Communication Service International (GCSI) (part of GCS) works with governments, agencies and organisations across the world, including, but not restricted to Europe, Western Balkans, Ghana, Oman, Pakistan, Asia and Africa.

#### The GREAT Britain & Northern Ireland team (GREAT) (part of GCS) delivers international campaigns which are designed to build positive perceptions of the UK and drive tourism, trade, investment, international students and talent.

* + 1. The Cabinet Office’s National Security Communications Team (NSCT) was established in 2018 to improve the national security community’s use of communications to achieve UK objectives. Communications supports national security objectives by: building alliances; changing behaviour; framing context; and amplifying deterrence.

# Background to requirement/OVERVIEW of requirement

## The communications delivered by the client contribute to public service goals and support the Government’s priorities. The Agency may work across several of these areas, or on emerging priorities that are currently unforeseen.

## The current communications priorities for the year ahead are categorised under the following Missions:

## Kickstart economic growth (incl GREAT)

## Make Britain a clean energy superpower

## Take back our streets

## Break down barriers to opportunity

## Build an NHS fit for the future

* + 1. Public services (essential public information, revenue-raising, statutory or operational requirement)

### Everything else (including National Security Communications, essential BAU, statutory requirements, operationally necessary)

## To note, these priorities are subject to change during the duration of the contract.

## The Client also has a duty to the taxpayer to ensure its activities are delivered efficiently and effectively. This means providing value for taxpayer’s money and ensuring the activity meets the desired outcome.

# definitions

|  |  |
| --- | --- |
| Expression or Acronym | Definition |
| CO | Means Cabinet Office |
| GCS | Means Government Communications Services |

# scope of requirement

## Services within scope of this Contract shall include the following key areas:

* + 1. The Client requires an Agency to deliver communications campaign support on both a standby and planned campaign basis for an initial 1 year period with an option to extend for a further 1 year (1+1).
    2. The incumbent agency is currently contracted to provide end-to-end campaign solutions until May 2025 at the latest. This may be exhausted earlier should the contract value ceiling be maximised before the end date.
    3. This contract is being established to replace the existing contract. The Agency will help in the ambition to deliver world class campaigns, increase the professional skills, tools and systems of the Client to world class levels and to continually improve our efficiency and effectiveness. This new requirement will be primarily for communications strategy development and consultancy services, including (but not limited to): creative and concept development, PR, partnership or digital services. This will entail ad hoc creative and design projects but could include a full channel mix (including above and below the line channels, partnerships and consideration of low/no cost opportunities).
    4. The maximum contract ceiling for this contract is £15.6m; however, this is a demand-led requirement and there is no guarantee that the total services used under this contract will reach this value.
    5. As this will be a Standby contract, the Agency can be called upon for urgent work or where the demand cannot be met within other existing contractual arrangements.
    6. The Agency will need to be responsive, agile and able to act quickly whilst understanding the resource needs of each brief. Projects will often have to be delivered to tight timescales and the Agency will be expected to responsibly handle sensitive information. The Agency will need to be able to cope with multiple briefs being issued from the Client at the same time.
    7. The Agency will be able to operate both domestically and internationally and provide services through their established network of local suppliers and agencies, providing market knowledge and understanding of the local context (by using and gathering regional insight and evaluation). In exceptional circumstances, the Agency may be requested to produce content which is tailored to and in local languages and provide translation services and to work in a streamlined way with global leads. International locations will include but are not limited to the following key markets: but are not limited to the following locations: USA, Australia, India, China, Japan, Eastern Europe, France, Germany, Western Balkans, Tunisia, Nigeria, Ghana, Kenya, South Africa, the Sahel, Brazil, Mexico, Colombia, Georgia, Indonesia, Malaysia, Pakistan amongst others.
    8. The required locations may expand throughout the duration of the agreement and therefore the Agency may be required to expand their network and/or appoint subcontractors to deliver Client requirements. The Agency will need to have the ability to provide an international perspective and create globally applicable outputs, and in exceptional circumstances, utilise a global network with the ability to test and produce content for these markets. Language capability will also be crucial to both test and produce content aimed at international audiences.
    9. The Agency needs to ensure strong collaboration with cross agency groups, particularly with insight, media planning, media buying and content versioning and distribution teams.
    10. The Agency will ensure that they are innovative in their approach (e.g. considering Dynamic Content Optimisation, Addressable media, AI and other technologies) and are seeking to drive efficiency and value for money.
        1. Furthermore, the agency is required to be a key partner in digital creative personalisation campaigns, from DCO to fully addressable, and advise on emerging technologies that have the ability to scale cross-government.
    11. The Agency will be required to show expertise in interpreting data to produce compelling digital creative strategy. Creative strategy should be designed to be executed across a range of digital channels with cut-through messaging. We expect the Agency to bring marketing rigour to the digital marketing environment.

### Out of scope of this requirement

* 1. In parallel, the Client will be separately awarding a contract for content versioning and distribution of assets where suitable. The intention is that content versioning and distribution services will be accessed via this separate contract; however, there may be exceptional circumstances where the Client may wish to use this Campaign Solutions contract (the subject of this requirements document) to purchase this.
  2. The Client reserves the right to allocate the work accordingly based on this understanding. Prior to the end of the existing Campaign Solutions contract (May 2025 at the latest), the Client will determine whether the existing or new contract shall be used, based on value for money and campaign complexity (e.g. avoiding significant inconvenience or substantial duplication of costs for the Client where introductory work has already started).

### Media planning and media buying services are out of scope of this Contract.

### Role of the Agency

### The Agency will be the standby agency for Cabinet Office GCS. This team will include the Client, GCS International, Cabinet Office Communications and potentially other parts of the Cabinet Office, such as the National Security Communication Team. At times the Agency may also be required to work with other agencies of the Client. Work will range from full scale campaigns to smaller and low/no cost activities, as well as capability building.

### Management and staffing

* 1. The Agency must offer dedicated staff (at appropriate levels) and points of contacts including a nominated board level contact. Staffing levels must be sufficient and of the right calibre to meet the specific requirements set out in this brief. The Agency should set out its approach to account management in its response to this brief.
  2. The successful Agency will be capable of adding value in addition to proactively briefed projects. This is not prescriptive and should be dependent on the Agency’s own specialisms, the needs of government and the ease of delivery and likely impact.
  3. As part of the bid process bidders will be requested to indicate how much of a contract a bidder intends to subcontract (if any) and provide details of their proposed subcontractors. These subcontractors will be evaluated as part of the bid process.

# key milestones and Deliverables

* 1. Key milestones will be set for specific campaign briefs and communicated to the supplier at the kick off for each. This will be via email, and potentially by phone, video or face-to-face meetings as well. The successful Agency will be expected to be capable of providing substantive initial responses within tight turn-around periods where required.

## The Client will measure contract delivery against the following Milestones. The Agency shall note that these are not starting at the same time but shall follow a sequential frequency.

|  |  |  |
| --- | --- | --- |
| Milestone/Deliverable | Description | Timeframe and Delivery date |
| 1 | Kick off meeting/briefing on immediate requirements | Within one week of contract award |
| 2 | Contract Review meetings to be attended by Agency’s key staff | Monthly |
| 3 | Operational meeting to include spend and progress reporting (as required) | Weekly |
| 4 | Responding to commissions/ briefs | Within 48 hours |

### 

### The Client shall provide access to:

### The GCS team and lead contacts per campaign;

### Content versioning and distribution agency;

### Media planning agencies;

### The media buying agency; and

* + 1. Research and evaluation agencies.

# 

# MANAGEMENT INFORMATION/reporting

* 1. The Client expects the following management information and reporting:
     1. High level reporting on the delivery of milestones for specific campaigns at regular stand-ups (exact reporting level and frequency to be agreed through the mobilisation period for each campaign brief).
     2. Regular spend and progress reports and work package management meetings per campaign (exact reporting level and frequency to be agreed through the mobilisation period for each campaign brief).
     3. Monthly contract management meetings including detailed progress reports against milestones and forecast costs (exact format to be agreed through the mobilisation period).
     4. In circumstances where there arises a potential need for adhoc reporting, prior notice would be given.

# volumes

## This is a Call off Contract with zero commitment, therefore volumes cannot be guaranteed.

# continuous improvement

## The Agency shall continually improve the way in which the required Services are to be delivered throughout the Contract duration.

## The Agency should present new ways of working to the Client during the regular update meetings.

## Changes to the way in which the Services are to be delivered must be brought to the Client’s attention and agreed prior to any changes being implemented

# quality

* 1. The Agency will ensure that there is a technically qualified, dedicated delivery team providing consistent quality assured outputs and outcomes. All Agency delivery should be quality assured and signed off before presentation to the Client.

# PRICE

* 1. Prices at Stage One are to be submitted via the e-Sourcing Suite Attachment 4- Price Schedule excluding VAT and including all other expenses relating to contract delivery.
  2. Agencies will need to adhere to best practice for utilising budget and optimising the use of public money to achieve results and/or deliver a quality service.
  3. The value for this Call-Off Contract will be £15.6million, including any extension option. This is a maximum value; spend and values will not be guaranteed due to the call-off nature of the contract. Budget approval for subsequent years will need to be sought throughout the life of the contract.
  4. In-market agencies must have the ability to legally deliver Client requirements and to be paid by the UK Government with any international payments being raised in UK Pounds Sterling.
  5. Expenses shall only be recoverable where:
     1. The Order Form states that recovery is permitted; and
     2. They are Reimbursable Expenses and are supported by Supporting Documentation
  6. Reimbursable expenses will be confirmed in advance, aligning to civil service rules and adhering to best value. Any International travel shall be agreed in advance of the travel where there is a clear and agreed business need.

# STAFF AND CUSTOMER SERVICE

* 1. The Agency shall provide a sufficient level of dedicated resources throughout the duration of the work package in order to consistently deliver a quality service. The proposed resources can only be replaced with the agreement of the Client for a resource with the same level of experience and technical ability.
  2. The Agency’s resources assigned to the work package shall have the relevant qualifications and experience to deliver the work to the required standard. As part of your proposal, a pen portrait will be required for each member of the delivery team.
  3. The Agency shall ensure that staff understand the Client’s vision and objectives and will provide excellent customer service to the Client throughout the duration of the work package.
  4. It is intended that the Agency will work with other agencies designated by the client, including any incumbent agency who will transition over projects (whether complete or mid-flight) to any new supplier in an ordered way. A plan will be put in place for each campaign/project in question to ensure that assets (including all associated usage rights) are handed over in a timely manner and under the supervision of the Client.

## 

# service levels and performance

## The Client will measure the quality of the Agency’s delivery by:

## The Client shall measure the quality of the Agency’s delivery by KPIs/SLAs agreed on an individual campaign basis. The targets below are examples only and KPIs/SLAs will be agreed between the Client and Agency for the specific project prior to the commencement of any work.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| KPI/SLA | Service Area | KPI/SLA description | Target | How measured |
| 1 | Delivery timescales | Response to briefs to be submitted to the Client within 48 hours | 100% | Measured by the Client’s delivery manager |
| 2 | Delivery timescales | 95% of creative assets to be delivered to specified Client level of professional quality and purpose within 3rd iteration by the specified delivery timescale | 95% | Measured by the Client’s delivery manager |
| 3 | Management reporting | Management reporting to 100% accuracy submitted on time and accurate | 100% | Measured by the Client’s delivery manager and receipt of documents |
| 4 | Management reporting | Attendance and high level reporting on the delivery of milestones at daily stand-ups (for projects defined by the Client) | 100% | Measured by the Client’s delivery manager |
| 5 | Management reporting | Weekly spend and progress report and work package management meeting | 100% | Measured by the Client’s delivery manager |
| 6 | Management reporting | Attendance of monthly contracts management meetings including detailed progress reports against milestones, KPIs and forecast cost (report provided by Supplier) | 100% | Measured by the Client’s delivery manager |
| 7 | Management reporting | Projects delivered should also include a post-project evaluation (for projects defined by the Client) Timing of evaluation to be defined by the Client. | 100% | Measured by the Client’s delivery manager |

* 1. The Client reserves the right to refine or include further KPIs or SLAs at the outset of each delivery milestone.
  2. The Client will maintain a record of Agency’s adherence to the agreed service level and performance timelines. Any non-adherence will result in performance review meetings between the Client and the Agency, to provide an explanation as to why the service level agreement was not met. Improvement plans will also be established here.
  3. Where the Agency fails to provide a Service Improvement Plan or fails to deliver the agreed Service Improvement Plan to the required standard, the Client reserves the right to seek early termination of the contract in accordance with the procedures set out in the Terms and Conditions.

# Security and CONFIDENTIALITY requirements

## The Client may require the Agency to provide staff with a minimum-security clearance of enhanced DBS for specific projects throughout the life of the Contract.

## As a minimum, the Client requires BPSS clearance.

## Should higher security clearance be required, for national security, the Client will provide as much notice as possible with details of the security clearance required if different from those specified above.

# payment AND INVOICING

* 1. Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables. The Agency will send invoices for payment to the Client quoting the appropriate purchase order number.
  2. Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.
  3. Invoices should be submitted to: Newport SSCL, Cabinet Office, PO Box 405, Newport NP10 8FZ; APinvoices-CAB-U@gov.sscl.com,

# CONTRACT MANAGEMENT

* 1. Attendance at Contract Review meetings shall be at the Agency’s own expense.
  2. As per section 8 above, communication will be maintained with the Agency through regular meetings (either virtually or in person) and email correspondence.

## Attendance at Contract Review meetings shall be at the Supplier’s own expense.

# Location

## The location of the Services will be carried out at Cabinet Office, 1 Horse Guards Road, London SW1A 2, the Agency’ offices or working from home.

**Joint Schedule 1 (Definitions)**

* 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.
  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.
  3. In each Contract, unless the context otherwise requires:
     1. the singular includes the plural and vice versa;
     2. reference to a gender includes the other gender and the neuter;
     3. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
     4. a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
     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**";
     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;
     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;
     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 otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
     9. references to **"Paragraphs"** are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;
     10. references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
     11. the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;
     12. where the Client is a Central Government Body it shall be treated as contracting with the Crown as a whole;
     13. any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
         1. 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
         2. 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;
     14. unless otherwise provided, references to “**Buyer**” or “**Client** “shall be construed as including Exempt Buyers; and
     15. unless otherwise provided, references to “**Call-Off Contract**” and “**Contract**” shall be construed as including Exempt Call-off Contracts.
  4. In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

|  |  |
| --- | --- |
| **"Additional Insurances"** | insurance requirements relating to a Call-Off 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 thereof), together with other UK laws, statutes and regulations which are directly applicable to the Deliverables; |
| **"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 Framework Award Form; |
| **"Agency Assets"** | all assets and rights used by the Agency to provide the Deliverables in accordance with the Call-Off Contract but excluding the Client Assets; |
| **"Agency Authorised Representative"** | the representative appointed by the Agency named in the Framework Award Form, or later defined in a Call-Off Contract; |
| **"Agency’s Confidential Information"** | 1. 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; 2. 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;   Information derived from any of (a) and (b) above; |
| **"Agency's Contract Manager”** | the person identified in the Order Form appointed by the Agency to oversee the operation of the Call-Off 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 Call-Off Contract; |
| **"Agency Marketing Contact"** | shall be the person identified in the Framework Award Form; |
| **"Agency Non-Performance"** | where the Agency has failed to:   1. Achieve a Milestone by its Milestone Date; 2. provide the Service and/or Goods in accordance with the Service Levels; and/or   comply with an obligation under a Contract; |
| **"Agency 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 Call-Off Contract for the relevant period; |
| **"Agency 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; |
| **"Agency Staff"** | 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; |
| **"Audit"** | the Relevant Authority’s right to:   1. verify the accuracy of the Charges and any other amounts payable by a Client under a Call-Off Contract (including proposed or actual variations to them in accordance with the Contract); 2. 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; 3. verify the Open Book Data; 4. verify the Client’s and each Subcontractor’s compliance with the Contract and applicable Law; 5. 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; 6. identify or investigate any circumstances which may impact upon the financial stability of the Agency, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; 7. 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; 8. 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); 9. 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; 10. 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; 11. monitor the performance of a Statement of Work against its objectives; or 12. verify the accuracy and completeness of any Management Information delivered or required by the Framework Contract; |
| **"Auditor"** | 1. the Relevant Authority’s internal and external auditors; 2. the Relevant Authority’s statutory or regulatory auditors; 3. the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; 4. HM Treasury or the Cabinet Office or GCS; 5. any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and 6. successors or assigns of any of the above; |
| **“Authorised Client Approver”** | any personnel of the Client who have the authority to contractually bind the Buyer in all matters relating to a Call-Off 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 a Call-Off 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 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 Deliverables issued in accordance with the Call-Off Procedure and included as Call-Off Schedule 20 (Call-Off Specification); |
| **"Buyer"** | means the Client; |
| **"Buyer 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 Deliverables which remain the property of the Client throughout the term of the Contract; |
| **"Buyer Authorised Representative"** | the representative appointed by the Client from time to time in relation to the Call-Off Contract initially identified in the Order Form; |
| **"Buyer 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 Deliverables (or any of them); |
| **"Call-Off Contract"** | the contract between the Client and the Agency (entered into pursuant to the provisions of the Framework Contract), which consists of the terms set out and referred to in the Order Form including any subsequently agreed Statements of Work; |
| **"Call-Off Contract Period"** | the Contract Period in respect of the Call-Off Contract; |
| **"Call-Off Expiry Date"** | the scheduled date of the end of a Call-Off Contract as stated in the Order Form; |
| **"Call-Off Incorporated Terms"** | the contractual terms applicable to the Call-Off Contract specified under the relevant heading in the Order Form; |
| **"Call-Off Initial Period"** | the Initial Period of a Call-Off Contract specified in the Order Form; |
| **"Call-Off Optional Extension Period"** | such period or periods beyond which the Call-Off Initial Period may be extended as specified in the Order Form; |
| **"Call-Off Procedure"** | the process for awarding a Call-Off Contract pursuant to Clause 2 (How the contract works) and Framework Schedule 7 (Call-Off Award Procedure); |
| **"Call-Off Special Terms"** | any additional terms and conditions specified in the Order Form incorporated into the applicable Call-Off Contract; |
| **"Call-Off Start Date"** | the date of start of a Call-Off Contract as stated in the Order Form; |
| **"CCS"** | the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as 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 Framework Contract initially identified in the Framework Award 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:   * 1. Government Department;   2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);   3. Non-Ministerial Department; or   4. Executive Agency; |
| **"Change in Law"** | any change in Law which impacts on the supply of the Deliverables 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; |
| **"Charges"** | the prices (exclusive of any applicable VAT), payable to the Agency by the Client under the Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Agency of its obligations under the Call-Off 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 Deliverables 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 Call-Off 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 Deliverables (or any of them); |
| **"Commercially Sensitive Information"** | the Confidential Information listed in the Framework 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 Deliverables to another Client of the Agency that are the same or similar to the Deliverables; |
| **"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; |
| **"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 Framework Contract or the Call-Off Contract, as the context requires; |
| **"Contract Period"** | the term of either a Framework Contract or Call-Off 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; |
| **“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 Agencys must interact with CCS and Clients under Framework Contracts and Call-Off Contracts; |
| **"Costs"** | the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Agency in providing the Deliverables:   * 1. the cost to the Agency or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Agency Staff, including:      1. base salary paid to the Agency Staff;      2. employer’s National Insurance contributions;      3. pension contributions;      4. car allowances;      5. any other contractual employment benefits;      6. staff training;      7. work place accommodation;      8. work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and      9. reasonable recruitment costs, as agreed with the Client;   2. 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;   3. 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 Deliverables; and   4. Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;   but excluding:   * + 1. Overhead;     2. financing or similar costs;   1. maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Call-Off Contract Period whether in relation to Agency Assets or otherwise;   2. taxation;   3. fines and penalties;   4. amounts payable under Call-Off Schedule 16 (Benchmarking) where such Schedule is used; and   5. non-cash items (including depreciation, amortisation, impairments and movements in provisions); |
| **"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 Framework Award Form; |
| **"Data Protection Officer"** | has the meaning given to it in the UK GDPR; |
| **"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 Call-Off 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 Framework 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; |
| **"Deliverables"** | Service and/or Goods that may be ordered under the Contract including the Documentation; |
| **"Delivery"** | delivery of the relevant Deliverable or Milestone in accordance with the terms of a Call-Off Contract as confirmed and accepted by the Client by the either (a) confirmation in writing to the Agency; or (b) where Call-Off Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer 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); |
| **"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:   1. 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 Deliverables 2. is required by the Agency in order to provide the Deliverables; and/or 3. has been or shall be generated for the purpose of providing the Deliverables; |
| **"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; |
| **"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; |
| **"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:   1. the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or 2. 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 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; |

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| **"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 Call-off Contract Year; or  iii) after the end of the Call-off Contract, the Charges paid or payable in the last Contract Year during the Call-off Contract Period; |
| “**Exempt Buyer**” | a public sector purchaser that is:   1. eligible to use the Framework Contract; and 2. is entering into an Exempt Call-off Contract that is not subject to (as applicable) any of:    1. the Regulations;    2. the Concession Contracts Regulations 2016 (SI 2016/273);    3. the Utilities Contracts Regulations 2016 (SI 2016/274);    4. the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);    5. the Remedies Directive (2007/66/EC);    6. Directive 2014/23/EU of the European Parliament and Council;    7. Directive 2014/24/EU of the European Parliament and Council;    8. Directive 2014/25/EU of the European Parliament and Council; or    9. Directive 2009/81/EC of the European Parliament and Council; |
| “**Exempt Call-off Contract**” | the contract between the Exempt Buyer and the Agency for Deliverables 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 Framework Contract; |
| “**Exempt Procurement Amendments**” | any amendments, refinements or additions to any of the terms of the Framework Contract made through the Exempt Call-off 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; |

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| **"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 Framework Expiry Date or the Call-Off Expiry Date (as the context dictates); |
| **"Extension Period"** | the Framework Optional Extension Period or the Call-Off Optional Extension Period as the context dictates; |
| **"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; |
| **"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:   * 1. riots, civil commotion, war or armed conflict;   2. acts of terrorism;   3. acts of government, local government or regulatory bodies;   4. 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; |
| **"Framework Award Form"** | the document outlining the Framework Incorporated Terms and crucial information required for the Framework Contract, to be executed by the Agency and CCS; |
| **"Framework Contract"** | the framework agreement established between CCS and the Agency in accordance with Regulation 33 by the Framework Award Form for the provision of the Deliverables to Clients by the Agency pursuant to the FTS Notice; |
| **"Framework Contract Period"** | the period from the Framework Start Date until the End Date of the Framework Contract; |
| **"Framework Expiry Date"** | the scheduled date of the end of the Framework Contract as stated in the Framework Award Form; |
| **"Framework Incorporated Terms"** | the contractual terms applicable to the Framework Contract specified in the Framework Award Form; |
| **"Framework Optional Extension Period"** | such period or periods beyond which the Framework Contract Period may be extended as specified in the Framework Award Form; |
| **"Framework Price(s)"** | the price(s) applicable to the provision of the Deliverables set out in Framework Schedule 3 (Framework Prices); |
| **"Framework Special Terms"** | any additional terms and conditions specified in the Framework Award Form incorporated into the Framework Contract; |
| **"Framework Start Date"** | the date of start of the Framework Contract as stated in the Framework Award Form; |
| **“Framework Suppliers”** | all suppliers able to bid for work following the conclusion of the procurement under the FTS Notice; |
| **"Framework Tender Response"** | the tender submitted by the Agency to CCS and annexed to or referred to in Framework Schedule 2 (Framework Tender); |
| **"Further Competition Procedure"** | the further competition procedure described in Framework Schedule 7 (Call-Off Award Procedure); |
| **"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 Framework Award Form payable by Central Government Bodies to the Agency on behalf of CCS; |
| **"General Anti-Abuse Rule"** | * 1. the legislation in Part 5 of the Finance Act 2013 and; and   2. 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 Framework Schedule 1 (Specification) and in relation to a Call-Off 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; |
| **"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:   * + 1. are supplied to the Agency by or on behalf of the Authority; or     2. 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; |
| **"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 Call-Off 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:   1. details of the impact of the proposed Variation on the Deliverables and the Agency's ability to meet its other obligations under the Contract; 2. details of the cost of implementing the proposed Variation; 3. details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework 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; 4. a timetable for the implementation, together with any proposals for the testing of the Variation; and 5. 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 Deliverables set out in Call-Off Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Agency and the Client; |
| **"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 Framework Schedule 3 (Framework 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 Framework Award Form or the Order Form, as the context requires; |
| **"Insolvency Event"** | with respect to any person, means:  (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:  (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  (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;  (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;  (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;  (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;  (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;  (f) where that person is a company, a LLP or a partnership:  (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;  (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;  (iii) (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  (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  (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; |
| **"Intellectual Property Rights" or "IPR"** | 1. 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; 2. 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 3. all other rights having equivalent or similar effect in any country or jurisdiction; |
| **"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 Deliverables 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 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 (*Processing Data*); |
| **“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 Agency’s performance of the Framework Contract set out in Framework Schedule 4 (Framework 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:   1. which is relied upon to deliver any work package within the Deliverables in their entirety; and/or 2. 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 Deliverables; and/or 3. 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 Call-Off Contract,   and the Agency shall list all such Key Subcontractors in section 19 of the Framework Award Form and in the Key Subcontractor Section in Order Form; |
| **"Know-How"** | all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables 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, enforceable right within the meaning of Section 2 of the European Communities Act 1972, 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 Framework Schedule 6 (Letter of Appointment Template and Call-Off Schedules); |
| **"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; |
| **"Lots"** | the number of lots specified in Framework Schedule 1 (Specification), if applicable; |
| **"Management Charge"** | the sum specified in the Framework Award Form payable by the Agency to CCS in accordance with Framework Schedule 5 (Management Charges and Information); |
| **"Management Information" or “MI”** | the management information specified in Framework Schedule 5 (Management Charges and Information); |
| **“MI Default”** | means whentwo (2) MI Reports are not provided in any rolling six (6) month period |
| **"MI Failure"** | means when an MI report:   1. contains any material errors or material omissions or a missing mandatory field; or 2. is submitted using an incorrect MI reporting Template; or 3. is not submitted by the reporting date (including where a declaration of no business should have been filed); |
| **"MI Report"** | means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 5 (Management Charges and Information); |
| **"MI Reporting Template"** | means the form of report set out in the Annex to Framework 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; |
| **"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"** | * 1. 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   2. 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;   but shall not include the Agency’s Existing IPR; |
| **"Occasion of Tax Non–Compliance"** | where:   1. 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:   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;  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   1. 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; |
| **"Open Book Data"** | 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 Call-Off Contract, including details and all assumptions relating to:   1. 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 Deliverables; 2. operating expenditure relating to the provision of the Deliverables including an analysis showing:    * 1. the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;      2. 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;      3. a list of Costs underpinning those rates for each grade, being the agreed rate less the Agency Profit Margin; and      4. Reimbursable Expenses, if allowed under the Order Form; 3. Overheads; 4. all interest, expenses and any other third-party financing costs incurred in relation to the provision of the Deliverables; 5. the Agency Profit achieved over the Framework Contract Period and on an annual basis; 6. 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; 7. an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and 8. the actual Costs profile for each Service Period; |
| **"Order"** | means an order for the provision of the Deliverables placed by a Client with the Agency under a Contract; |
| **"Order Form"** | a completed Letter of Appointment Template (or equivalent information issued by the Client) used to create a Call-Off Contract; |
| **"Other Contracting Authority"** | any actual or potential Client under the Framework 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 Framework Contract, CCS or the Agency, and in the in the context of a Call-Off 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; |
| **“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; |
| **"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; |
| **"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”** | 1. 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:    * 1. induce that person to perform improperly a relevant function or activity; or      2. 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 improper performance of a relevant function or activity in connection with each Contract; or  c) committing any offence:   * + 1. under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or     2. under legislation or common law concerning fraudulent acts; or     3. defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or   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; |
| **"Proposal"** | the tender submitted by the Agency in response to the Client’s Brief following a Further Competition Procedure and set out at Call-Off Schedule 4 (Call-Off 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 Framework Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the Framework Contract or Call-Off Schedule 9 (Security), if applicable, in the case of a Call-Off Contract. |
| **“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:   1. full details of the Default that has occurred, including a root cause analysis; 2. the actual or anticipated effect of the Default; and 3. 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); |
| **"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:   1. 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 2. 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"** | 1. 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); 2. 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   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 Deliverables"** | any deliverables which are substantially similar to any of the Deliverables and which the Client receives in substitution for any of the Deliverables following the Call-Off Expiry Date, whether those goods are provided by the Client internally and/or by any third party; |
| **"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); |
| **"Replacement Agency"** | any third-party provider of Replacement Deliverables appointed by or at the direction of the Client from time to time or where the Client is providing Replacement Deliverables for its own account, shall also include the Client; |
| **"Request For Information"** | a request for information or an apparent request relating to a Contract for the provision of the Deliverables 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 Call-Off Schedule 13 (Implementation Plan and Testing) or as agreed by the Parties where Call-Off 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 Call-Off Schedule 9 (Security) (if applicable); |
| **"Security Policy"** | the Client's security policy, referred to in the Order Form, in force as at the Call-Off Start Date (a copy of which has been supplied to the Agency) , as updated from time to time and notified to the Agency; |
| **"Self Audit Certificate"** | means the certificate in the form as set out in Framework 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 Deliverables 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; |
| **"Services"** | services made available by the Agency as specified in Framework Schedule 1 (Specification) and in relation to a Call-Off Contract as specified in the Order Form; |
| **"Service Transfer"** | any transfer of the Deliverables (or any part of the Deliverables), 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 Buyer Premises, the Agency’s premises or third party premises) from, to or at which:   1. the Deliverables are (or are to be) provided; or 2. the Agency manages, organises or otherwise directs the provision or the use of the Deliverables; |
| **"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; |
| **"Special Terms"** | any additional Clauses set out in the Framework Award 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 Deliverables is not reasonably foreseeable at the Start Date; |
| **"Specification"** | the specification set out in Framework Schedule 1 (Specification), as may, in relation to a Call-Off Contract, be supplemented by the Order Form; |
| **"Standards"** | any:   1. 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; 2. standards detailed in the specification in Schedule 1 (Specification); 3. standards detailed by the Client in the Order Form or agreed between the Parties from time to time; 4. relevant Government codes of practice and guidance applicable from time to time; |
| **"Start Date"** | in the case of the Framework Contract, the date specified on the Framework Award Form, and in the case of a Call-Off Contract, the date specified in the Order Form; |
| **“Statement of Work”** | a supplemental Order under a Call-Off Contract to refine the Deliverables 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 a Call-Off Contract or the Framework Contract, pursuant to which a third party:   1. provides the Deliverables (or any part of them); 2. provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or 3. is responsible for the management, direction or control of the provision of the Deliverables (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; |
| **"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 Deliverables in accordance with the Call-Off Contract but excluding the Client Assets; |
| **"Supplier Authorised Representative"** | the representative appointed by the Agency named in the Framework Award Form, or later defined in a Call-Off Contract; |
| **"Supplier's Confidential Information"** | 1. 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; 2. 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; 3. Information derived from any of (a) and (b) above; |
| **"Supplier's Contract Manager”** | the person identified in the Order Form appointed by the Agency to oversee the operation of the Call-Off 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 Call-Off Contract; |
| **"Supplier Marketing Contact"** | shall be the person identified in the Framework Award Form; |
| **"Supplier Non-Performance"** | where the Agency has failed to:   1. Achieve a Milestone by its Milestone Date; 2. provide the Goods and/or Services in accordance with the Service Levels; and/or 3. 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 Call-Off Contract for the relevant period; |
| **"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; |
| **"Supplier Staff"** | 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; |
| **"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 Call-Off Contract detailed in the information are properly payable; |
| **“Tax”** | * + - 1. all forms of taxation whether direct or indirect;       2. national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;       3. 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       4. 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; |
| **"Territory"** | The United Kingdom, unless specified otherwise in the applicable Statement of Work. Publication and marketing on globally accessible mediums such as the internet shall not mean that the Territory is deemed to be worldwide |
| **"Test Issue"** | any variance or non-conformity of the Deliverables from their requirements as set out in a Call-Off Contract; |
| **"Test Plan"** | a plan:   1. for the Testing of the Deliverables; and 2. setting out other agreed criteria related to the achievement of Milestones; |
| **"Tests"** | any tests required to be carried out pursuant to a Call-Off Contract as set out in the Test Plan or elsewhere in a Call-Off 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 Deliverables; |
| **"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; |
| **"Transparency Information"** | the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for –  (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  (ii) Commercially Sensitive Information; |
| **"Transparency Reports"** | the information relating to the Deliverables and performance of the Contracts which the Agency is required to provide to the Buyer in accordance with the reporting requirements in Call-Off 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); |
| **"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 Deliverables; |
| **"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 |
| **"Work Hours"** | the hours spent by the Agency Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Agency's offices, or to and from the Sites) but excluding lunch breaks. |

**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: | 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] |

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

Signed by an authorised signatory for and on behalf of the **[delete** as applicable:CCS / 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 |  |

**Joint Schedule 3 (Insurance Requirements)**

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

**ANNEX: REQUIRED INSURANCES**

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

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

**Joint Schedule 4 (Commercially Sensitive Information)**

1. **What is the Commercially Sensitive Information?**
   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.
   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).
   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** |
|  | [insert date] | [insert details] | [insert duration] |

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

1. **What we expect from the Agency**
   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>)
   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.
   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**
   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:
      1. eliminate discrimination, harassment or victimisation of any kind; and
      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.

* 1. The Agency:
     1. shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
     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. warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
     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 offenses anywhere around the world.
     5. shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
     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;
     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;
     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;
     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;
     10. shall not use or allow child or slave labour to be used by its Subcontractors;
     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.

1. **Income Security** 
   1. The Agency shall:
      1. ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
      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;
      3. not make deductions from wages:
         1. as a disciplinary measure
         2. except where permitted by law; or
         3. without expressed permission of the worker concerned;
      4. record all disciplinary measures taken against Agency Staff; and
      5. ensure that Agency Staff are engaged under a recognised employment relationship established through national law and practice.
2. **Working Hours**
   1. The Agency shall:
      1. ensure that the working hours of Agency Staff comply with national laws, and any collective agreements;
      2. 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;
      3. ensure that use of overtime used responsibly, taking into account:
         1. the extent;
         2. frequency; and
         3. hours worked;

by individuals and by the Agency Staff as a whole;

* 1. The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
  2. Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
     1. this is allowed by national law;
     2. this is allowed by a collective agreement freely negotiated with a workers’ organisation representing a significant portion of the workforce;

appropriate safeguards are taken to protect the workers’ health and safety; and

* + 1. the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
  1. 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.

1. **Sustainability**
   1. The Agency shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

**Joint Schedule 6 (Key Subcontractors)**

1. **Restrictions on certain subcontractors**
   1. The Agency is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form but this does not remove or reduce the Agency’s liability for its performance of the Contract.
   2. The Agency is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form but this does not remove or reduce the Agency’s liability for its performance of the Contract.
   3. Where during the Contract Period the Agency wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Client and the Agency shall, at the time of requesting such consent, provide CCS and the Client with the information detailed in Paragraph 1.4. The decision of CCS and the Client to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to section 18 of the Framework Award Form. Where the Client consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Order Form. CCS and the Client may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
      1. the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
      2. the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
      3. the proposed Key Subcontractor employs unfit persons.

The Agency shall provide CCS and the Client with the following information in respect of the proposed Key Subcontractor:

* + 1. the proposed Key Subcontractor’s name, registered office and company registration number;
    2. the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
    3. where the proposed Key Subcontractor is an Affiliate of the Agency, evidence that demonstrates to the reasonable satisfaction of the CCS and the Client that the proposed Key Sub-Contract has been agreed on "arm’s-length" terms;
    4. for CCS, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;
    5. for the Client, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call Off Contract Period; and
    6. (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.
  1. If requested by CCS and/or the Client, within ten (10) Working Days of receipt of the information provided by the Agency pursuant to Paragraph 1.4, the Agency shall also provide:
     1. a copy of the proposed Key Sub-Contract; and
     2. any further information reasonably requested by CCS and/or the Client.
  2. The Agency shall ensure that each new or replacement Key Sub-Contract shall include:
     1. provisions which will enable the Agency to discharge its obligations under the Contracts including without limitation Call-Off Schedule 15 (Call Off Contract Management);
     2. a right under CRTPA for CCS and the Client to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Client respectively;
     3. a provision enabling CCS and the Client to enforce the Key Sub-Contract as if it were the Agency;
     4. a provision enabling the Agency to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Client;
     5. obligations no less onerous on the Key Subcontractor than those imposed on the Agency under the Framework Contract in respect of:
        1. the data protection requirements set out in Clause 14 (Data protection);
        2. the confidentiality requirements set out in Clause 15 (What you must keep confidential);
        3. the FOIA and other access request requirements set out in Clause 16 (When you can share information);
        4. the obligation not to embarrass CCS or the Client or otherwise bring CCS or the Client into disrepute;
        5. the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
        6. the conduct of audits set out in Clause 6 (Record keeping and reporting);
     6. provisions enabling the Agency to terminate the Key Sub-Contract on notice on terms no more onerous on the Agency than those imposed on CCS and the Client under Clauses 10.4 (When CCS or the Client can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and

a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables 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. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **"Credit Rating Threshold"** | 1. the minimum credit rating level for the Monitored Company as set out in Annex 2 and |
| **"Financial Distress Event"** | 1. the occurrence or one or more of the following events:    1. the credit rating of the Monitored Company dropping below the applicable Credit Rating Threshold;    2. 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;    3. there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Party;    4. Monitored Company committing a material breach of covenant to its lenders;    5. 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    6. any of the following:       1. commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;       2. non-payment by the Monitored Company of any financial indebtedness;       3. any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or       4. the cancellation or suspension of any financial indebtedness in respect of the Monitored Company 2. 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 Deliverables in accordance with any Call-Off Contract; |
| **"Financial Distress Service Continuity Plan"** | 1. a plan setting out how the Agency will ensure the continued performance and delivery of the Deliverables in accordance with [each Call-Off] Contract in the event that a Financial Distress Event occurs; |
| **“Monitored Company”** | 1. Agency [the Guarantor] or any Key Subcontractor] |
| **"Rating Agencies"** | 1. the rating agencies listed in Annex 1. |

**When this Schedule applies**

* 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. The terms of this Schedule shall survive:
     1. under the Framework Contract until the later of (a) the termination or expiry of the Framework Contract or (b) the latest date of termination or expiry of any call-off contract entered into under the Framework Contract (which might be after the date of termination or expiry of the Framework Contract); and
     2. under the Call-Off Contract until the termination or expiry of the Call-Off Contract.

**What happens when your credit rating changes**

* 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.
  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. If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Agency shall ensure that the Monitored Company’s auditors thereafter provide CCS within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by CCS (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Monitored Company as at the end of each Contract Year or such other date as may be requested by CCS. For these purposes the "quick ratio" on any date means:



where:

|  |  |
| --- | --- |
| A | is the value at the relevant date of all cash in hand and at the bank of the Monitored Company; |
| B | is the value of all marketable securities held by the Agency the Monitored Company determined using closing prices on the Working Day preceding the relevant date; |
| C | is the value at the relevant date of all account receivables of the Monitored and: |
| D | is the value at the relevant date of the current liabilities of the Monitored Company. |

* 1. The Agency shall:
     1. regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
     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 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.
  2. 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.

**What happens if there is a financial distress event**

* 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.
  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:
     1. rectify such late or non-payment; or
     2. demonstrate to CCS's reasonable satisfaction that there is a valid reason for late or non-payment.]
  3. The Agency shall and shall procure that the other Monitored Companies shall:
     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 Deliverables in accordance each Call-Off Contract; and
     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 Deliverables in accordance with each Call-Off Contract:
        1. 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
        2. provide such financial information relating to the Monitored Company as CCS may reasonably require.
  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 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.
  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.
  6. Following Approval of the Financial Distress Service Continuity Plan by CCS, the Agency shall:
     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 each Contract and delivery of the Deliverables in accordance with each Call-Off Contract;
     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
     3. comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
  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.
  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 a Call-Off Contract with the Agency.

**When CCS or the Client can terminate for financial distress**

* 1. CCS shall be entitled to terminate this Contract and Clients shall be entitled to terminate their Call-Off Contracts for material Default if:
     1. the Agency fails to notify CCS of a Financial Distress Event in accordance with Paragraph 3.4;
     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
     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.
  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.

**What happens If your credit rating is still good**

* 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:
     1. the Agency shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
     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

**ANNEX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS**

**Part 1: Current Rating – [Lot 1, Lot 2 and Lot 5]**

|  |  |
| --- | --- |
| **Entity** | **Credit rating (long term)** |
| Agency | 45 |
| [Guarantor] | [45] |
| [Key Subcontractor] | [45] |

**Part 1: Current Rating – [Lot 3 and Lot 4]**

|  |  |
| --- | --- |
| **Entity** | **Credit rating (long term)** |
| Agency | 60 |
| [Guarantor] | [60] |
| [Key Subcontractor] | [60] |

**Joint Schedule 8 (Guarantee)**

**[Guidance Note: Where the financial evaluation has indicated the need for a Deed of Guarantee, include this Schedule in the contract.]**

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

|  |  |
| --- | --- |
| **"Guarantee"** | a deed of guarantee from the Guarantor in favour of a Client in the form set out in Annex 1 to this Schedule; |
| **"Guarantor"** | the person that the Agency relied upon to meet the economic and financial standing requirements of the selection stage of the procurement process for the Framework Contract; and |
| **“Letter of Intent to Guarantee”** | the letter from the Guarantor to CCS to confirm that the Guarantor will enter into each Guarantee in the form set out in Annex 2 to this Schedule. |

1. **Obligation to Provide Guarantee**
   1. Where CCS has notified the Agency that the award of the Framework Contract is conditional upon the availability of a Guarantee for each Call-Off Contract:
      1. as a condition for the award of the Framework Contract, the Agency must have delivered to CCS within 30 days of a request by CCS:
         1. an executed Letter of Intent to Guarantee from the Guarantor; and
         2. a certified copy extract of the board minutes and/or resolution of the Guarantor approving the intention to enter into a Letter of Intent to Guarantee in accordance with the provisions of this Schedule; and
      2. on demand from a Client, the Agency must procure a Guarantee in accordance with Paragraph 2.4 below.
   2. If the Agency fails to deliver any of the documents required by Paragraph 2.1.1 above within 30 days of request then:
      1. CCS may terminate this Framework Contract; and
      2. each Client may terminate any or all of its Call-Off Contracts,
   3. in each case as a material Default of the Contract for the purposes of Clause 10.4.1(d) of the Core Terms.
   4. Where the CCS has received a Letter of Intent to Guarantee from the Guarantor pursuant to Paragraph 2.1.1, CCS may terminate this Framework Contract as a material Default of the Contract for the purposes of Clause 10.4.1(d) of the Core Terms where:
      1. the Guarantor withdraws or revokes the Letter of Intent to Guarantee in whole or in part for any reason whatsoever;
      2. the Letter of Intent to Guarantee becomes invalid or unenforceable for any reason whatsoever;
      3. the Guarantor refuses to enter into a Guarantee in accordance with Paragraph 2.1.2 above; or
      4. an Insolvency Event occurs in respect of the Guarantor,

and in each case the Letter of Intent to Guarantee is not replaced by an alternative commitment to make resources available acceptable to CCS.

* 1. Where a Client has notified the Agency that the award of the Call-Off Contract by the Client shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of the Call-Off Contract, as a condition precedent of that Call-Off Contract, the Agency shall deliver to the Client by the date so specified by the Client:
     1. an executed Guarantee; and
     2. a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
  2. Where a Client has procured a Guarantee under Paragraph 2.4 above, the Client may terminate the Call-Off Contract for as a material Default of the Contract for the purposes of Clause 10.4.1(d) of the Core Terms where:
     1. the Guarantor withdraws the Guarantee in whole or in part for any reason whatsoever;
     2. the Guarantor is in breach or anticipatory breach of the Guarantee;
     3. an Insolvency Event occurs in respect of the Guarantor;
     4. the Guarantee becomes invalid or unenforceable for any reason whatsoever; or
     5. the Agency fails to provide any of the documentation required by Paragraph 2.4 by the date so specified by the Client,

and in each case the Guarantee is not replaced by an alternative guarantee agreement acceptable to the Client.

**Annex 1 – Form of Guarantee**

**[Guidance Note:** this is the draft form of guarantee to be used to procure a Guarantee, and so it will need to be amended to reflect the Beneficiary’s requirements.]

**DEED OF GUARANTEE**

**PROVIDED BY**

**[Insert** name of the Guarantor]

**FOR THE BENEFIT OF**

**[Insert** name of the Beneficiary**]**

**DEED OF GUARANTEE**

**THIS DEED OF GUARANTEE** is made the day of 20[ ]

**PROVIDED BY**:

[Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of theGuarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details](**"Guarantor"**)

**WHEREAS**:

(A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Agency, to guarantee all of the Agency's obligations under the Guaranteed Agreement.

(B) It is the intention of the Guarantor that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

1. **DEFINITIONS AND INTERPRETATION**

In this Deed of Guarantee:

* 1. unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
  2. the words and phrases below shall have the following meanings:

[**Guidance Note:** Insert and/or settle Definitions, including from the following list, for the Guarantee]

|  |  |
| --- | --- |
| **"Beneficiary(s)"** | means [all Clients under the Call-Off Contracts] [***insert name of the Client with whom the Agency enters into a Call-Off Contract***] and "Beneficiaries" shall be construed accordingly; |
| **"Call-Off Contract"** | has the meaning given to it in the Framework Contract; |
| **“Framework Contract”** | means the framework contract [**insert RM number and name of the framework**] between the Minister for the Cabinet Office represented by its executive agency the Crown Commercial Service and the Agency; |
| **"Guaranteed Agreement"** | means [each Call-Off Contract] [the Call-Off Contract] made between the Beneficiary and the Agency [from time to time] [***on* insert date**]; |
| **"Guaranteed Obligations"** | means all obligations and liabilities of the Agency to the Beneficiary under a Guaranteed Agreement together with all obligations owed by the Agency to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to a Guaranteed Agreement; and |
| **“Agency”** | means [**Insert** the name, address and registration number of the Agency as each appears in the Framework Award Form]. |

* 1. references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to a Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
  2. unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
  3. references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
  4. the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
  5. unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
  6. unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
  7. unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
  8. references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
  9. references to liability are to include any liability whether actual, contingent, present or future.

1. **GUARANTEE AND INDEMNITY**
   1. The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Agency duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Agency to the Beneficiary.
   2. The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Agency to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.
   3. If at any time the Agency shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:
      1. fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
      2. as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Agency to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Agency under the Guaranteed Agreement.
   4. As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Agency's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.
2. **OBLIGATION TO ENTER INTO A NEW CONTRACT**

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Agency, or if the Guaranteed Agreement is disclaimed by a liquidator of the Agency or the obligations of the Agency are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

1. **DEMANDS AND NOTICES**
   1. Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

[**Insert** Address of the Guarantor in England and Wales]

**[Insert** Facsimile Number]

For the Attention of [**Insert** details]

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

* 1. Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:
     1. if delivered by hand, at the time of delivery; or
     2. if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or
     3. if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.
  2. In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
  3. Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

1. **BENEFICIARY'S PROTECTIONS**
   1. The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Agency and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.
   2. This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
      1. it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Agency of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
      2. it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Agency, the Beneficiary, the Guarantor or any other person;
      3. if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Agency for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
      4. the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
   3. The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Agency of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.
   4. The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Agency or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Agency or any third party, or to take any action whatsoever against the Agency or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
   5. The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
   6. Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
   7. Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
   8. The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.
2. **GUARANTOR INTENT**

Without prejudice to the generality of Clause 5 (Beneficiary’s protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

1. **RIGHTS OF SUBROGATION**
   1. The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Agency and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:
      1. of subrogation and indemnity;
      2. to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Agency’s obligations; and
      3. to prove in the liquidation or insolvency of the Agency,

only in accordance with the Beneficiary’s written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Agency and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

1. **DEFERRAL OF RIGHTS**
   1. Until all amounts which may be or become payable by the Agency under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:
      1. exercise any rights it may have to be indemnified by the Agency;
      2. claim any contribution from any other guarantor of the Agency’s obligations under the Guaranteed Agreement;
      3. take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;
      4. demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Agency; or
      5. claim any set-off or counterclaim against the Agency;
   2. If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.
2. **REPRESENTATIONS AND WARRANTIES**
   1. The Guarantor hereby represents and warrants to the Beneficiary that:
      1. the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
      2. the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
      3. the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and **performance of a contract pursuant to** Clause 3, have been duly authorised by all necessary corporate action and do not contravene or conflict with:
         1. the Guarantor's memorandum and articles of association or other equivalent constitutional documents;
         2. any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
         3. the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
      4. all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
      5. this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.
3. **PAYMENTS AND SET-OFF**
   1. All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
   2. The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
   3. The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.
4. **GUARANTOR'S ACKNOWLEDGEMENT**

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

1. **ASSIGNMENT**
   1. The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.
   2. The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.
2. **SEVERANCE**

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

1. **THIRD PARTY RIGHTS**

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

1. **SURVIVAL**

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

1. **GOVERNING LAW**
   1. This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
   2. The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
   3. Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
   4. The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

**[Guidance Note:** Include the above provision when dealing with the appointment of English process agent by a non English incorporated Guarantor]

* 1. [The Guarantor hereby irrevocably designates, appoints and empowers [the Agency] [a suitable alternative to be agreed if the Agency's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

[Insert name of the Guarantor] acting by [Insert/print names]

Director

Director/Secretary

**Annex 2 – Form of Letter of Intent to Guarantee**

**[Guidance Note:** this is the form of the Letter of Intent to Guarantee to be used by a Guarantor to confirm that it will enter into a Guarantee for each Call Off Contract if required by a Client.]

**[ON THE LETTERHEAD OF THE GUARANTOR]**

Crown Commercial Service  
9th Floor, The Capital  
Old Hall Street  
Liverpool  
L3 9PP

[DATE]

Dear Sirs

**Letter of Intent to Guarantee – Framework Contract RM[XXXX] [INSERT FRAMEWORK NAME] (the “Framework Contract”)**

**Name of Agency: [INSERT NAME OF AGENCY]**

1. We refer to the Framework Contract. Unless otherwise defined in this Letter of Intent to Guarantee, capitalised terms used in this Letter of Intent to Guarantee have the meaning given to them in the Framework Contract.
2. We acknowledge that the Agency relied on our capacity to meet the selection criteria relating to economic and financial standing that CCS set out in the procurement process for the Framework Contract.
3. We have issued this Letter of Intent to Guarantee in consideration of CCS entering into the Framework Contract with the Agency.
4. Please accept this Letter of Intent to Guarantee as an undertaking from us and as proof that the Agency will have at its disposal the resources necessary to achieve the economic and financial standing required in the relevant selection criteria.
5. We acknowledge that it is a condition of the Framework Contract that:
   1. we provide this Letter of Intent to Guarantee to CCS (paragraph 2.1.1 of Joint Schedule 8 of the Framework Contract); and
   2. on demand from a Client, the Agency must procure that we enter into a Guarantee in the form set out in Annex 1 to Joint Schedule 8 of the Framework Contract (paragraph 2.1.2 of Joint Schedule 8 of the Framework Contract).
6. We confirm that:
   1. we undertake to provide each Guarantee in accordance with the Framework Contract; and
   2. we understand that CCS may terminate the Framework Contract with the Agency as a material Default of the Framework Contract if:
      1. we withdraw or revoke this Letter of Intent to Guarantee in whole or in part for any reason whatsoever;
      2. we refuse to enter into a Guarantee in accordance paragraph 2.1.2 of Joint Schedule 8 of the Framework Contract; or
      3. an Insolvency Event occurs in respect of the Guarantor.
7. Please find enclosed a certified copy of the extract of the board minutes and/or resolution of the Guarantor approving the intention to enter into a Letter of Intent to Guarantee in accordance with the provisions of Joint Schedule 8 of the Framework Contract.
8. This Letter of Intent to Guarantee and any Disputes arising out of, or connected to it, are governed by English law. CCS and the Guarantor must resolve any Dispute in accordance with Clause 34 of the Core Terms of the Framework Contract as if that clause applied to this Letter of Intent to Guarantee.

Yours faithfully

Name: …………………………

Job Title: ………………………

For and on behalf of

**[INSERT NAME OF THE GUARANTOR]**

Encs:

1. Certified copy of the extract of the board minutes and/or resolution of the Guarantor approving the intention to enter into a Letter of Intent to Guarantee

**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] | | | | |
| Reasons for Rejection (if applicable) | [**add** reasons] | | | | |
| Signed by [CCS/Client] |  | Date: | |  | |

**Joint Schedule 11 (Processing Data)**

**Definitions**

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

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

**Status of the Controller**

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

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

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

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

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

* 1. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11.

**Independent Controllers of Personal Data**

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

**Annex 1 - Processing Personal Data**

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

* + - 1. The contact details of the Relevant Authority’s Data Protection Officer are: steve.jones@cabientoffice.gov.uk
      2. The contact details of the Supplier’s Data Protection Officer are: **[Insert** Contact details]
      3. The Processor shall comply with any further written instructions with respect to Processing by the Controller.
      4. Any such further instructions shall be incorporated into this Annex.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Identity of Controller for each Category of Personal Data | The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation:  the Relevant Authority is the Controller  and  the Supplier is the Processor for Contracting Authority’s staff data and Relevant Authority’s 3rd party suppliers data (for example but not limited to staff/team details at the media planning agency, media buying agency, research agency) and contacts associated with delivering the products and services (for example, case studies featured in adverts, or invitees to an event organised by the Supplier on the Contracting Authority’s behalf) |
| Duration of the Processing | The contract period, including the extension period if taken up. |
| Nature and purposes of the Processing | Names, email addresses, job titles and mobile phone numbers of staff for  the purpose of delivering the work.  This also includes staff of Relevant Authority 3rd party suppliers to deliver  the work, for example but not limited to media planning agencies, media buying agency, research agencies, case studies featuring in adverts/content, invitees to PR events. |
| Type of Personal Data | Names, job titles and contact details and other details included in case studies. |
| Categories of Data Subject | Employees and suppliers and individuals used in case studies |
| Plan for return and destruction of the data once the Processing is complete  UNLESS requirement under Union or Member State law to preserve that type of data | Any data processed will be destroyed on final conclusion of the Contract. |

**Annex 2 - Joint Controller Agreement**

**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 [Supplier/Relevant Authority]:

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

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

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

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

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

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

* + 1. **Liabilities for Data Protection Breach**
       1. If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:
    2. if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) 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 Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
    3. if in the view of the Information Commissioner, the Supplier 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 Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier’s sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
    4. if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
       1. If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction (“Court”) by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
       2. In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the “Claim Losses”):
    5. if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
    6. if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
    7. if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.
       1. Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier 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 Supplier 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 Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

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

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

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

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

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

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

**Annex 1**

**Supply Chain Information Report template**

