



Crown
Commercial
Service

Terms and Conditions

Contract Reference: Evaluation of the Domestic Abuse

Polygraph Pilot

CCZZ20A70

CONTENTS

INTRODUCTION

<u>1</u>	<u>APPOINTMENT & STATEMENTS OF WORK</u>
<u>2</u>	<u>TERM</u>
<u>3</u>	<u>CONTRACT GUARANTEE</u>
<u>4</u>	<u>CUSTOMERS OBLIGATIONS</u>
<u>5</u>	<u>SERVICE DELIVERY, DELAY AND RECTIFICATION</u>
<u>6</u>	<u>SUPPLIER: OTHER APPOINTMENTS</u>
<u>7</u>	<u>CUSTOMER: OTHER APPOINTMENTS</u>
<u>8</u>	<u>PERSONNEL</u>
<u>9</u>	<u>VARIATIONS AND CANCELLATIONS</u>
<u>10</u>	<u>APPROVALS AND AUTHORITY</u>
<u>11</u>	<u>PROJECT MANAGEMENT</u>
<u>12</u>	<u>FEES AND INVOICING</u>
<u>13</u>	<u>THIRD PARTY AGENCIES: ASSIGNMENT AND SUB-CONTRACTING</u>
<u>14</u>	<u>DISCOUNTS AND REBATES</u>
<u>15</u>	<u>CONFIDENTIALITY, TRANSPARENCY AND FREEDOM OF INFORMATION</u>
<u>16</u>	<u>SUPPLIER WARRANTIES</u>
<u>17</u>	<u>CUSTOMER WARRANTIES</u>
<u>18</u>	<u>LIABILITY</u>
<u>19</u>	<u>INSURANCE</u>
<u>20</u>	<u>INTELLECTUAL PROPERTY RIGHTS</u>
<u>21</u>	<u>AUDIT</u>
<u>22</u>	<u>ADVERTISING STANDARDS – NOT USED</u>
<u>23</u>	<u>TERMINATION</u>
<u>24</u>	<u>CONSEQUENCES OF TERMINATION</u>
<u>25</u>	<u>FORCE MAJEURE</u>
<u>26</u>	<u>NOTICES</u>
<u>27</u>	<u>STAFF TRANSFER</u>
<u>28</u>	<u>THIRD PARTY RIGHTS</u>
<u>29</u>	<u>DATA PROTECTION, SECURITY AND PUBLICITY</u>
<u>30</u>	<u>RETENTION AND SET OFF</u>

- 31 INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS
- 32 PREVENTION OF FRAUD AND BRIBERY
- 33 GENERAL
- 34 DISPUTE RESOLUTION
- 35 GOVERNING LAW AND JURISDICTION
- 36 ADDITIONAL

SCHEDULE 1 – DEFINITIONS AND INTERPRETATIONS

SCHEDULE 2 – STATEMENT OF WORK

SCHEDULE 3 – STAFF TRANSFER

SCHEDULE 4 – DISPUTE RESOLUTION PROCEDURE

SCHEDULE 5 – VARIATION FORM

SCHEDULE 6 – CONTRACT CHARGES

SCHEDULE 7 – PROCESSING PERSONAL DATA AND DATA

SCHEDULE 8 – ADDITIONAL CLAUSES

SCHEDULE 9 – MOD DEFCONS AND DEFFORMS

Contract Terms

This Contract is made on the 9th day of November 2020 between:

The Ministry of Justice with offices at the Ministry of Justice 1st floor, 5 Wellington Place, Leeds. LS1 4AP ("the **Customer**"); and

The Cambridge Centre for Evidence Based Policing Ltd a company registered in England and Wales under Company Number 08660094 whose registered office is at Salisbury House, Station Road, Cambridge, CB1 2LA ("the **Supplier**"),

Both the Customer and the Supplier can be referred to as a "**Party**" or together the "**Parties**".

INTRODUCTION

- (1) The Supplier is one of a number of organisations appointed by Crown Commercial Service (**CCS**) to the Dynamic Purchasing System (DPS) and is therefore able to enter into this Contract to provide the Project(s) to the Customer.
- (2) This Contract, made between the Customer and the Supplier, sets out the terms of the Supplier's appointment as a provider of the Project to the Customer. The Project will be delivered according to the terms of this Contract, any agreed Statement of Work, and the DPS Agreement.
- (3) The Supplier's appointment has been confirmed in the Letter of Appointment.
- (4) The Parties agree that the Project and associated Deliverables shall be supplied in accordance with the terms of the DPS Agreement and this Contract.

1. APPOINTMENT & STATEMENTS OF WORK

- 1.1. Throughout the Term of this Contract, the Supplier will perform Projects in accordance with agreed Statements of Work.
- 1.2. Subject to Clause 1.4 the Parties may agree new Projects to be delivered under this Contract by agreeing a new Statement of Work. This must be done in writing and using the form set out at Schedule 2 (Statement of Work). Once both Parties have signed a Statement of Work, it shall form part of this Contract.
- 1.3. Any schedule attached to a Statement of Work will describe in detail the different types of Services to be provided under that Statement of Work. A schedule attached to a 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 Project as a whole.
- 1.4. Where a Customer requires changes to the Project being provided this shall be dealt with as a proposed Variation to this Contract in accordance with the Variation procedure set out in Clause 9.

2. TERM

- 2.1. This Contract starts on the **9th November 2020** and ends on the **8th November 2023**, as stated in the Letter of Appointment unless changed in accordance with the terms of this Contract. There are options for three one year extensions from:
 - 9th November 2023 – 8th November 2024
 - 9th November 2024 – 8th November 2025
 - 9th November 2025 – 8th November 2026
- 2.2. The Customer may extend this Contract for any period up to the Extension Expiry Date by giving the Supplier notice in writing before the Expiry Date. The minimum notice which must be given in order to amend the Expiry Date is specified in the Letter of Appointment.
- 2.3. The revised date the contract will end at the latest of the 8th November 2026 will be set out in the notice given under Clause 2.2 above.
- 2.4. The terms and conditions of this Contract will apply throughout any extended period.
- 2.5. Each Project starts on the Project Commencement Date and ends on the Project Completion Date, unless it is terminated earlier in accordance with Clause 23.

3. CONTRACT GUARANTEE

- 3.1. Where the Customer has stated in the Letter of Appointment that this Contract is conditional on receipt of a Guarantee, then, on or prior to the Effective Date (or on any other date specified by the Customer), the Supplier must provide:
 - 3.1.1. an executed Guarantee from a Guarantor; and

- 3.1.2. a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
- 3.2. The Customer may at any time agree to waive compliance with the requirement in Clause 3.1 by giving the Supplier notice in writing.

4. CUSTOMER'S OBLIGATIONS

- 4.1. The Customer will give the Supplier instructions as to its requirements for the Project. These will be included in a Statement of Work and may include start and end dates for each stage of the proposed Project.

5. SERVICE DELAY, DELIVERY & RECTIFICATION

Service Delivery

- 5.1. The Supplier will give the Customer full and clear instructions as to what, if any, Customer Materials it reasonably requires to perform the Project.
 - 5.1.1 comply with all Law;
 - 5.1.2 use all reasonable and proper skill and care in its performance of Project;
 - 5.1.3 comply with all reasonable Customer instructions regarding the Project, as long as these instructions do not materially amend the Statement of Work (unless the amendment has been agreed in accordance with Clause 9.1);
 - 5.1.4 keep Customer Materials under its control safe and secure and in accordance with any security policy provided by the Customer; and
 - 5.1.5 provide all Deliverables by any dates set out in the applicable Statement of Work or any other date(s) agreed by the parties in writing.

Delay

- 5.2. If the Customer materially breaches its obligations in connection with this Contract (including its payment obligations), and consequently delays or prevents the Supplier from performing any of the agreed Services or providing any of the agreed Deliverables this will be a "**Customer Cause**". In the event of a Customer Cause, the Supplier will be granted an appropriate extension of time (to be approved by the Customer, acting reasonably) to perform the agreed Services or provide the agreed Deliverables. The Supplier will not be liable for any Losses incurred by the Customer as a result of Customer Cause, provided the Supplier complies with its obligations set out at Clause 5.4.
- 5.3. The Supplier must notify the Customer within two (2) Working Days of the Supplier becoming aware that the Customer has breached, or is likely to breach, its obligations in connection with this Contract. This notice must detail:
 - 5.3.1 the Customer Cause and its actual or potential effect on the Supplier's ability to meet its obligations under this Contract, and
 - 5.3.2 any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause.

- 5.4. The Supplier must use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause. The Supplier must try to mitigate against any Losses that the Customer or the Supplier may incur, and the duration and consequences of any delay or anticipated delay.
- 5.5. If at any time the Supplier becomes aware that it may not be able to deliver the Project by any date set out in the applicable Statement of Work (or any other deadline agreed by the Parties in writing), this will constitute a Default and the Supplier will immediately notify the Customer of the Default and the reasons for the Default.
- 5.6. If the Default described in Clause 5.5 above is in the Customer's opinion capable of remedy the Customer may, up to 10 Working Days from being notified of the Default, instruct the Supplier to comply with the Rectification Plan Process.

Rectification Plan Process

- 5.7. If instructed to comply with the Rectification Plan Process by the Customer under Clause 5.6 above, the Supplier will submit a draft Rectification Plan to the Customer to review as soon as possible and in any event within ten (10) Working Days (or such other period as may be agreed between the Parties) from being instructed to do so. The Supplier shall submit a draft Rectification Plan even if the Supplier does not agree that the Default is capable of remedy.
- 5.8. The draft Rectification Plan shall set out:
 - 5.8.1 full details of the Default that has occurred, including the underlying reasons for it;
 - 5.8.2 the actual or anticipated effect of the Default; and
 - 5.8.3 the steps which the Supplier proposes to take to rectify or mitigate the Default and to prevent any recurrence of the Default, including timescales for such steps and for the rectification of the Default (where applicable).
- 5.9. The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier's reasoning behind the default. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined in accordance with paragraph 5 of Schedule 4 (Dispute Resolution Procedure).
- 5.10. The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate. An example of an inadequate draft Rectification Plan is one which:
 - 5.10.1 is insufficiently detailed to be capable of proper evaluation;
 - 5.10.2 will take too long to complete;
 - 5.10.3 will not prevent reoccurrence of the Default;
 - 5.10.4 will rectify the Default but in a manner which is unacceptable to the Customer; or

5.10.5 will not rectify the Default.

- 5.11 The Customer will tell the Supplier as soon as reasonably practicable if it agrees to or rejects the draft Rectification Plan.
- 5.12 If the customer rejects the draft Rectification Plan, the customer will give reasons for its decision in its rejection notice. The Supplier must take these reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit a revised draft of the Rectification Plan to the Customer for review within five (5) Working Days (or such other period as agreed between the Parties) of the Customer's rejection notice.
- 5.13 If the Customer agrees the draft Rectification Plan, or any revised draft Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

6. SUPPLIER: OTHER APPOINTMENTS

- 6.1 Adverse public perception could have a detrimental impact on the Customers desired outcomes for the Project. To minimise this risk, the Supplier must not, without the Customer's Approval (not to be unreasonably withheld), provide research services to a third party during the Term of this Contract where the provision of such services (in the reasonable opinion of the Customer):
- 6.1.1 has the potential to adversely affect the Customer's desired outcome of the Project or diminish the trust that the public places in the Customer; or
 - 6.1.2 is likely to cause embarrassment to the Customer or bring the Customer into disrepute or may result in a conflict of interest for the Customer.
- 6.2 Where the Supplier is already providing research services to a third party in the situations set out in 6.1 prior to the Effective Date, the Supplier warrants that it has informed the Customer of this before entering into this Contract.
- 6.3 If the Supplier becomes aware of a breach, or potential breach, of its obligations under Clause 6.1, the Supplier must notify the Customer immediately, providing full details of the nature of the breach and the likely impact on any Projects
- 6.4 If the Supplier breaches Clause 6.1, the Customer may terminate this Contract, a Project, or any part of a Project with immediate effect in accordance with Clause 23.3.

7. CUSTOMER: OTHER APPOINTMENTS

- 7.1 Subject to Clause 6 the relationship between the Parties is non-exclusive. The Customer is entitled to appoint any other Supplier to perform the Project which are the same or similar to the Project.

8. PERSONNEL

- 8.1 The Supplier must ensure that Supplier personnel who provide the Project:
- 8.1.1 are appropriately experienced, qualified and trained to provide the Project in accordance with this Contract;
 - 8.1.2 apply all reasonable skill, care and diligence in providing the Project;
 - 8.1.3 obey all lawful instructions and reasonable directions of the Customer and provide the Project to the reasonable satisfaction of the Customer, and
 - 8.1.4 are vetted in accordance with Good Industry Practice and where applicable, the security requirements of the Customer and the Standards.

- 8.2 The Supplier will be liable for all acts or omissions of the Supplier personnel. Any act or omission of a member of any Supplier personnel which results in a breach of this Contract is a breach by the Supplier.
- 8.3 The Customer acknowledges and agrees that it may be necessary for the Supplier to replace the personnel providing the Project with alternative personnel with similar levels of seniority and experience.
- 8.4 The Supplier will seek to ensure that any Key Individual responsible for the provision of the Project will remain involved in the Project. If any Key Individual leaves the Supplier, or ceases to be involved in the provision of the Project for any reason (for example, if they are promoted to a different role within the Supplier), the Supplier will consult with the Customer and, subject to the Customer's Approval, appoint a suitable replacement.
- 8.5 If the Customer reasonably believes that any of the Supplier personnel are unsuitable to undertake work on this Contract, it will notify the Supplier who will then end the person's involvement in providing the Project.

9. VARIATIONS AND CANCELLATIONS

- 9.1 Either Party may request a change to this Contract, a Project or a Statement of Work. Any requested change must not amount to a material change of this Contract (within the meaning of the Regulations and the Law). A change, once implemented, is called a "**Variation**".
- 9.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party. The requesting Party must give sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred by it.
- 9.3 Subject to Clause 9.5, the receiving Party must respond to the request within the time limits specified in the Variation Form. The time limits shall be reasonable and ultimately at the discretion of the Customer, having regard to the nature of the Project and the proposed Variation.
- 9.4 If the Supplier requests a Variation, the Customer can ask the Supplier to carry out an assessment of the effects of the proposed Variation (an **Impact Assessment**). The Impact Assessment must consider:
- 9.4.1 the impact of the proposed Variation on the Project and Supplier's ability to meet its other obligations under this Contract (including in relation to other Statements of Work);
 - 9.4.2 the initial cost of implementing the proposed Variation and any ongoing costs post- implementation;

- 9.4.3 any increase or decrease in the Contract Charges, any alteration in the resources or expenditure required by either Party and any alteration to the working practices of either Party;
- 9.4.4 a timetable for the implementation, together with any plans for the testing of the Variation; and
- 9.4.5 any other information the Customer reasonably asks for in response to the Variation request.
- 9.5 The Parties may agree to adjust the time limits specified in the Variation Form so the Impact Assessment can be carried out.
- 9.6 If the Parties agree the Variation, the Supplier will implement it, and be bound by it as if it was part of this Contract.
- 9.7 Until a Variation is agreed, the Supplier must continue to perform and be paid for the Project as originally agreed, unless otherwise notified by the Customer.
- 9.8 Subject to Clauses 9.9 and 23.1 the Customer can require the Supplier to suspend or cancel any Project or Statement of Work, or any part of a Project, including any plans, schedules or work in progress at any time, regardless of whether a Variation has been requested. Any request shall be made by an Authorised Customer Approver in writing. The Supplier will take all reasonable steps to comply with any such request as soon as possible.
- 9.9 In the event of any cancellation under Clause 9.8, the Customer will pay the Supplier all Contract Charges reasonably and properly incurred by the Supplier during the Project Notice Period, provided that the Supplier uses all reasonable endeavours to mitigate any charges or expenses.

10. APPROVALS AND AUTHORITY

- 10.1 For the purposes of this Contract, any reference to Customer Approval means written approval in one of the following ways:
 - 10.1.1 the Customer issuing a purchase order bearing the signature of an Authorised Customer Approver, or
 - 10.1.2 e-mail from the individual business e-mail address of an Authorised Customer Approver, or
 - 10.1.3 the signature of an Authorised Customer Approver on the Supplier's documentation
- 10.2 Any reference to Supplier Approval means written approval in one of the following ways:
 - 10.2.1 e-mail from the individual business e-mail address of an Authorised Supplier Approver, or

- 10.2.2 the signature of an Authorised Supplier Approver on the Customer's documentation
- 10.3 The Supplier will seek the Customer's Approval of:
 - 10.3.1 any estimates or quotations for any costs to be paid by the Customer that are not agreed in a Statement of Work.
- 10.4 The Supplier will seek the Customer's Approval of any draft Deliverables. The Customer's Approval will be the Supplier's authority to proceed with the use of the relevant Deliverables.
- 10.5 If the Customer does not approve of any matter requiring Approval, it must notify the Supplier of its reasons for disapproval within fourteen (14) days of the Supplier's request.
- 10.6 If the Customer delays giving Approval or notifying the Supplier as to its disapproval, the Supplier will not be liable for any resulting delays or adverse impact caused to the delivery of the Project.

11. PROJECT MANAGEMENT

- 11.1 During the Term of this Contract, the Supplier will:
 - 11.1.1 keep the Customer fully informed as to the progress and status of all Services and Deliverables, by preparing and submitting written reports at such intervals and in such format as is agreed by the Parties.
 - 11.1.2 promptly inform the Customer of any actual or anticipated problems relating to provision of the Deliverables.
- 11.2 During the Term, the Parties' respective project managers will arrange and attend meetings to review the status and progress of the Project(s) and to seek to resolve any issues that have arisen. These meetings will be held at locations and intervals as agreed by the parties.
- 11.3 Unless otherwise agreed in the Statement of Work, the Supplier 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 three (3) Working Days of such discussions. If the Customer does not question any of the subject matter of a contact report within seven (7) Working Days of its receipt, it will be taken to be a correct record of the meeting or telephone conversation.

12. FEES AND INVOICING

- 12.1. The Contract Charges for the Project will be the full and exclusive remuneration of the Supplier for supplying the Project. Unless expressly agreed in writing by the Customer in the Statements of Work, the Contract Charges will include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Project.
- 12.2. All amounts stated are exclusive of VAT which will be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Project.
- 12.3. The Supplier will invoice the Customer in accordance with the payment profile agreed in the Statements of Work. Each invoice will include all supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Project supplied in the invoice period.
- 12.4. The Customer will pay the Supplier the invoiced amounts no later than thirty (30) days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under this Contract, withhold or reduce payments in the event of unsatisfactory performance.
- 12.5. If the Customer does not pay an undisputed amount properly invoiced by the due date, the Supplier has the right to charge interest on the overdue amount at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 12.6. The Customer is entitled to deduct from any sum due any money that the Supplier owes the Customer. This includes any sum which the Supplier is liable to pay to the Customer in respect of breach of this Contract. In these circumstances, the Supplier may not assert any credit, set-off or counterclaim against the Customer.
- 12.7. The Supplier will indemnify the Customer on a continuing basis against any liability (to include any interest, penalties or costs incurred, levied, demanded or assessed) on the Customer at any time in respect of the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Contract. Any amounts due under Clause 12.2 will be paid by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.
- 12.8. If there is a dispute between the Parties about an amount invoiced, the Customer will pay the undisputed amount by the due date. The Supplier will not suspend the supply of the Project in any Project, unless the Supplier is entitled to terminate that Project for a failure to pay undisputed sums in accordance with Clause 23.7.7.

13. THIRD PARTY AGENCIES: ASSIGNMENT AND SUB-

CONTRACTING Assignment and Sub-Contracting

- 13.1. Other than where a Sub-Contractor is agreed in the Letter of Appointment or a Statement of Work, the Supplier will not, without the Approval of the Customer, assign, sub-contract, novate or in any way dispose of the benefit or the burden of this Contract or any part of it.
- 13.2. In requesting Approval to sub-contract, the Supplier will:
 - 13.2.1 use reasonable care and skill in the selection of proposed Sub-Contractors;
 - 13.2.2 if the Customer requests, the Supplier will obtain more than one quote for a particular sub-contracted service; and
 - 13.2.3 provide the Customer with a business case for sub-contracting all or part of the Project, identifying the reasons for the Supplier to sub-contract to its proposed Sub-Contractor. The Customer may reject the Supplier's request to appoint a proposed Sub-Contractor if it considers the proposed Sub-Contractor does not provide value for money.
- 13.3. If the Customer consents to the Supplier's proposed Sub-Contractor, it shall be a Sub- Contractor as the term is defined in Schedule 1 (Definitions).
- 13.4. In granting consent to any assignment, novation sub-contracting or disposal, the Customer may set additional terms and conditions it considers necessary.
- 13.5. The Supplier shall ensure that its Sub-Contractor does not further sub-contract all or part of the Project or Deliverables without the Customer's Approval.
- 13.6. Any contracts the Supplier enters into with third party suppliers for Services and Deliverables ("**Sub-Contracts**") must be on terms that are in line with the Supplier's standard contractual terms and conditions, must not permit further sub-contracting, and must not conflict with the terms of this Contract.
- 13.7. Provided that the Supplier has notified the Customer of any significant restrictions or contract terms contained in any Sub-Contracts, the Customer hereby acknowledges that:
 - 13.7.1. its right to use or otherwise benefit from any Services or Deliverables acquired under Sub-Contracts will be as set out in the Sub-Contracts; and
 - 13.7.2. it will be responsible for any reasonable and proper charges or liabilities (including cancellation payments) that the Supplier is directly liable for under Sub-Contracts only to the extent that that these are caused by an act or omission of the Customer or its Affiliates.
- 13.8. The Supplier will promptly provide the Customer with a copy of any Sub-Contract if requested to do so.
- 13.9. The Supplier will be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 13.10. The Supplier will obtain the Customer's Approval before commissioning services from any Supplier Affiliate.

Supply Chain Protection

- 13.11. The Supplier will ensure that all Sub-Contracts contain provisions:

- 13.11.1 Requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a Valid Invoice;
- 13.11.2. requiring the Supplier to verify any invoices submitted by a Sub-Contractor in a timely manner;
- 13.11.3. giving the Customer the right to publish the Supplier's compliance with its obligation to pay undisputed invoices to the Sub-Contractor within the specified payment period;
- 13.11.4. giving the Supplier a right to terminate the Sub-Contract if the Sub-Contractor fails to comply with legal obligations in the fields of environmental, social or labour law; and
- 13.11.5. requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards provisions to the same effect as those required by this Clause 13.11.

14. DISCOUNTS AND REBATES

- 14.1. The Supplier will disclose to the Customer any commission, discount or rebate earned by the Supplier arising in respect of third party costs directly related to the Projects. The Customer will receive the full benefit of such commission, discount or rebate.

15. CONFIDENTIALITY, TRANSPARENCY AND FREEDOM OF INFORMATION

CONFIDENTIALITY

- 15.1. For the purposes of the Clauses below, a Party which receives or obtains, directly or indirectly, Confidential Information is a **"Recipient"**. A Party which discloses or makes available Confidential Information is a **"Disclosing Party"**.
- 15.2. Unless a Recipient has express permission to disclose Confidential Information, it must:
 - 15.2.1. treat the Disclosing Party's Confidential Information as confidential and store it securely;
 - 15.2.2. not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Contract or with the owner's prior written consent;
 - 15.2.3. not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Contract, and
 - 15.2.4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.
- 15.3 A Recipient is entitled to disclose Confidential Information if:
 - 15.3.1. where disclosure is required by applicable Law or by a court with the required jurisdiction if the Recipient Party notifies the Disclosing Party of the

- full circumstances, the affected Confidential Information Contract and extent of the disclosure;
- 15.3.2. if the Recipient already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
 - 15.3.3. if the information was given to it by a third party without obligation of confidentiality;
 - 15.3.4. if the information was in the public domain at the time of the disclosure;
 - 15.3.5. if the information was independently developed without access to the Disclosing Party's Confidential Information;
 - 15.3.6. to its auditors or for the purposes of regulatory requirements;
 - 15.3.7. on a confidential basis, to its professional advisers on a need-to-know basis; and/or
 - 15.3.8. to the Serious Fraud Office where the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 15.4 If the Recipient is required by Law to disclose Confidential Information, it should notify the Disclosing Party as soon as reasonably practicable and to the extent permitted by Law. It may advise the Disclosing Party of what Law or regulatory body requires such disclosure and what Confidential Information it will be required to disclose.
- 15.5 Subject to Clauses 15.3 the Supplier may disclose Confidential Information, on a confidential basis, to:
- 15.5.1. Supplier personnel or Sub-Contractors who are directly involved in the provision of the Project and need to know the Confidential Information to enable performance under this Contract, and
 - 15.5.2. its professional advisers for the purposes of obtaining advice in relation to this Contract.
- 15.6 Where the Supplier discloses Confidential Information in such circumstances, it remains responsible for ensuring the persons to whom the information was disclosed comply with the confidentiality obligations set out in this Contract.
- 15.7 The Customer may disclose the Confidential Information of the Supplier:
- 15.7.1. to any Central Government Body, on the basis that the information may only be further disclosed to Central Government Bodies
 - 15.7.2. to Parliament, including any Parliamentary committees, or if required by any British Parliamentary reporting requirement
 - 15.7.3. if disclosure is necessary or appropriate in the course of carrying out its public functions
 - 15.7.4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by a Central Government Body or Contracting Body (including any benchmarking organisation) for any purpose relating to or connected with this Contract
 - 15.7.5. on a confidential basis for the purpose of the exercise of its rights under this Contract, or

- 15.7.6. to a proposed successor in title (transferee, assignee or novatee) of the Customer.
- 15.8 Any references to disclosure on a confidential basis means disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 15.
- 15.9 Nothing in this Clause 15 will prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business, as long as this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.
- 15.10 If the Supplier fails to comply with this Clause 15, the Customer can terminate this Contract.

TRANSPARENCY

- 15.11 Except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract (and any Transparency Reports submitted by the Supplier under it) is not Confidential Information. This will be made available in accordance with the procurement policy note 13/15 www.gov.uk/government/uploads/system/uploads/attachment_data/file/458554/Procurement_Policy_Note_13_15.pdf and the Transparency Principles referred to therein.
- 15.12 The Customer will determine whether any of the content of this Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Customer may consult with the Supplier to inform its decision regarding any redactions but will have absolute discretion over the final decision.
- 15.13 Notwithstanding any other provision of this Contract, the Supplier consents to the Customer publishing this Contract in its entirety (including any agreed changes). Any information which is exempt from disclosure in accordance with the provisions of the FOIA will be redacted).
- 15.14 The Supplier will cooperate with the Customer to enable publication of this Contract.

FREEDOM OF INFORMATION

- 15.15 The Customer is subject to the requirements of the FOIA and the EIRs. The Supplier will:
- 15.15.1. provide all necessary assistance to the Customer to enable it to comply with its Information disclosure obligations.
 - 15.15.2. send all Requests for Information it receives relating to this Contract to the Customer as soon as practicable and within a maximum of two (2) Working Days from receipt.
 - 15.15.3. provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within five (5) Working Days of the Customer's request.
- 15.16 The Supplier must not respond directly to a Request for Information without the Customer's Approval.

- 15.17 The Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Customer will take reasonable steps to notify the Supplier of a Request for Information where it is permissible and reasonably practical for it to do so. However, the Customer will be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information are exempt from disclosure in accordance with the FOIA and/or the EIRs.

16. SUPPLIER WARRANTIES

- 16.1. The Supplier warrants that:
- 16.1.1 it has full capacity and authority to enter into this Contract and that by doing so it will not be in breach of any obligation to a third party;
 - 16.1.2 the personnel who perform the Project are competent and suitable to do so;
- 16.2. The Supplier undertakes that:
- 16.2.1. the use of the Deliverables by the Customer in accordance with this Contract and for the purposes set out in the Statement of Work will not infringe the copyright of any third party; and
 - 16.2.2. as at the date they are delivered, the Deliverables of this Contract may be used for the purposes set out in the Statement of Work and comply with all relevant regulations and standards stipulated within the Statement of Work.
- 16.3. The Supplier hereby indemnifies the Customer against any Losses incurred by the Customer as a result of breach by the Supplier of its warranty and undertaking in Clauses 16.1 and 16.2.

17. CUSTOMER WARRANTIES

- 17.1. The Customer warrants that:
- 17.1.1 it has full capacity and authority to enter into this Contract and that by doing so it will not be in breach of any obligation to a third party; and
 - 17.1.2 the Customer Materials will not, when used in accordance with this Contract and any written instructions given by the Customer, infringe third party copyright.

18. LIABILITY

- 18.1. Nothing in this Contract will exclude or in any way limit either Party's liability for fraud, death or personal injury caused by its negligence.
- 18.2. Subject always to Clauses 18.1 and 18.3, the maximum amount the Supplier can be liable for in respect of all Defaults shall in no event exceed:
- 18.2.1. in relation to any Defaults occurring from the Effective Date to the end of the first Contract Year, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract Charges estimated

by the Customer for the first Contract Year;

- 18.2.2. in relation to any Defaults occurring in each subsequent Contract Year that commences during the remainder of the Term, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract Charges payable to the Supplier under this Contract in the previous Contract Year; and
 - 18.2.3. in relation to any Defaults occurring in each Contract year that commences after the end of the Initial Term, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract charges payable to the Supplier under this Contract in the last Contract Year commencing during the Term.
- 18.3. Subject to Clause 18.1 and except for any claims arising under Clause 20.12, neither Party will be liable to the other in any situation for any:
- 18.3.1. loss of profits
 - 18.3.2. loss of goodwill or reputation
 - 18.3.3. loss of revenue
 - 18.3.4. loss of savings whether anticipated or otherwise; or
 - 18.3.5. indirect or consequential loss or damage of any kind
- 18.4. Without prejudice to its obligation to pay the undisputed Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all defaults, claims, losses or damages howsoever caused will in no event exceed the figure specified in the Letter of Appointment.

19. INSURANCE

- 19.1. The Supplier will hold insurance policies to the value sufficient to meet its liabilities in connection with this Contract (including any specific insurance requirements as are set out in the Statements of Work). The Supplier will provide the Customer with evidence that such insurance is in place at the Customer's request.
- 19.2. The Supplier will effect and maintain the policy or policies of insurance as stipulated in the Letter of Appointment.
- 19.3. If, for whatever reason, the Supplier fails to comply with the provisions of this Clause 19 the Customer may make alternative arrangements to protect its interests. If the Customer does so, it may recover the premium and other costs of such arrangements as a debt due from the Supplier.
- 19.4. Any insurance effected by the Supplier will not relieve it of any liability under this Contract. It is the Supplier's responsibility to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Contract.
- 19.5. The Supplier must ensure that the policies of insurance it holds pursuant to this Clause 19 are not cancelled, suspended or vitiated. The Supplier will use all reasonable endeavours to notify the Customer (subject to third party confidentiality

obligations) as soon as practicable when it becomes aware of any circumstance whereby the relevant insurer could give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

20. INTELLECTUAL PROPERTY RIGHTS (IPR)

- 20.1. The Supplier acknowledges that the Customer retains ownership of Customer Materials and all Intellectual Property Rights in them. This includes any modifications or adaptations of Customer Materials produced by the Supplier in the course of delivering the Project. The Customer hereby grants to the Supplier a non-exclusive license to use the Customer Materials during the applicable Project Term solely for the purposes of delivering the Project.
- 20.2. The Supplier hereby:
 - 20.2.1. assigns to the Customer all of the Intellectual Property Rights other than copyright and database rights in the Supplier Materials which are capable of being assigned, together with the right to sue for past infringement of such Intellectual Property Rights in the Supplier Materials; and
 - 20.2.2. assigns to the Crown all of the copyright and database rights in the Supplier Materials which are capable of being assigned, together with the right to sue for past infringement of such copyright and database rights in the Supplier Materials
- 20.3. All Intellectual Property Rights in the Supplier Proprietary Materials remain the property of the Supplier. The Supplier grants to the Customer a non-exclusive, royalty-free license to use any Supplier Proprietary Materials as are included in the Deliverables, in the Territory, for the period of time and for the purposes set out in the Statement of Work.
- 20.4. All Intellectual Property Rights in Project Specific Materials shall be owned by the Customer and the Customer hereby grants a non-exclusive, royalty-free license to use any Project Specific Materials for the purposes of providing the Project throughout the Term.
- 20.5. Prior to delivery of the Deliverables to the Customer, the Supplier will obtain all licenses or consents in respect of Third Party Materials that are required so the Customer can use these Third Party Materials for the purposes set out in the Statement of Work. The Supplier will notify the Customer of any restrictions on usage and any other contractual restrictions arising in respect of such Third Party Materials.
- 20.6. The Supplier agrees:
 - 20.6.1. at the Customer's request and expense, to take all such actions and execute all such documents as are necessary (in the Customer's reasonable opinion) to enable the Customer to obtain, defend or enforce its rights in the Supplier Materials and Deliverables; and
 - 20.6.2. neither to do nor fail to do any act which would or might prejudice the

Customer's rights under this Clause 20.

- 20.7. To the extent permitted by law, the Supplier shall ensure that all Moral Rights in the Supplier Materials are waived. Where it is not lawfully possible to waive Moral Rights, the Supplier agrees not to assert any Moral Rights in respect of the Supplier Materials.
- 20.8. The Supplier will use its reasonable endeavours to ensure that all Moral Rights in Third Party Materials are waived. Where it is not lawfully possible to waive Moral Rights, the Supplier will work with the owner or creator of the Third Party Materials to procure that Moral Rights are not asserted in respect of Third Party Materials. If the Supplier cannot obtain such waiver of (or agreement not to assert) such Moral Rights in respect of any Third Party Materials, the Supplier will notify the Customer and will obtain the Customer's Approval prior to incorporating such Third Party Materials into the Deliverables.
- 20.9. During the Term, if the Supplier is asked to take part in a competitive pitch or other similar process for the Customer, then notwithstanding any of the previous provisions of this Clause 20, the Supplier will retain ownership of all Intellectual Property Rights in any Materials forming part of the pitch process. If the Supplier is successful in such pitch and the Parties agree that such Materials will be used in a Project the Supplier will assign all such Intellectual Property Rights to the Customer.
- 20.10. The Supplier is not liable in connection with this Contract for any modifications, adaptations or amendments to any Deliverables made by the Customer or by a third party on the Customer's behalf after the Supplier has handed them over. The Supplier is also not liable if any fault, error, destruction or other degradation in the quality and/or quantity of the Deliverables arises due to the acts or omissions of the Customer or its Affiliates.
- 20.11. The terms of and obligations imposed by this Clause 20 continue after the termination of this Contract.
- 20.12. The Supplier will indemnify the Customer in full against all Losses (whether direct or indirect) in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights in connection with the supply or use of the Project, if the claim is attributable to the acts or omission of the Supplier any of its Associates. This indemnity extends to any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer.

21. AUDIT

21.1. The Supplier will keep and maintain full and accurate records and accounts of the operation of this Contract, the Project provided under it, any Sub-Contracts and the amounts paid by the Customer for at least seven (7) years after the Expiry Date or New Expiry Date, or such longer period as the Parties agree.

21.2. The Supplier will:

21.2.1. keep the records and accounts referred to in Clause 21.1 in accordance with Good Industry Practice and Law, and

21.2.2. afford any Auditor access to the records and accounts referred to in Clause 21.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same to Auditors throughout the Term and the period specified in Clause 21.1. This is so the Auditor(s) can assess compliance by the Supplier and/or its Sub-Contractors with the Supplier's obligations under this Contract, and in particular to:

- a) verify the accuracy of the Contract Charges and any other amounts payable by the Customer under this Contract (and proposed or actual variations to them in accordance with this Contract);
- b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Project;
- c) verify the Supplier's and each Sub-Contractor's compliance with the applicable Laws;
- d) identify or investigate an actual or suspected act of fraud or bribery, impropriety or accounting mistakes or any breach or threatened breach of security. In these circumstances, the Customer is not obliged to inform the Supplier of the purpose or objective of its investigations;
- e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier or any Sub-Contractors or their ability to perform the Project;
- f) obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes, including the supply of information to the Comptroller and Auditor General;
- g) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
- h) carry out the Customer's internal and statutory audits and to

prepare, examine and/or certify the Customer's annual and interim reports and accounts

- i) enable the National Audit Office to carry out an examination under Section 6(1) of the National Audit Act 1983;
- j) review any records relating to the Supplier's performance of the provision of the Project and to verify that these reflect the Supplier's own internal reports and records;
- k) verify the accuracy and completeness of any information delivered or required by this Contract;
- l) inspect the Customer Materials, including the Customer's Intellectual Property Rights, equipment and facilities, for the purposes of ensuring that the Customer Materials are secure; and
- m) review the integrity, confidentiality and security of any Customer data.

21.2.3. audit does not unreasonably disrupt the Supplier or delay the provision of the Project (although the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.)

21.3. Subject to the Supplier's rights in respect of Confidential Information, the Supplier will on demand, provide the Auditor(s) with all reasonable co-operation and assistance in providing:

21.3.1. all reasonable information requested by the Customer within the scope of the audit;

21.3.2. reasonable access to sites controlled by the Supplier and to any equipment used in the provision of the Project; and

21.3.3. access to the Supplier personnel.

21.4. The Parties agree that they will bear their own respective costs and expenses incurred during any Audit, unless the Audit reveals a default by the Supplier, whereby the Supplier will reimburse the Customer for the Customer's reasonable costs incurred in relation to the Audit.

21.5. If an Audit reveals that the Customer has been overcharged, the Supplier will reimburse to the Customer the amount of the overcharge within thirty (30) days. If an Audit reveals the Supplier has been underpaid, the Customer shall pay to the Supplier the amount of the underpayment within thirty (30) days.

22. NOT USED

23. TERMINATION

Customer Rights of Termination

23.1. The Customer may, by giving no less than three (3) month's written notice to the

Supplier, terminate this Contract without cause.

- 23.2. The Customer may terminate or cancel a Project at any time subject to Clause 9.8 and payment of all Contract Charges specifically set out at Clause 9.9 of Clause 9 (Variations and Cancellations).
- 23.3. The Customer may terminate this Contract or a Project by written notice to the Supplier with immediate effect if the Supplier:
 - 23.3.1. commits a material Default which cannot be remedied;
 - 23.3.2. repeatedly breaches any of the terms and conditions of this Contract in such a manner as to indicate that it does not have the intention or ability to adhere to the terms and conditions;
 - 23.3.3. commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer within thirty (30) days of receiving notice specifying the Default and requiring it to be remedied or in accordance with the Rectification Plan Process;
 - 23.3.4. breaches any of the provisions of Clauses 6.1 (Supplier: Other Appointments), 10 (Approvals and Authority), 15 (Confidentiality, Transparency and Freedom of Information), and 32 (Prevention of Fraud and Bribery);
 - 23.3.5. is subject to an Insolvency Event; or
 - 23.3.6. fails to comply with legal obligations.
- 23.4. The Supplier must notify the Customer as soon as practicable of any Change of Control or any potential Change of Control.
- 23.5. The Customer may terminate this Contract with immediate effect by written notice to the Supplier within six (6) Months of:
 - 23.5.1. being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
 - 23.5.2. where no notification has been made, the date that the Customer becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.
- 23.6. The Customer may terminate this Contract or a Project by giving the Supplier at least fourteen (14) days' notice if:
 - 23.6.1. the DPS Agreement is terminated for any reason;
 - 23.6.2. the Parties fail to agree a Variation under Clause 9; or
 - 23.6.3. the Supplier fails to implement an agreed Variation.

23.7. Where this Contract is conditional upon the Supplier procuring a Guarantee pursuant to Clause 3 (Contract Guarantee), the Customer may terminate this Contract by issuing a notice of termination Notice to the Supplier where:

23.7.1. the Guarantor withdraws the Guarantee for any reason;

23.7.2. the Guarantor is in breach or anticipatory breach of Guarantee;

23.7.3. an Insolvency Event occurs in respect of the Guarantor; or

23.7.4. the Guarantee becomes invalid or unenforceable for any reason whatsoever,

23.7.5. and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer; or

23.7.6. the Supplier fails to provide the documentation required by Clause 3.1 by the date so specified by the Customer.

Supplier Rights to Terminate

23.8. The Supplier may terminate a Project by written notice to the Customer if:

23.9. the Customer has not paid any undisputed amounts falling due under that Project, and

23.10. the undisputed sum due remains outstanding for forty (40) Working Days after the Customer has received a written notice of non-payment from the Supplier specifying:

a) the Customer's failure to pay;

b) the correct overdue and undisputed sum;

c) the reasons why the undisputed sum is due; and

d) the requirement on the Customer to remedy the failure to pay

This right of termination does not apply where the failure to pay is due to the Customer exercising its rights under this Contract (including the right to set off under Clause 29). This Contract shall then terminate on the date specified in the Termination Notice (which shall not be less than twenty (20) Working Days from the date of the issue of the Termination Notice), save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under this Contract including Clause 30 (Retention and Set off).

23.11. The Supplier shall not suspend the supply of the Goods and/or Services for failure of the Customer to pay undisputed sums of money (whether in whole or in part).

24. CONSEQUENCES OF TERMINATION

- 24.1. Termination of a Project in accordance with the terms of this Contract by either Party shall not serve to terminate this Contract, which will continue in full force and effect.
- 24.2. If this Contract is terminated, all ongoing and outstanding Projects will also terminate on the same date as this Contract.
- 24.3. Upon termination of this Contract or a Project for any reason:
 - 24.3.1. the Expiry Date or New Expiry Date shall be the date this Contract terminates;
 - 24.3.2. the Customer will pay the Supplier all Contract Charges falling properly due and payable to the Supplier prior to the date of termination (including in accordance with Clause 9 where relevant);
 - 24.3.3. each Party will, following a reasonable request by the other Party, promptly deliver or dispose of any and all materials and property belonging or relating to the other Party (including all Confidential Information) and all copies of the same, which are then in its possession, custody or control and which relate to all affected Projects. On the request of the other Party, each will certify in writing that the same has been done; and
 - 24.3.4. the Supplier and its staff will vacate any premises of the Customer occupied for any purpose of providing the Project or Deliverables.
- 24.4. Any provisions of this Contract which are to continue after termination will remain in full force and effect after this Contract is terminated. Such provisions may include (but are not limited to):
 - 24.4.1. Clause 15 (Confidentiality, Transparency and Freedom of Information)
 - 24.4.2. Clause 16 (Supplier warranties) Clause 17 (Customer warranties)
 - 24.4.3. Clause 18 (Liability)
 - 24.4.4. Clause 19 (Insurance)
 - 24.4.5. Clause 20 (Intellectual Property Rights)
 - 24.4.6. Clause 21 (Audit)
 - 24.4.7. Clause 23 (Termination)
 - 24.4.8. Clause 26 (Notices)
 - 24.4.9. Clause 27 (Staff Transfer)
 - 24.4.10. Clause 28 (Third Party Rights)
 - 24.4.11. Clause 29 (GDPR, Security & Publicity)
 - 24.4.12. Clause 32 (General) and
 - 24.4.13. Clause 34 (Governing law and jurisdiction)
 - 24.4.14. Contract Schedule 1 (Definitions and Interpretation), Contract Schedule 3 (Staff Transfer), Contract Schedule 4 (Dispute Resolution Procedure).

25. FORCE MAJEURE

- 25.1. Neither Party will have any liability under or be in breach of this Contract for any delays or failures in performance which result from circumstances beyond the reasonable control of the Party seeking to claim relief (a **Force Majeure Event** and the **Affected Party**).
- 25.2. Following a Force Majeure Event, the Affected Party must promptly notify the other Party in writing, both when the event causes a delay or failure in performance, and when the event has ended. If a Force Majeure Event continues for sixty (60) consecutive Working Days, the Party not affected by the Force Majeure Event can suspend or terminate this DPS Agreement. They must do so in writing, and state the date from which the suspension or termination will come into effect.
- 25.3. If a Force Majeure event occurs, the Parties will use all reasonable endeavours to prevent and mitigate the impact, and continue to perform their obligations under this Contract as far as is possible. Where the Supplier is the Affected Party, it will take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

26. NOTICES

- 26.1. Any notices sent under this Contract must be in writing and sent by hand, by post or by email. The table below sets out deemed time of delivery and proof of service for each.

Notice delivered	Deemed time of delivery	Proof of service
In person	At the time of delivery	Proof that delivery was made (e.g. a signature is obtained)
By first class post, special delivery or other recorded delivery	2 Working Days from the date of posting	Proof that the envelope was addressed and delivered into the custody of the postal authorities
Email	09:00 hours on the first Working Day after sending	Dispatched in an emailed pdf to the correct email address without any error message

- 26.2. The address and email address of each Party will be:

26.2.1. Supplier:

26.2.2. Customer:

- 26.3. For the purpose of this Clause and calculating receipt all references to time are to local time in the place of receipt.

27. STAFF TRANSFER

27.1. The Parties agree that

27.1.1. if providing the Project means staff must be transferred from the Customer to the Supplier, where the commencement of the provision of the Project or any part of the Project results in one or more Relevant Transfers, Schedule 3 (Staff Transfer) will apply as follows:

- a) where the Relevant Transfer involves the transfer of Transferring Customer Employees, Part A of Schedule 3 (Staff Transfer) will apply
- b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Schedule 3 (Staff Transfer) will apply
- c) where the Relevant Transfer involves the transfer of Transferring Customer Employees and Transferring Former Supplier Employees, Parts A and B of Schedule 3 (Staff Transfer) will apply, and
- d) Part C of Schedule 3 (Staff Transfer) will not apply

27.2. Where providing the Project does not result in a Relevant Transfer, Part C of Schedule 3 (Staff Transfer) will apply and Parts A and B of Schedule 3 (Staff Transfer) shall not apply; and

- 27.3. Part D of Schedule 3 (Staff Transfer) will apply on the expiry or termination of the Services or any part of the Project.
- 27.4. Both during and after the Term, the Supplier will indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer due to any act or omission of the Supplier or any Supplier personnel.

28. THIRD PARTY RIGHTS

- 28.1. Except for CCS and the persons that the provisions of Schedule 3 of this Contract confer benefits on, a person who is not a Party to this Contract has no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

29. DATA PROTECTION, SECURITY AND PUBLICITY

- 29.1. In addition to its general security obligations under this Contract, the Supplier shall comply with any security requirements specifically set out in the Statement of Work.

Data Protection

- 29.2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Contract Schedule 7 (Processing, Personal Data and Data Subjects) by the Customer and may not be determined by the Supplier.
- 29.3. The Supplier shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 29.4. The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- 29.4.1. a systematic description of the envisaged processing operations and the purpose of the processing;
 - 29.4.2. an assessment of the necessity and proportionality of the processing operations in relation to the Project;
 - 29.4.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 29.4.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 29.5. The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 29.5.1. process that Personal Data only in accordance with Schedule 7 (Processing, Personal Data and Data Subjects), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;

- 29.5.2. ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
- (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- 29.5.3. ensure that :
- (i) the Supplier Personnel do not process Personal Data except in accordance with this Agreement (and in particular Contract Schedule 7 (Processing, Personal Data and Data Subjects));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Supplier's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use , care, protection and handling of Personal Data; and
- 29.5.4. not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier 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 Customer in meeting its obligations); and
 - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 29.5.5. at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.

- 29.6. Subject to Clause 29.7, the Supplier shall notify the Customer immediately if it:
 - 29.6.1. notify the Customer promptly if the Supplier receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 29.6.2. receives a request to rectify, block or erase any Personal Data;
 - 29.6.3. receives any other request, any complaint, notice or communication relating to either Party's obligations under the Data Protection Legislation;
 - 29.6.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - 29.6.5. receives a request from any third Party for disclosure of Personal Data where that relates directly to its compliance with such request is required or purported to be required by Law; or Data Protection Legislation and/or the processing of personal data under or in connection with this Contract;
 - 29.6.6. becomes aware of a Data Loss Event.
- 29.7. The Supplier's obligation to notify under Clause 29.6 shall include the provision of further information to the Customer in phases, as details become available.
- 29.8. Taking into account the nature of the processing, the Supplier shall provide the Customer the Customer with full cooperation and assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 29.6 (and insofar as possible (within the timescales reasonably required by the Customer) including by promptly providing:
 - 29.8.1. the Customer with full details and copies of the complaint, communication or request;
 - 29.8.2. the Customer) in relation to any such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation; complaint, communication or request;
 - 29.8.3. the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 29.8.4. assistance as if requested by the Customer following any Data Loss Event;
 - 29.8.5. assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with Customer, provide a written description of the Information Commissioner's Office.
- 29.9. The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- 29.9.1. the Customer determines that the processing is not occasional;
- 29.9.2. the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- 29.9.3. the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 29.10. The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- 29.11. The Supplier shall designate a data protection officer if required and use its reasonable endeavours to assist the Customer to comply with any obligations under the Data Protection Legislation.
- 29.12. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
 - 29.12.1. notify the Customer in writing of the intended Sub-processor and processing;
 - 29.12.2. obtain the written consent of the Customer;
 - 29.12.3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 29.12 such that they apply to the Sub-processor; and
 - 29.12.4. provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 29.13. The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 29.14. The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 29.15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 29.16. The Supplier will not cause the Customer to breach any of the Customer's obligations under the Data Protection Legislation, to the extent the Supplier is aware (or ought reasonably to have been aware), that the same would be a breach of such obligations. It will not Process or otherwise transfer any Personal Data in or to any country outside the European Economic Area or any country which is not determined to be adequate by the European Commission under Article 25(6) of Directive 95/46/EC without Approval from the Customer.
- 29.17. The Supplier will use the latest versions of anti-virus definitions and software available

from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties).

- 29.18. Notwithstanding Clause 28.6, if Malicious Software is found, the Parties will co-operate to reduce its impact. If Malicious Software causes loss of operational efficiency or loss or corruption of Customer Data, the Parties will assist each other to mitigate any losses and to restore the provision of the Project.

Customer Data

- 29.19. The Supplier will not store, copy, disclose, or use the Customer Data except as necessary to perform its obligations under this Contract or where the Customer has given Approval.
- 29.20. If any Customer Data is held and/or Processed by the Supplier, the Supplier must supply that Customer Data to the Customer, at the time and in the format the Customer requests.
- 29.21. The Supplier is responsible for preserving the integrity of any Customer Data it holds or processes, and preventing its corruption or loss.
- 29.22. The Supplier will perform secure back-ups of all customer data and shall ensure that such back-ups are available to the Customer (or to such other person as the Customer may direct) on request.
- 29.23. The Supplier will ensure that any system it uses to holds any Customer Data, including back-up data, is secure. This system must comply with any security requirements and any government security requirement policy relating to this Customer Data.
- 29.24. If any time the Supplier suspects or has any reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way, then the Supplier must notify the Customer immediately. This notification must contain information detailing the remedial action the Supplier proposes to take.

Publicity and Branding

- 29.25. The Supplier may not make any press announcements or publicise this Contract or use the Customer's name or brand in any promotion or marketing or announcement of orders without Approval from the Customer.
- 29.26. The Supplier will seek the Customer's Approval before marketing their involvement in any Deliverable or draft Deliverable or entering into any industry awards or competition which will involve the disclosure of all or any part of any Deliverable or draft Deliverable.

30. RETENTION AND SET OFF

- 30.1. If the Supplier owes the Customer any money, the Customer may retain or set off this money against any amount owed to the Supplier under this Contract or any other agreement between the Supplier and the Customer. In order to exercise this right, the Customer will, within thirty (30) days of receipt of the relevant invoice, notify the Supplier of its reasons for retaining or setting off the relevant Contract Charges.
- 30.2. The Supplier will make any payments due to the Customer without any deduction. Deductions, whether by way of set-off, counterclaim, discount, abatement or otherwise, are not permitted unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer.

31. INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS

- 31.1. Where the Supplier or any Supplier personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Contract, the Supplier will:
 - 31.1.1. comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, and
 - 31.1.2. indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Project by the Supplier or any Supplier Personnel.
- 31.2. If any of the Supplier Personnel is a Worker as defined in Contract Schedule 1 (Definitions) who receives consideration relating to the Project, then, in addition to its obligations under Clause 31.1, the Supplier must ensure that its contract with the Worker contains the following requirements:
 - 31.2.1. that the Customer may, at any time during the Term, request that the Worker provides information to demonstrate how the Worker complies with the requirements of Clause 31.1, or why those requirements do not apply to it. In such case, the Customer may specify the information which the Worker must provide and the period within which that information must be provided
 - 31.2.2. that the Worker's contract may be terminated at the Customer's request if:
 - a) the Worker fails to provide the information requested by the Customer within the time specified by the Customer under Clause 31.2.1 and/or
 - b) the Worker provides information which the Customer considers is inadequate to demonstrate how the Worker complies with Clause 31.2.1, or confirms that the Worker is not complying with those requirements

- 31.2.3. that the Customer may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

32. PREVENTION OF FRAUD AND BRIBERY

- 32.1. The Supplier represents and warrants that neither it, nor to the best of its knowledge any of its staff or Sub-Contractors, have at any time prior to the Effective Date:
 - 32.1.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; or
 - 32.1.2. been listed by any government department or Supplier as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 32.2. The Supplier must not:
 - 32.2.1. commit a Prohibited Act; or
 - 32.2.2. do or suffer anything to be done which would cause the Customer or any of the Customer's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 32.3. The Supplier shall during the Term:
 - 32.3.1. establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
 - 32.3.2. keep appropriate records of its compliance with its obligations under 32.3.1 and make such records available to the Customer on request;
 - 32.3.3. if so required by the Customer, within 20 days of the Effective Date, and annually thereafter, certify to the Customer in writing that the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Project in connection with this Contract are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and
- 32.4. have, maintain and (where appropriate) enforce an anti-bribery policy to prevent it and any Supplier staff or Sub-Contractors or any person acting on the Supplier's behalf from committing a Prohibited Act. This anti-bribery policy must be disclosed to the Customer on request.
- 32.5. The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 32.1, or has reason to believe that it has or any of the Supplier

staff or Sub-Contractors have:

- 32.5.1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 32.5.2. been listed by any government department or Supplier as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act;
 - 32.5.3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract; or
 - 32.5.4. otherwise suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.
- 32.6. If the Supplier makes a notification to the Customer under to Clause 32.5, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 21 (Audit).
- 32.7. If the Supplier breaches Clause 32.5, the Customer may by notice:
- 32.7.1. require the Supplier to remove any Supplier Personnel whose acts or omissions have caused the Supplier's breach from any Project; or
 - 32.7.2. immediately terminate this Contract for material Default.
- 32.8. Any notice served by the Customer under Clause 32.5 shall set out:
- 32.8.1. the nature of the Prohibited Act;
 - 32.8.2. the identity of the Party who the Customer believes has committed the Prohibited Act;
 - 32.8.3. the action that the Customer has elected to take; and
 - 32.8.4. if relevant, the date on which this Contract shall terminate.

33. GENERAL

- 33.1. Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licenses and permissions to enter into and perform
- 33.2. its obligations under this Contract, and that this Contract is executed by its duly authorised representative.
- 33.3. This Contract contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Contract on the basis of any representation that is not expressly incorporated into this Contract.
- 33.4. Nothing in this Clause excludes liability for fraud or fraudulent misrepresentation.
- 33.5. Any entire or partial waiver or relaxation of any of the terms and conditions of this Contract will be valid only if it is communicated to the other Party in writing, and expressly stated to be a waiver. A waiver of any right or remedy arising from a particular breach of this Contract will not constitute a waiver of any right or remedy arising from any other breach of the same Contract.
- 33.6. This Contract does not constitute or imply any partnership, joint venture, Supplier, fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Contract. Neither Party has, or has represented, any authority to make any commitments on the other Party's behalf.
- 33.7. Unless expressly stated in this Contract, all remedies available to either Party for breach of this Contract are cumulative and may be exercised concurrently or separately. The exercise of one remedy does not mean it has been selected to the exclusion of other remedies.
- 33.8. If any provision of this Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Contract. Any severance will not, so far as is possible, modify the remaining provisions. It will not in any way affect any other circumstances of or the validity or enforcement of this Contract.

34. DISPUTE RESOLUTION

- 34.1. The Parties shall resolve Disputes in accordance with the Dispute Resolution Procedure.
- 34.2. The Supplier shall continue to provide the Project in accordance with the terms of this Contract until a Dispute has been resolved.

35. GOVERNING LAW AND JURISDICTION

- 35.1. This Agreement will be governed by the laws of England and Wales.
- 35.2. Each Party submits to the exclusive jurisdiction of the courts of England and Wales and agrees that all disputes shall be conducted within England and Wales.

36. Additional Clauses

- 36.1. Where the Customer has so specified in the Letter of Appointment, the Supplier shall comply with the provisions of set out in Schedule 6 (Additional Clauses).

SCHEDULE 1

Definitions and Interpretation

1. INTERPRETATION

- 1.1. In this Contract, any references to numbered Clauses and schedules refer to those within this Contract unless specifically stated otherwise. If there is any conflict between this Contract, the Letter of Appointment, the provisions of the DPS Agreement and the Statements of Work(s), the conflict shall be resolved in accordance with the following order of precedence:
 - 1.1.1. the Letter of Appointment (except the Supplier Plan)
 - 1.1.2. the Statement of Work
 - 1.1.3. the Contract Terms
 - 1.1.4. the Supplier Plan, and
- 1.2. The definitions and interpretations used in this Contract are set out in this Schedule 1 (Definitions).
- 1.3. Definitions which are relevant and used only within a particular Clause or Schedule are defined in that Clause or Schedule.
- 1.4. Unless the context otherwise requires:
 - 1.4.1. words importing the singular meaning include where the context so admits the plural meaning and vice versa
 - 1.4.2. words importing the masculine include the feminine and the neuter and vice versa
 - 1.4.3. the words 'include', 'includes' 'including' 'for example' and 'in particular' and words of similar effect will not limit the general effect of the words which precede them
 - 1.4.4. references to any person will include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind
 - 1.4.5. references to any statute, regulation or other similar instrument mean a reference to the statute, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted
 - 1.4.6. headings are included in this Contract for ease of reference only and will not affect the interpretation or construction of this Contract
- 1.5. If a capitalised expression does not have an interpretation in Contract Schedule 1 (Definitions) or relevant Schedule, it shall have the meaning given to it in the DPS Agreement. If no meaning is given to it in the DPS Agreement, it shall be interpreted in accordance with the relevant market sector/ industry meaning. Otherwise it shall be interpreted in accordance with the dictionary.
- 1.6. In this contract the following terms have the following meaning:

Agreement	means this Contract;
Approval	means the Approval given in accordance with Clause 10.1 or 10.2 as the context requires and " Approve ", " Approving " and " Approved " shall be construed accordingly.
Affected Party	means the Customer or the Supplier affected by the event
Associates	A Party's employees, officers, agents, sub-contractors or authorised representatives.
Authorised Supplier Approver	Any personnel of the Supplier who have the authority to contractually bind the Supplier in all matters relating to Contract. They must be named in the applicable Statement of Work, and the Customer must be notified if they change.
Authorised Customer Approver	Any personnel of the Customer who have the authority to contractually bind the Customer in all matters relating to this Contract. They must be named in the applicable Statement of Work, and the Supplier must be notified if they change.
Contract	This contract between the Customer and the Supplier (entered into under the provisions of the DPS Agreement), which consists of the terms set out in the Letter of Appointment, the Contract Terms, the Schedules and any Statement of Work.
Contract Terms	The terms and conditions set out in this Contract including this Schedule 1 but not including any other Schedules or Statement of Work.
Central Government Body	A body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: Government Department; Non- Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); Non-Ministerial Department; or Executive Supplier.
Change of Control	Change of Control has the same meaning as in section 416 of the Income and Corporation Taxes Act 1988.
Customer Affiliates	Any organisation associated with the Customer that will directly receive the benefit of the Project. Customer Affiliates must be named in a Statement of Work, or subsequently notified to the Supplier.
Customer Project Specification	The document containing the Customer's requirements issued either as part of the Call For Competition Process set out in Section 3 of the DPS Agreement or as set out in a Statement of Work from time to time.
Customer Cause	A situation where the Customer does not fulfil its obligations in connection with this Contract (including its payment obligations), and as a consequence the Supplier is prevented from performing any of the agreed Project.
Customer Confidential Information	All Customer Data and any information that the Customer or CCS gives to Agencies that is designated as being confidential, or which ought to be reasonably be considered to be confidential (whether or not it is marked "confidential"). This may include information, however conveyed, that is politically or security sensitive and/or relates to the Customer's business, affairs, developments, trade secrets, Know-How, personnel and suppliers.

Customer Data	Data, text, drawings, diagrams, images or sounds (together with any database made up of any of these), including any Customer's Confidential Information, supplied to the Supplier by or on behalf of the Customer, or which the Supplier is required to generate, process, store or transmit in connection this Contract, and any Personal Data for which the Customer is the Data Controller.
Customer Materials	Any Customer Data, Customer equipment, computer systems, software, documents, copy, Intellectual Property Rights, artwork, logos and any other materials or information owned by or licensed to the Customer which are provided to the Supplier or its Associates by or on behalf of the Customer.
Contracting Body	CCS, the Customer and any other bodies listed in the OJEU Notice.
Contract Charges	All charges payable by the Customer for the Project provided under this Contract calculated in accordance with DPS Schedule 3 (Charging Structure) and the Letter of Appointment including all Approved costs properly incurred by the Customer including but not limited to all Expenses, disbursement, taxes, sub-contractor or third party costs, and fees.
Confidential Information	The Customers Confidential Information and/or the Supplier Confidential Information.
Contractor Personnel	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement.
Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer	The meaning given in the GDPR.
Contract Year	A consecutive 12- month period during the Term commencing on the Effective Date or each anniversary thereof.
Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
DPA 2018	Data Protection Act 2018
Data Protection Impact Assessment	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
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.
Data Protection Legislation or DPA	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
Default	Any breach of the obligations of the Supplier (including but not limited failing to provide any Deliverables by any date set out in the applicable Statement of Work (or any other deadline agreed by the Parties in writing), and abandonment of this Contract in breach of its terms) or any

	other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any of its staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Customer.
Deliverables	The applied research services from Section 2 of the DPS Agreement that are to be provided as specified in a Statement of Work.
Dispute	Any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Project, failure to agree in accordance with the Variation Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure.
Dispute Resolution Procedure	The dispute resolution procedure set out in Contract Schedule 4 (Dispute Resolution Procedure).
DPS Agreement	The DPS Agreement between CCS and the Supplier reference number: RM6018 referred to in the Letter of Appointment
DPS	Means the dynamic purchasing system established by CCS for the provision of Research Services which are to be provided by the Supplier under the DPS Agreement.
Effective Date	The date this Contract starts, as set out in the Letter of Appointment.
Environmental Information Regulations or EIRs	The Environmental Information Regulations 2004 together with any related guidance and/or codes of practice issued by the Information Commissioner or relevant Government department.
Expenses	Reasonable travelling, hotel, subsistence and other expenses incurred by the Supplier in connection with the supply Services of and Deliverables, provided that such Expenses have either received the Customers Approval or are in accordance with any expenses policies which have been supplied to the Supplier and set out in the agreed Statement of Work.
Expiry Date	The date this Contract ends, as set out in the Letter of Appointment.
Extension Expiry Date	The latest date this Contract can end, as set out in the Letter of Appointment.
FOIA	The Freedom of Information Act 2000 as amended from time to time 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	Means: <ul style="list-style-type: none"> • acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party • riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare • fire, flood, any disaster and any failure or shortage of power or fuel • an industrial dispute affecting a third party for which a substitute third party is not reasonably available but does

	<p>not mean:</p> <ul style="list-style-type: none"> • any industrial dispute relating to the Supplier, its staff, or any other failure in the Supplier's (or a subcontractor's) supply chain • any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned, and <p>any failure of delay caused by a lack of funds</p>
Further Competition Procedure	The process of a Customer issuing a Project Specification and the Supplier submitting a plan in response to such Project Specification, as set out in DPS Clause 3.10.
GDPR	Means the General Data Protection Regulation (<i>Regulation (EU) 2016/679</i>)
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.
Guarantee	A deed of guarantee that may be required under this Contract in favour of the Customer in the form set out in DPS Schedule 9 (Guarantee) granted pursuant to Clause 3 (Contract Guarantee).
Guarantor	The person, in the event that a Guarantee is required under this Contract, acceptable to the Customer to give a Guarantee.
Impact Assessment	The assessment to be carried out by a Party requesting a Variation in accordance with Clause 9.4.
Information	The same meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time
Insolvency Event	<p>Means, in respect of the Supplier [or DPS Guarantor (as applicable)]:</p> <ol style="list-style-type: none"> a plan is made for a voluntary arrangement within Part I of the Insolvency Act 1986; or a winding-up resolution is considered or passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a

	<p>moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>h) where the Supplier is an individual or partnership, any event analogous to these listed in this definition occurs in relation to that individual or partnership; or</p> <p>d) any event analogous to these listed in this definition occurs under the law of any other jurisdiction</p>
Intellectual Property Rights or IPR	<p>The following rights, wherever in the world enforceable, or such similar rights, which have equivalent effect, including all reversions and renewals and all applications for registration:</p> <ul style="list-style-type: none"> • any patents or patent applications • any trade marks (whether or not registered) • inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration • copyright or design rights (whether registered or unregistered) • database rights • performer's property rights as described in Part II of the Copyright Designs and Patents Act 1988 and any similar rights of performers anywhere in the world • any goodwill in any trade or service name, trading style or get-up and • any and all other intellectual or proprietary rights
Key Individuals	Individuals named by the Supplier in the Letter or Appointment or Statement of Work as having a major responsibility for delivering the Project.
Law	means 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 Contractor is bound to comply;
LCIA	means London Court of International Arbitration
LED	means Law Enforcement Directive (Directive (EU) 2016/680)
Letter of Appointment	The Letter of Appointment, substantially in the form set out in DPS Schedule 4, signed by both Parties and dated on the Effective Date.
Losses	Any losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses) to either Party subject to Clause 18.1 and 18.2.
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.
Materials	Any questionnaires, discussion guides, transcripts, tables, data files, reports, pre-notifications, stimulus materials or any other material protected by Intellectual Property Rights

	or produced as part of a Project.
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.
New Expiry Date	Has the meaning given to it in Clause 2.3
Party	Means a Party to this Agreement.
Personal Data	Personal Data has the same meaning as set out in the Data Protection Act 2018
Prohibited Act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Customer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> a) induce that person to perform improperly a relevant function or activity b) reward that person for improper performance of a relevant function or activity c) 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 this Agreement; d) commit any offence: <ul style="list-style-type: none"> • under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or • under legislation or common law concerning fraudulent acts; or • defrauding, attempting to defraud or conspiring to defraud the Customer ; or • any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK;
Project	Any project(s) agreed between the Parties from time to time whereby the Supplier performs the Project which are the subject of this Contract and supplies Deliverables to the Customer as more fully described in the applicable Statement of Work;
Project Commencement Date	The date a Project will start, as set out in the relevant Statement of Work.
Project Completion Date	The date by which a Project is to be completed, as set out in the relevant Statement of Work.
Project Notice Period	The period of notice for cancellation of a Project as set out in the Statement of Work.
Project Specific Materials	<p>Means:</p> <p>Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>Intellectual Property Rights in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same.</p>
Project Term	The period during which the Project for each Project will be provided as specified in the applicable Statement of Work.
Protective Measures	means 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 such measures adopted by it.
Purchase Order Number	The order number set out in the Letter of Appointment.
Records	The accounts and information maintained by the Supplier related to the operation and delivery of this Contract, including all expenditure which is reimbursable by the Customer, as are necessary for the provision of management information and to enable the Customer to conduct an audit as set out in Clause 21.
Rectification Plan	The rectification plan pursuant to the Rectification Plan Process.
Rectification Plan Process	The process set out in Clauses 5.8 to 5.14.
Regulations	The Public Contracts Regulations 2015.
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 for Justice pursuant to section 9 of the Bribery Act 2010;
Request for Information	A request for information or an apparent request relating to this Contract or the provision of the Project or an apparent request for such information under the FOIA or the EIRs.
Schedule	Any Schedule attached to this Contract.
Services	The Project to be supplied by the Supplier under this Contract and in accordance with Section 2 of the DPS Agreement, as set out in the relevant Statement of Work. This includes the provision of Deliverables.
Special Terms	Any terms specifically designated as varying these Contract Terms or the terms of any schedule, as set out in the applicable Statement of Work.
Standards	Any: 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 Supplier would reasonably and ordinarily be expected to comply with; <ul style="list-style-type: none"> standards detailed in the specification in DPS Section 2 (Services and Key Performance Indicators); standards detailed by the Customer in the Letter of Appointment and any Statement of Work or agreed between the Parties from time to time; relevant Government codes of practice and guidance applicable from time to time i.e. including but not limited to Market Research Society (MRS) Code of Conduct and Social Research Association (SRA).
Statement of Work	One or more documents describing the relevant Project(s) as agreed and signed by the parties and which shall comprise both the Customer Project Specification and the Supplier's Plan (whether agreed as part of a Call for Competition or during the Term of this Contract).
Sub-Contract	A contract entered into between the Supplier and a Sub-Contractor
Sub-Contractor	Any person or Supplier appointed by the Supplier to provide elements of the Project on behalf of the Supplier to the Customer.

Sub-Processor	Means any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement
Supplier Affiliate	Any company, partnership or other entity which at any time directly or indirectly controls, is controlled by or is under common control with the Supplier, including as a subsidiary, parent or holding company.
Supplier Confidential Information	Any information that the Supplier gives to CCS or to Customer's that is designated as being confidential, or which ought to be reasonably be considered to be confidential (whether or not it is marked "confidential"). This may include information, however it is conveyed, that relates to the Supplier's business, affairs, developments, trade secrets, Know-How, personnel and suppliers including all Intellectual Property Rights.
Supplier Materials	Those Materials specifically created by any officers, employees, sub-contractors or freelancers of the Supplier for the purposes of a Project, whether or not these materials are incorporated into Deliverables during the Term. (Includes any Materials adapted, modified or derived from the Customer Materials).
Supplier Proprietary Materials	Software (including all programming code in object and source code form), methodology, know-how and processes and Materials in relation to which the Intellectual Property Rights are owned by (or licensed to) the Supplier and which: - were in existence prior to the date on which it is intended to use them for a Project, or are created by or for the Supplier outside of a Project and which are intended to be reused across its business
Supplier Plan	The Supplier's solution in response to the Customer's Project Specification, as set out in the Letter of Appointment or in any Statement of Work.
Tender	The tender submitted by the Supplier in response to the Invitation to Tender.
Term	The period from the Effective Date to the earlier of: <ul style="list-style-type: none"> the Expiry Date or New Expiry Date; and any date of 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.
Third Party Materials	Any Materials used in the Deliverables which are either commissioned by the Supplier from third parties or which have already been created by a third party and the Supplier proposes to use. Excludes software which is owned or licensed by a third party.
Transparency Principles	The principles set out at www.gov.uk/government/publications/transparency-of-suppliers-and-government-to-the-public detailing the requirement for the proactive release of contract information under the Government's transparency commitment.
Transparency Reports	The information relating to the Project and performance of this Contract which the Supplier is required to provide to the CCS in accordance with its reporting requirements.
Variation	A change in this Contract that is formally agreed by both Parties, as detailed in Clause 10.2.
Variation Form	The template form to process and record variations to this

	Contract as set out at Schedule 5.
Worker	Any Supplier personnel to whom the Customer considers Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies See https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees
Working Day	Any day other than a Saturday, Sunday or public holiday in England and Wales.

SCHEDULE 2

SCOPE OF REQUIREMENT

This document outlines the requirements for the evaluation of the pilot. The evaluation of the DA polygraph pilot will comprise, an impact evaluation and an economic evaluation. The Supplier will deliver the evaluation of the pilot on behalf of the Data and Analytical services directorate (DASD) within the Ministry of Justice, working closely with colleagues in the National Probation Service's chosen delivery areas in the North East and North West of England.

The primary aims of the evaluations are to:

- a) **Impact evaluation:** Robustly assess the impact of the mandatory polygraph testing on key outcomes of interest.
- b) **Economic evaluation:** To assess whether the polygraph pilot offers value for money.

A process evaluation will also be conducted in-house by analysts within DASD and full details of approach, timescales and findings will be shared with the Supplier prior to publication.

This project will have the following objectives:

Objective 1) To work with the customer to design and deliver an appropriate and robust impact evaluation. This includes the evaluation design, random allocation of participants, analysis and reporting. To conduct analysis of outcomes across the 3-year pilot period and two years follow up period if a break clause is not initiated.

Objective 2) Deliver a robust economic evaluation to determine whether DA Polygraph is a cost-effective policy considering both societal and financial costs.

This shall include:

- A plan for delivering an impact and economic evaluation of the DA polygraph pilot which is due to commence from January 2021 (when licence conditions will be applied to an individual's licence and polygraph testing is planned to start in April 2021) for 3 years with a follow-up report after 5 years, subject to an assessment of volumes and the potential for further insights. An assessment will be made mid-way through year 2 (approx. September 2023) to determine whether a follow up report is required.
- The Supplier shall provide a detailed project plan agreed with the Customer that takes into consideration: the start date of polygraph testing in to the Pilot, the need for 4 internal progress reports at key stages, an impact evaluation report in Autumn 2024 to be published and a possible follow up report in 2026 also to be published.

- This shall include an initial plan for the impact evaluation using appropriate methodology and based on the information provided in the Suppliers response, it shall include any risks and proposed mitigations to the approach. The Supplier shall provide a randomised controlled trial (RCT) design and set out an alternative approach if the RCT design is not considered to be feasible (due to volumes data quality or practical constraints). The impact evaluation shall be complementary to a process evaluation undertaken by the Customers' in-house analysts.
- The plan shall include a detailed approach for the allocation of participants to treatment and control groups and how the representativeness of the sample will be checked throughout the trial period. Annex C sets out the options considered by Customer analysts for conducting the random allocation process. The Customer shall require the Supplier to conduct the random allocation.
- A plan for an economic evaluation using a cost-benefit analysis methodology for assessing the value for money of an approach. The Supplier shall consider a social cost benefit approach to allow for an assessment of the cost of the polygraph testing in achieving specific benefits/outcomes.

This evaluation Contract shall commence in autumn 2020 and shall finish in Autumn 2026. However, the Customer reserves the right to break the Contract and not proceed with the evaluation including additional follow-up analysis if there are not sufficient volumes/data.

In Scope of this Contract

The following tasks are within the scope of Contract the Supplier shall:

- a. Co-design, with the commissioner, the evaluation methodology. This shall include agreeing the final methodological approach for the impact evaluation and economic evaluation.
- b. In collaboration with the commissioner, agree appropriate outcome measures for the evaluation and co-design a data collection tool to collect data on clinically significant disclosures.
- c. In collaboration with commissioner co-design random allocation process and conduct allocation of participants to intervention or control groups.
- d. Use the quantitative data to answer the research objectives and feedback findings to the commissioner.
- e. Conduct analysis to determine the impact of the pilot on service users' outcomes.
- f. Conduct a social cost-benefit analysis to assess value for money.

Out of Scope of this Contract

The following tasks are outside the scope of the Contract:

- a. The Supplier will not be responsible for administrative data linking. Data sources will be linked by the Customer before an anonymised version is shared with the Supplier. A data sharing agreement will be in place for the data share.
- b. A process evaluation and analysis of monitoring data to understand how the pilot is being delivered and any lessons to be learned for further roll out. This will be conducted in-house by the Customer.

THE REQUIREMENT

Methodology

Impact Evaluation

The primary aim of the impact evaluation is to robustly assess whether the polygraph intervention leads to changes in the outcomes of interest and the extent to which these changes can be attributed to the interventions being evaluated. The work shall seek to meet the objectives of the evaluation and answer the following research questions by drawing on the full range of data available. The Supplier may suggest additional research questions.

Specifically, the impact evaluation will assess the extent to which the use of polygraph testing:

- Encourages offenders to disclose information they would not otherwise disclose.
- Enables offender managers to take preventative actions to manage the risk of domestic abuse offenders.
- Reduces proven reoffending for these offenders.

The following specific research questions have been formulated for the impact evaluation:

Research Questions

1. Does polygraph testing enable better risk management of high-risk domestic abuse offenders under supervision?
 - a. Do offenders disclose information they would not otherwise disclose?
 - b. Does the information provided through polygraph testing enable offender managers to take preventative actions which protect the public from harm?
2. Does polygraph testing lead to more effective rehabilitation of offenders?
 - a. Does polygraph testing lead to improved compliance of offenders?

- b. Does polygraph testing reduce reoffending? (This includes overall reoffending, general violence and domestic abuse reoffending (if this can be reliably assessed))
3. Does polygraph testing lead to better public protection?
4. Does polygraph testing lead to better sharing of information between agencies? For example, between offender managers, social services, police etc.

The Supplier shall work with the Customer to design and deliver an appropriate and robust impact evaluation using an RCT design to ensure that there is a robust counterfactual in place for comparisons of outcomes between the intervention and control groups. The Supplier shall design the impact evaluation, set out an appropriate plan for random allocation of participants and develop a plan for the analysis and reporting. The Supplier shall be required to conduct analysis of outcomes across the 3-year pilot period and two years follow up period. The Supplier shall also outline risks associated with running an RCT and outline how these will be mitigated.

Sample selection and allocation

A regular report will be run by the Customer team using OASys and PNomis data to identify offenders for the pilot, which shall be shared with the Supplier. The sample will be pre-defined according to the eligibility criteria and information on eligible participants fed through to the Supplier at various points in the trial. This shall include the release dates of all eligible offenders currently in prison who are expected to be going to the North East and North West probation divisions. The report will be quality assured by Customer's analysts to check for duplications and missing SARA assessments (Spousal Assault Risk Assessment). Once the report has been quality assured it will form the basis for the random allocation.

The Supplier shall set out in their plan, a method for allocating individuals to treatment and control groups ensuring a balance of characteristics across the sample. The allocation must be done at the level of individual offenders and stratified on variables of interest (e.g., sentence length and offence type).

After the random allocation is conducted, the polygraph condition will be added to an offender's license before leaving prison. Offenders will continue to be allocated to groups until a sufficient sample size is reached or until the end of the 3-year pilot. Detail on predicted sample size is included in Annex A.

The randomisation will be completed externally the successful contractors.

Outcome Measures

Table 1 sets out the proposed measures of outcome and related administrative data sources that will be collected for the evaluation. The primary outcome measures are;



Evaluation of the Domestic Abuse Polygraph Pilot
Contract Reference: CCZZ20A70

- Clinically significant disclosures (CSD's) - New information that the offender discloses, which leads to a change in how they are managed, supervised or risk assessed
- Actions following clinically significant disclosures - preventative actions being taken by Offender Managers.
- Breach/non-compliance - in order to answer questions around the effect of the pilot on compliance with license conditions.
- Recall - the number and proportion of offenders recalled during their license period will be a key indicator of the effect polygraph has on both the behaviour of offenders and OMs
- Reoffending rates - the number and proportion of offenders who reoffending during their license period will be a key indicator of the effect polygraph has on both the behaviour of offenders and OMs

These outcome measures draw upon several existing recording systems: NDelius (National probation service case management system); the Public Protection Database (PPUD) and the Police National Computer (PNC). This approach has been identified as the least burdensome and most cost-effective way of collecting the data over the duration of the evaluation.

Evaluation of the Domestic Abuse Polygraph Pilot
Contract Reference: CCZZ20A70

Outcome Measure	Description	Time frame for data collection	Data sources	Data quality and limitations
Clinically significant disclosures (CSDs):	New information that the offender discloses, which leads to a change in how they are managed, supervised or risk assessed.	To be collected during the 3-year pilot and up to 6 months after the pilot finishes.	NDelius Bespoke Container Administrative database used by probation and court staff. Contains details around sentencing and offender management.	Data must be manually recorded by offender managers, there may be some data quality and inconsistency issues across NDelius.
Actions following clinically significant disclosures:	<p>This would record the number of preventative actions being taken by OMs in both groups such as:</p> <ul style="list-style-type: none"> - Increasing supervision - Informing a third party - Changing supervision focus - Issuing a warning <p>To be collected in the same way as CSDs.</p>	To be collected during the 3-year pilot and up to 6 months after the pilot finishes	NDelius Bespoke Container As above	As above.
Breach/ non-compliance	To answer questions around the effect of the pilot on compliance during the license period, data on breach/non-compliance will be collected from existing MI in NDelius	Will be recorded during the 3-year pilot and for up to two years after the pilot finishes.	NDelius – As above	As above.

Recall	The number and proportion of offenders recalled during their license period will be a key indicator of the effect polygraph has on both the behaviour of offenders and OMs. This also provides essential data in terms of measuring the overall value for money of polygraph testing.	Will be recorded during the 3-year pilot and up to two years after the pilot finishes.	Public Protection Database (PPUD) Case management system for those offenders serving life sentences and indeterminate sentences of imprisonment for public protection, recalled offenders and offenders who are restricted patients. Include reason for recall and information on up to 5 previous recalls	Good data quality. Data on reasons for recall is limited.
Reoffending	Measuring general, violent and domestic abuse specific reoffending would be a very useful way of gaining a robust and full understanding of the effect of polygraph and value for money of the intervention. This will be measured using PNC data - however, domestic abuse specific offending is more challenging to measure due to the lack of flags in the PNC. See analysis section for more detail.	Will be recorded during the 3-year pilot and up to two years after the pilot finishes.	Police National Computer (PNC) The Police National Computer (PNC) is a database used to facilitate investigations and sharing information of both national and local importance. It is used to record convictions, cautions, reprimands and warnings for any offence punishable by imprisonment and any other offence that is specified within the regulations.	Good data quality, limitation in the lack of a domestic abuse flag. Data lag of approximately 6 months.

Table 1: Outcome measures and data collection sources.

Data Collection

A 'container' will be built into NDelius (National probation service case management system) and Offender Managers will be required to input information on CSD and related actions. This is a new data collection tool and the Customer team will lead on designing the container and the Supplier shall be required to work with Customer analysts to input into the design of a container that allows for data to be collected in a way that permits analysis in line with agreed methodology. The polygraph testing report will also be uploaded onto NDelius.

The following outcome measures (breach/non-compliance, recall and reoffending) draw upon several existing recording systems: NDelius (National probation service case management system); the Public Protection Database (PPUD) and the Police National Computer (PNC).

Throughout the Contract term, the Supplier shall monitor the data collected on the specified outcome measures and report any concerns that may arise about the feasibility of using this data for an impact evaluation as soon as possible. A break clause will be included in the Contract in case the quality of data available does not allow a robust impact evaluation to be conducted. After 2.5 years (approx. September 2023) of the pilot commencement there will be a review point to assess whether a further 2 years of data collection after the end of the pilot is likely to yield further insights.

The Supplier shall ensure that data is handled with due respect to ethical and data sharing considerations. Monitoring data can be made available to contractors where necessary and practical, however, they will not be required to conduct analysis on this data

Analysis

It is anticipated that the impact of the intervention will be assessed using the outcome measures as set out in Table 1 above, these are also covered in the logic model in Annex B:

Analysis of CSD's (clinically significant disclosures) and actions following those disclosure should include a comparison of disclosure overall, during normal supervision and during polygraph tests. Analysis of breach/ non-compliance during the license period could include frequency and type of breaches, both following a disclosure and overall during the license period. Similarly, analysis of recall will need to include an analysis of both frequency and reasons for recall, following disclosures and overall.

Analysis of reoffending should as a minimum include the proportion reoffending; frequency of reoffending and time taken to reoffend for both general reoffending and domestic abuse reoffending where possible. There are a number of points to note in this area: a proven reoffence is defined as any offence committed in a one-year follow-up period that resulted in a court conviction or caution in this

timeframe or a further six month waiting period (to allow time for cases to progress through the courts), However, there is rationale for leaving a 2 year follow up period for domestic abuse reoffending as this allows time for new relationships to develop. Also, whilst ideally general, violent and domestic abuse reoffending would be measured, the Customer extract of the PNC does not contain a domestic abuse flag. OASys data does contain a flag which can be linked to PNC data, however, this may not flag all domestic abuse reoffences. The Supplier shall set out a clear plan for their approach to measuring reoffending given these factors.

The Supplier may wish to identify additional outcome measures that would be of interest when assessing the impact of the polygraph testing, outlining the data source or how data on these measures could be collected and analysed; for example, any potential to collect police call out and arrest data. This is also currently being scoped by the Customers' team and may also form part of the reoffending analysis.

A detailed approach for analysis must be set out in plans covering the information likely to be presented and the feasibility of producing effect sizes and significance testing and techniques such as multivariate analysis. The Supplier shall analyse all outcome data, taking into account dependencies in observations and consider options for potential sub-group analysis. If predicted sample size is not reached, then an alternative option for an impact analysis should be provided.

The Supplier shall provide data in a suitable format to allow the Customer to undertake any further analysis later. This is likely to be in the R statistical software package.

Economic evaluation

The Supplier shall deliver a robust economic evaluation to determine whether DA Polygraph is a cost-effective policy considering both societal and financial costs.

The aim of the economic evaluation will be to assess whether polygraph testing represents good value for money as well as assessing both the financial and societal costs and benefits of the polygraph intervention.

- a. Does polygraph testing domestic abuse offenders provide value for money?
- b. What are the financial and societal costs and benefits of polygraph testing?

The Supplier shall present a plan for a social cost-benefit analysis of implementing the polygraph, along with the quantitative impact evaluation. This must include consideration of the setup, delivery and training costs associated with implementing the polygraph (information to be supplied by the Customer) but may also include consideration of less obvious or less direct costs such as the potential costs to the criminal justice system of offenders being recalled as

a result of increased disclosures or better detection of non-compliance with other licence conditions, and any time spent dealing with polygraph outputs by offender managers which could otherwise be spent on other tasks (opportunity costs). Benefits and impacts will be monetarised around the key outcomes measures for the evaluation (e.g. recall rates, reoffending and clinically significant disclosures).

The Supplier shall clearly set out a methodology for economic analysis, state the parameters of their cost benefit evaluation, including any additional information the Supplier require to undertake an assessment of cost benefit and how the Supplier shall capture this information.

Existing analysis in 'Social and Economic Costs of Crime' (Home Office, 2018) and the 'Social and Economic Costs of Domestic Abuse' (Home Office, 2019) will provide a useful source of data. In addition, there may be opportunities to collect new data from the process and impact evaluation.

The economic evaluation shall be designed alongside the impact evaluation so that clear outcome measures and any requirements for new data collection are identified. Reporting of the economic evaluation will be at the same time as the final reporting – either at Year 3 or Year 5 (if reoffending outcome measures can be collected).

Process evaluation (To be conducted in-house by Customer analysts):

The aim of the process evaluation is to understand how the pilot is being delivered and any lessons learnt for further roll out. This element of the evaluation will involve a mixture of qualitative methods and analysis of monitoring data to understand how the pilot is being delivered.

Outputs

Over the term of the Contract the Supplier shall provide:

- a) Monthly progress updates via email with a follow-up call (via telephone/video call)
- b) Attendance at 3-5 steering group meetings (at project inception, mid-point and end of year 3). If a follow up 2-year study is possible attendance at a further two meetings will be required (timings to be confirmed). These will be held at the Customers office in London or remotely.
- c) A detailed research plan for impact and economic evaluation and research protocol for the impact evaluation (following a project inception meeting with Customer).
- d) Regularly updated Risk Register (reviewed monthly)
- e) Research tools (in line with GDPR and DPA 2018 requirements) for sign-off.

- f) Internal update reports on yearly basis, end of Y1 and Y2 (April 2022, April 2023).
- g) Outline of final report structure (by end of March 2024)
- h) Presentation of findings (Summer 2024)
- i) Final report for publication including data from all years at the end of Y3 (Autumn 2024).
- j) Update report if break clause hasn't been initiated (Spring 2025) Follow up report, end of Y5 (Autumn 2026).
- k) Four presentations over the lifetime of the project, to reflect timings of yearly reports (at the interim and final stages of the project – timings to be confirmed).

All outputs will be reviewed by the commissioner, and all intended publications by academic peer reviewers. Written reports must meet the standards set out in the 'MoJ Publications Guidance'. The structure of the final report must be agreed with the Customer prior to drafting and drafts of final reports shared for comment Reports will be considered for publication on/ GOV.UK. The Customer holds the final decision on the appropriate dissemination of findings.

Project outputs will be agreed with the commissioner

Risks

The Supplier shall clearly set out any risks associated with the impact evaluation design and economic evaluation, specifying how they plan to mitigate risks and any alternative options for delivering the project, these potential risks include:

- Data quality – there is potentially a risk that the offender managers will not record sufficient data on clinically significant disclosures and actions following in order to conduct a robust impact evaluation. Alternative approaches should be explored such as calling offender managers to obtain the data. In regard to recall, reoffending and breach/non-compliance data, the Customer has the ability to triangulate data across databases so should pick up any data quality issues promptly.
- Volumes - If the volume of individuals eligible for the pilot is lower than expected this would hinder any meaningful analysis. The Customer shall regularly monitor volumes through referrals data and, if volumes are low, may need to invoke a break clause (this may be at any stage of the project). A review point will also be set at the 2.5 year point (approx. September 2023) to ascertain whether longer term reoffending analysis is feasible based on the data collected. The Supplier shall set out in their design how the evaluation could be conducted, if at all, if faced with low volumes.

- Randomisation methodology - It is crucial to ensure that the randomisation of groups is not compromised during the process. The Supplier shall set out what is required to ensure the robustness of the randomisation and how to approach strict monitoring of the allocation process, a peer review and QA procedure and balance checking built into the design.
- Contamination – The Supplier shall be aware of contamination risks and potential limitations of the approach when considering plans for analysis and reporting:

a) There is a risk that offenders may have the opportunity to learn from each other if they are going to the same probation offices or staying in the same accommodation. This has implications given the bogus pipeline effect and the fact that it is possible to use countermeasures which can affect the polygraph test and change someone's physiological reaction to the test. Polygraph testers are trained to look out for such behaviour and if an offender is suspected of trying to cheat the test, a re-examination can be requested. We can try and assess the likelihood of such contamination through our interviews with testers, offenders and offender managers. The Supplier shall set out any potential mitigations of this risk.

b) There is a risk that offenders could be in the sample more than once if they are recalled or reoffend and are released again within the pilot period, this would cause contamination as they could have previously experienced polygraph testing and be randomly assigned to the control group second time. The Supplier shall set out what is the best approach to mitigate against this; for example, checking for duplicates and whether to hard-assign people to treatment or control and ensure that there's no opportunity for people to cross over.

c) It is possible that some offenders have experienced polygraph testing for a previous conviction of a sexual offence. It is also possible that some offenders may be facing a conviction for both a sexual offence and eligible schedule 15 offence and therefore are required to be polygraphed for the sexual offence conviction. Decisions will need to be made on whether these groups should be hard assigned, excluded or randomly allocated.

The Supplier shall present any other considerations that may arise in conducting the randomisation and how these will be addressed.

- Imbalance within groups - if the treatment and control group are not balanced on key variables related to chosen outcome variables this could undermine the results and would have to be corrected for in the analysis. The Supplier shall include how an imbalance can be mitigated against e.g. how variables for stratification are to be identified and what options are available for correction, possibly during and after data collection.
- Timeliness of reporting – due to Covid-19, there was a pause of polygraphing offenders on license. With the possibility of a second wave, unexpected delays to the project may occur and will need to be managed.

PROJECT MANAGEMENT

The project manager nominated by the Supplier shall have sufficient experience, seniority and time allocated to manage the project effectively.

It is expected that following the project initiation meeting, regular contact will take place between the Supplier and the commissioner by telephone, email and face to face meetings. The Supplier shall be obliged to keep the Customer project manager informed of progress by means of regular updates as required. The frequency of contact will be agreed at the project inception meeting. This will be in addition to evaluation steering group meetings. The Customer shall reserve the right to call additional meetings when deemed necessary.

The Supplier shall:

- a. Outline how the Contract will be delivered in the event of staff changes during the project;
- b. Provide details of how they will keep the commissioner updated on the progress of the project;
- c. Describe in detail how they will manage this project to ensure that it runs to time and budget; and
- d. Identify risks associated with the successful completion of the research and how they plan to mitigate them.

The commissioner will nominate a contract manager, who will be the Supplier's first point of contact during the project and will manage all administrative issues and contractual and technical matters. They, or a nominated replacement, will be available to deal with queries, be responsible for liaising with other colleagues during the project, and ensure all parties are kept up to date on progress.

The Customer shall set up a project steering group, comprising government officials from Customer and other relevant stakeholders. The Supplier shall attend at Ministry of Justice HQ (London) or remotely. It is crucial for the success of the evaluation that the steering group is fully involved in the project as it develops, and the Supplier shall be obliged to provide updates at steering group meetings. Any issues emerging between meetings will be discussed between the Customer project manager and the Supplier project manager.

Quality assurance: All outputs shall be accurately drafted and proof-read before submission to Customer. Poor quality outputs will be rejected by the Customer.

The Supplier shall commit to undertaking quality assurance of all deliverables and provide details of the quality assurance procedures they have in place. The Supplier shall guarantee the accuracy of all outputs, and detail what quality assurance processes have been undertaken. All research tools and project outputs will be agreed with the commissioner

ETHICAL ISSUES

The Supplier shall detail the ethical implications of the evaluation design, fieldwork, data analysis and reporting of the evaluation and how they will address these. Evaluation shall be in accordance with relevant professional guidelines on ethical evaluation practice (for example, Government Social Research (GSR) Professional Guidance: Ethical Assurance for Social Research)(<https://www.gov.uk/government/publications/ethical-assurance-guidance-for-social-research-in-government>) .The Supplier shall detail how they will address, at a minimum, the following:

- Honesty to practitioners and participants about the purpose, methods and uses of the evaluation;
- Participant confidentiality and anonymity;
- The independence and impartiality of researchers in relation to the subject of evaluation; and
- Risks to researchers and participants (e.g. health and safety)

The Supplier shall detail how they will guarantee that all material considered as part of the study shall be treated as confidential and that the anonymity of all parties involved shall be preserved entirely in any of the outputs. No material supplied to meet the objectives of the current study can be used by the contractor for any other purposes (e.g. newspaper, journal articles, interviews with or presentations to outside parties) unless express prior permission is granted by the customer.

SECURITY AND CONFIDENTIALITY REQUIREMENTS

All data will be collated and stored in accordance with the Data Protection Act 1998, Freedom of Information Act 2000, the General Data Protection Regulation (Regulation (EU) 2016/679) and Government Economic and Social Research Team guidelines - <http://www.civilservice.gov.uk/networks/gsr1>. All published output from the evaluation will be anonymous.

The Supplier shall demonstrate their processes for dealing with data securely and as a minimum how they will comply with Ministry of Justice data protection guidance for contractors and subcontractors (Annex F). All data involved in the study will be HMPPS/MoJ owned and only shared with the Supplier for the purposes of delivering the project.

The Supplier shall provide details of data protection issues relevant to the plan and explain how these will be addressed.

The Supplier shall be required to store all data in accordance with data protection legislation and current MoJ data security procedures, including

¹ See information under GSR Code: Products i.e. legal and ethical subsection.

Guidance for External Tenderers and Sub-Tenderers working for MoJ using data which is security classified OFFICIAL.

The Supplier shall explain how the information collected from individuals will be stored, reported and collected.

The Supplier shall ensure that some or all staff working on the project must have or be willing/able to obtain a Baseline Personnel Security Standard (BPSS) check.

TIMETABLE

The Supplier meet the timetable below and outline how they will organise their team and research plan to do so. A final quality assured report must be delivered by autumn 2024.

If the milestones presented in the project specification are not feasible, the Supplier shall provide details of what can be delivered and when.

DATE	MILESTONES
October 2020	Contract awarded
October 2020	Project inception meeting
October 2020	Project steering group meeting
November 2020	Detailed research plan submitted
October-January 2021	Data scoping and random allocation procedure to be agreed and set up
January 2021	Random allocation to start
April 2021	Data collection commences
April 2022	End of year 1 progress report submitted to MoJ (Internal use only)
April 2023	End of year 2 progress report submitted to MoJ (Internal use only)
September 2023	Break clause review for follow up analysis
April 2024	Presentation of findings
June 2024	Draft of final report provided
Autumn 2024	Final report (according to MoJ style guidance) encompassing all findings
Summer 2026	Follow up report including reoffending analysis and cost benefit analysis (est autumn 2026) - if the break clause has not been triggered. If reoffending

	analysis is not undertaken, economic analysis should be incorporate into final report (autumn 2024)
--	---

PAYMENT AND INVOICING

Payment milestones shall be tied to achievement of key stages of the Contract.

Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.

Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.

It is anticipated that payment milestones will be as follows:

Milestone and percentage of payment	Milestone	Expected date
Milestone 1 (15%)	On approval of detailed research plan for impact and economic analysis	January 2021
Milestone 2 (10%)	On commencement of trial and data collection	June 2021
Milestone 3 (20%)	On delivery of internal report (end of Y1)	April 2022
Milestone 4 (20%)	On delivery of internal report (end of Y2)	April 2023
Milestone 5 (25%)	On delivery of quality assured and agreed final report and data outputs	Autumn 2024
Milestone 6 (10%)	On delivery of follow-up report	Autumn 2026

List of annexes

Annex A: Sample size estimates and power estimates

Annex B: Logic Model for DA Polygraph

Annex C: Random Allocation Process document

Annex D: Process evaluation information

Annex E: MoJ Analytical Publications, Guidance for external authors

Annex F: MoJ Data Protection Policy

Annex A – Sample size estimates and power calculations

The tables below show the number of release events in 2019 of cases going to the NPS North East and North West.² Table 1 shows 420 releases would have fulfilled the pilot criteria if those with no centrally available SARA are included, it is therefore predicted that over years 2 and 3, 840 and then 1260 participants would be eligible. Table 2 shows the flow of cases if all of those with centrally available SARA assessment are excluded. Given the serious nature of the offences, very few of the 420 cases are likely to be low risk on SARA, OMs can be asked to ensure SARAs are completed as part of the pilot criteria, so the figures from 2019 in Table 1 will be used as the estimate for volumes.

Table 1: Flow of cases including those with and high and medium risk and 'No SARA' in 2019	
NPS North East	215
NPS North West	205
Total	420

Table 2: Flow of cases including SARA high and medium risk in 2019	
NPS North East	107
NPS North West	130
Total	237

Power calculations

Table 3 below shows power calculations conducted using the estimated samples after 1, 2 and 3 years. It indicates the smallest percentage point difference in comparison

² The data used was from Delius and OASys, however, the data is limited by the fact that it was only possible to link to the most recent OASys. This means that the OASys domestic abuse flag may not be correctly associated with the index offence, particularly in the older cases. In at least 14 cases in 2019 (3%), the OASys might not correspond to the offence they are being released for. However, analysis of data projecting releases for the next year indicates similar volumes.

to the base rate which would be statistically significant for samples of 420, 840 and 1260 (at the 5% level assuming 80% power). The lack of evidence on the use of polygraph with domestic abuse offenders, is a key limitation.

Recall

The 44% base rate assumption for recall is a 6-month recall rate calculated using data for those who were released in 2019 and would have been eligible for the polygraph pilot. With a sample of 1260 from three years of the pilot an 8ppt difference between groups would be the smallest difference that would be significant. The only comparison we have for this rate is from the evaluation of mandatory polygraph with sex offenders.³ This found that recall went up by 14 ppt so this sample may be enough to show a significant difference for this outcome.

Clinically significant disclosures

The 51% base rate for clinically significant disclosures (CSDs) comes from the evaluation of mandatory polygraph with sex offenders. As there is no evidence for general disclosure rates for domestic abuse offenders this was the most relevant statistic to use, however, it is likely to be different to the rate for domestic abuse offenders. That evaluation found a 26 ppt difference between groups which would only require data from year one of the pilot to identify a significant effect.

Reoffending

The reoffending base rates are 2-year reoffending rates from an MoJ evaluation of domestic violence perpetrator programmes;⁴ the Integrated Domestic Abuse Programme (IDAP) and Community Domestic Violence Programme (CDVP). These evaluations found a joint impact of 13.2 percentage points on general reoffending, 10.9 percentage points on domestic violence offences and 6.5 percentage points on general violent offending. If the impacts from polygraph were similar to those from these interventions, a three-year sample would be adequate to show a significant effect in terms of general and DA offending, but not violent reoffending.

A recent systematic review by Gannon et al (2019) looked at the effects of 14 domestic violence interventions based in a number of different countries (UK, US and Canada). The study found a decrease of 8.7 percentage points in domestic abuse specific

3

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/217436/evaluation-of-mandatory-polygraph-pilot.pdf

⁴<https://www.gov.uk/government/publications/outcome-evaluation-of-idap-and-cdvp>

reoffending between intervention and comparison groups over an average 62-month follow-up.

Given the size of the sample may not provide sufficient power to conduct a definitive assessment of reoffending, we will introduce a break clause and review into the contract with the contractors. If we conclude after an analysis of 2 years of data that it will not be possible to assess reoffending, then we will ask for only one final report at year 3 and no follow up report. Police arrest and call out data is also currently being scoped to see if this could provide an alternative way of measuring reoffending outcomes.

Table 3: Effect sizes estimated for 1, 2, and 3 years of participants sig 0.05, pwr 0.8

	Year 1	Year 2	Year 3
Sample Size	420	840	1260
Effect size	0.273	0.193	0.158
Recall (base rate 44%)	14%	10%	8%
General reoffending (base rate 46%)	-13%	-10%	-8%
DA reoffending (base rate 34%)	-12%	-9%	-7%
General violent reoffending (base rate 22%)	-11%	-8%	-7%
CSDs (base rate 51%)	13%	10%	8%

Evaluation of the Domestic Abuse Polygraph Pilot
Contract Reference: CCZZ20A70

Annex

B

–

Logic

Model

for

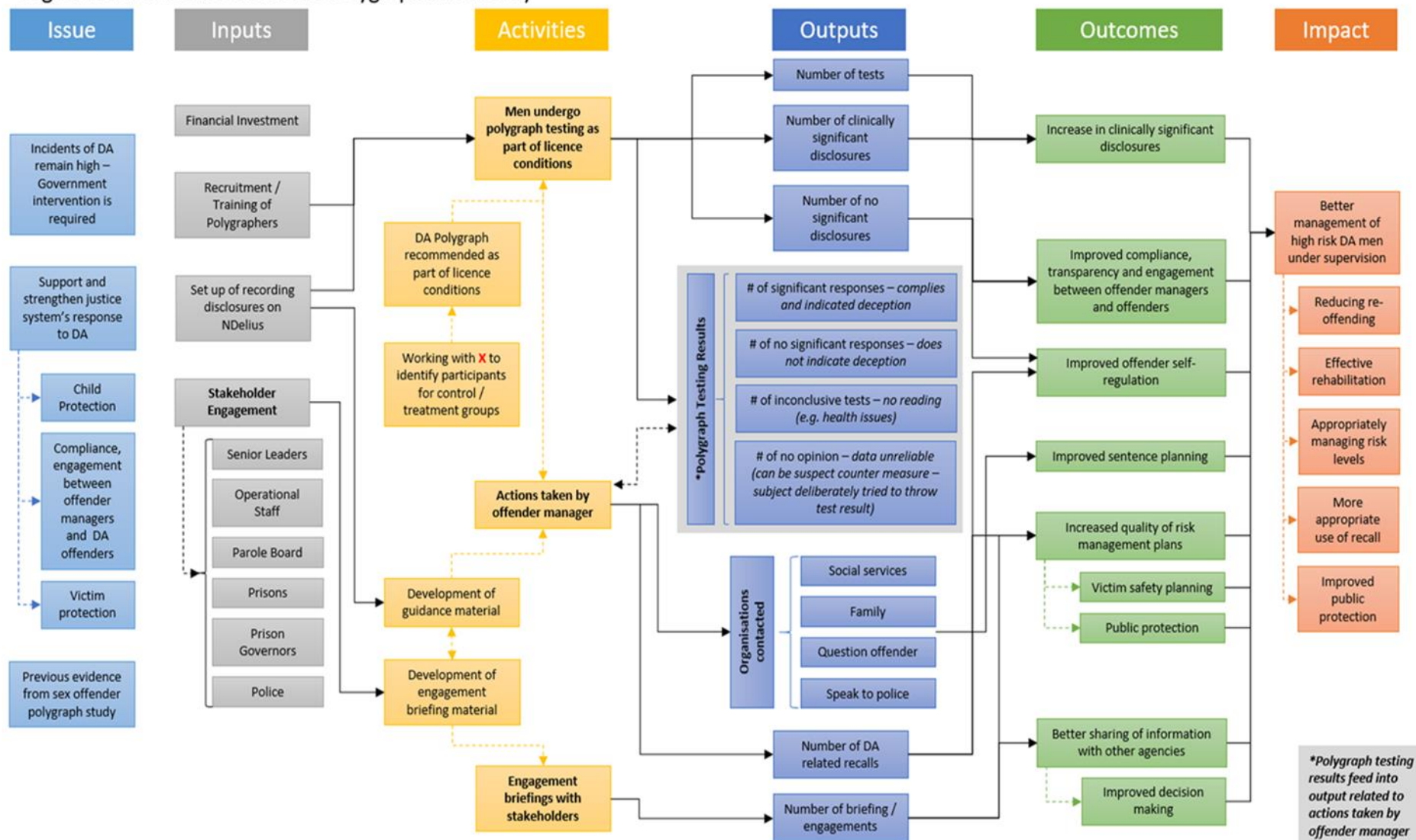
DA

Polygraph

Pilot

Evaluation of the Domestic Abuse Polygraph Pilot
Contract Reference: CCZZ20A70

Logic Model of Domestic Abuse Polygraph Pilot Study



Annex C – DA Polygraph Pilot Randomisation Scoping Note

This note sets out the options for randomisation of participants in the Domestic Abuse polygraph pilot and considers both the randomisation method and details for conducting a simple random sample compared to a stratified random sample. This note also sets out the process required to complete this in house compared to commissioning it to a contractor.

Randomisation method

The Customers proposed recommendation is to randomise at the **individual level** in order to mitigate the risk of not achieving the volume required to detect the effect of the intervention. Individual level randomisation is more appropriate for assessing the impact on the intervention at an individual level, whereas cluster randomisation may be more appropriate for assessing the impact of group-level intervention.

This method involves selecting individuals for treatment groups and control groups entirely by chance with no regard to the will of researchers or participants and preference. This allows researchers to control all known and unknown factors that may affect results in treatment groups and control groups

To ensure robustness in the sampling methodology we are considering a **stratified random sampling** approach. Stratified sampling is a procedure in which the target population is separated into homogeneous groups (strata), and then a simple random sample is selected from each group. Stratified samples tend to be more representative of a population because they ensure that elements from each stratum in the population are represented in the sample. The sample will be stratified on variables that relate to the purpose of the study e.g. sentence length, offence type. We plan to use snapshot data from 2019 to identify stratification variables.⁵

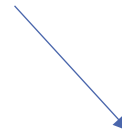
It is likely we will use a stratified approach as this will improve representativeness and robustness. Figure 1 sets out the requirements for selecting a stratified random allocation compare to a simple random allocation. After selecting the appropriate approach, the randomisation will be conducted, the steps required are outlined in table 1.

Use an existing data set from a previous year, representative of the target sample, we will explore variance across sample and identify stratification variables e.g. offence, age, sentence length etc.

⁵ This is likely to be the segmentation dataset - an internal dataset containing a snapshot of OASys data



If we have identified variables of interest that are over/under represented in the sample, we can define these as our stratification variables. We can then take the required steps to conduct **stratified random allocation**.



If we are content that there is no clear under/over representation or clustering of certain variables we can run a **simple random allocation**.

Figure 1. Process for selecting allocation methodology.

Simple Random Allocation	Stratified Random Allocation
1. Define the target population.	1. Define the target population.
2. Identify an existing sampling frame of the target population (NART report)	2. Identify stratification variable(s) and determine the number of strata to be used (2 or 3). The stratification variables should relate to the purposes of the study.
3. Evaluate the sampling frame and complete any quality assurance checks.	3. Identify sampling frame that includes information on the stratification variable for each element in the target population.
4. Assign a unique number to each element in the frame. (e.g. 1&2 for treatment and control)	4. Evaluate the sampling frame for under coverage, over coverage, and clustering, and adjust where necessary.
6. Randomly assign the participants to T&C' groups.	5. Divide the sampling frame into strata, categories of the stratification variable, creating a sampling frame for each stratum.
	6. Assign a unique number to each element.
	7. Determine the sample size for each stratum. The numerical distribution of the sampled elements across the various strata determines the type of stratified sampling that is implemented.
	8. Use a simple random sampling method to assign participants to T&C groups

Table 1: Steps required to complete random allocation compared to stratified random allocation.

Balance checks

Balance checks shall be conducted after randomisation to ensure that both the treatment and control groups are similar across variables of interest i.e. sentence length, offender type etc. This is also a way of checking the randomisation was completed correctly. T-tests and f-test are commonly used to assess the differences in the variables in the balance tables during the baseline.

Randomisation process

This section sets out the steps required for completing the allocation in-house compared to commissioning it out to an appointed contractor (See figure 2) and the benefits and limitations of each approach (See table 2). The options are set out below:

Option 1: In-house randomisation

A team within MoJ will provide a repeated report which will allow us to identify the offenders who are eligible for the pilot in advance on a rolling basis. This report will provide the data that will allow the Research and Evaluation team to run the randomisation and allocate offenders to T & C groups. In order to ensure the participants are eligible we will need to check whether the offender has had a SARA (Spousal Assault Risk Assessment) completed by the offender manager, in the centrally available data 40% of the sample are likely to have SARA assessments. If the SARA has not been completed, we will need the offender managers to complete this task prior to random allocation.

The random allocation should then be conducted by the central MoJ team; to avoid any biases in selection and names of offenders should not be included, unique identifiers should be used to identify participants. This will be completed in R as it provides the option to record and replication code for future randomisations. There should then be a secure file transfer to the two sites which includes the identifiers for participants and their allocations. This should be completed at regular intervals, to be agreed with operational colleagues. (TBC).

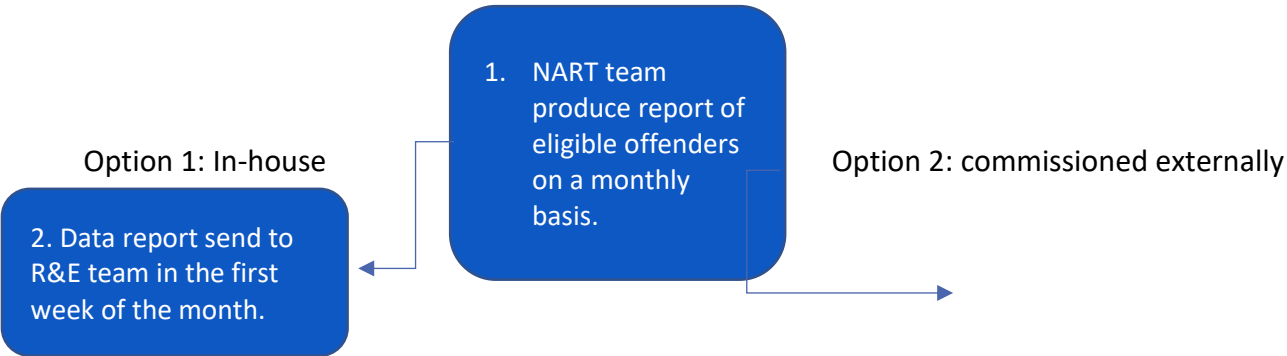
Option 2: Random allocation conducted by the Supplier

As part of the evaluation, we will commission out the impact evaluation to an external contractor. Therefore, the allocation could be grouped into the deliverables for the impact evaluation or commissioned separately. This would ensure there are no biases during the allocation process and this aspect of the evaluation would be classed as completely independent of MoJ. Similar steps would be in place in order to complete the allocation, however, there are some additional interdependencies to consider if the random allocation is conducted by the contractor relating to data sharing, secure file transfers and communications channels. We would also require the output file to be sent back to MoJ so we can keep track of volumes.

In-house (Option 1)		Externally commissioned (Option 2)	
Benefits	Potential limitations	Benefits	Potential limitations
<ul style="list-style-type: none">• Likely to be quicker in terms of set up• If R is used code will be saved and easily replicated if	<ul style="list-style-type: none">• Resource limitations depending on complexity (particularly around stratification)• May lack some	<ul style="list-style-type: none">• Impact evaluation is 'fully independent' of MoJ.• Should not cost a significant amount• If data sharing agreements are pre-agreed in order to send the file of eligible participants, this could	<ul style="list-style-type: none">• Data sharing agreements will need to be in place which may take additional time• There will need to be a clear chain of communication set up between contractor and

team changes.	expertise compared to that of a contractor.	also incorporate further file sharing i.e. for analysis purposes.	area leads in order to transfer the file.
---------------	---	---	---

Figure 2: Process map outlining the random allocation process, in-house and externally commissioned.



2. Report sent to appointed contractor in the first week of the month.

3. Check data report to ensure no errors and participants are eligible/no repeat participant. Then transfers data into R.

3. Contractor to liaise with pilot areas/MoJ team to ensure all SARA assessments are complete

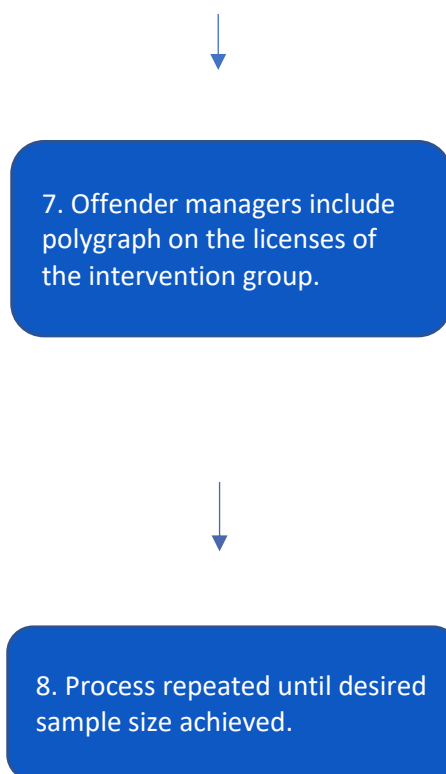
3. MoJ Team to liaise with pilot areas to ensure all SARA assessments are complete

3. Contractor QA's file and checks for repeat participants and runs random allocation and checks on the balance of groups.

5. Output file is sent by contactor or MoJ to polygraph pilot leads in North West and North east each by mid-month.

4. R&E team run random allocation in R runs random allocation and checks on the balance of groups

6. Polygraph pilot leads to notify probation officers of offender allocation.



Annex D - Process Evaluation Research Questions and Methodology

The aim of the process evaluation is to understand how the pilot is being delivered and any lessons learnt for further roll out. This element of the evaluation will involve a mixture of qualitative methods and analysis of monitoring data to understand how the pilot is being delivered. The majority of the data collection for the process evaluation will be carried out halfway through the pilot in the middle of year 2. The only exception is the analysis of referrals data which includes information on volumes and characteristics of eligible offenders, which will happen on an ongoing basis throughout the pilot. The process evaluation will aim to answer the following research questions:

Research Questions:

1. How has polygraph been implemented and what issues need to be considered for national roll out?
2. How has the polygraph been received by offenders, offender managers and other relevant practitioners?
3. Have there been any unintended consequences (positive or negative), and if so, how did this affect offender behaviour and/or offender management?
4. Does testing add to the effectiveness of Victim Safety Plans?

Methodology

- Survey of offender managers: a survey will be used to understand the views of offender managers on the effect of polygraph on their practice and relationships with offenders. This will be conducted at the end of Y 1 and the end of Y 2 to understand whether these views change over time as polygraph becomes more embedded.
- Qualitative interviews: interviews will be carried out with offender managers, staff members involved in the delivery of the pilot in each probation division, polygraph examiners and offenders. These interviews will focus on perceptions of utility of polygraph and the effect polygraph is having on the relationship between offender and offender managers. The interviews will be conducted halfway through the pilot (middle of the year 2) and will allow us to explore in more depth any findings emerging from the Y1 survey with offender managers and shape any additional questions for the Y2 survey.
- Analysis of monitoring data: this will be used for two purposes- monitoring the implementation of the pilot in terms of referrals and compliance with polygraph testing; and understanding better how polygraph affects offender management practice.
 - Analysis of referrals data: this will need to be assessed regularly to understand how many referrals are being made for polygraph tests and whether the referrals correspond to the random allocation as intended.
 - Analysis of polygraph test data: this will involve analysis of test outcomes, how often tests are repeated, how many tests individuals are taking and how often they have to repeat tests and test outcomes according to risk/ offender characteristics. This should indicate the level of compliance with testing. If possible, this can be compared to compliance in the sex offender group.
 - Analysis of NDelius data: Polygraph testing and NDelius data will be linked together to allow for further analysis of some of the possible explanatory factors behind different testing outcomes. This will allow an assessment of demographic, offence-related and risk factors associated with different testing outcomes.

We will monitor and analyse the referrals data on an ongoing basis throughout the pilot. A dashboard will be created within the project management team to co-ordinate all relevant information and will be used as a single source for policy and analysts and the supplier to check on progress. The process evaluation reporting will be produced by MOJ analysts and will be shared with the contractor. It is separate to that of the impact and economic evaluation which will be conducted by the external contractor.

Annex E



Ministry
of Justice

Analytical Services Directorate

Annex E - AQA 07b - Analytical Publications: Guidance for External Authors

Introduction

This document is intended for use by any external authors involved in drafting analytical publications. To be suitable for publication on the Gov.uk website, analytical publications need to follow certain principles and procedures. Following the principles outlined in this guidance will help authors to draft publications in the agreed format and ensure they are signed off as quickly as possible.

This guide applies to all MoJ analytical publications except for statistical bulletins and publications (i.e. National Statistics and Official Statistics). Analytical publications should take the form of an analytical report. This guidance provides detailed information about the appropriate length, content and style. It is accompanied by a Word template, which must be used to ensure publications are in the agreed format.

Analytical publications are often seeking answers to very concrete questions about how to make elements of the justice system work better. They need to be accessible to the public, other analysts and policy officials. The overall aim for the author to produce a publication which is clear, concise, sets the work in context, spells out the research questions, has the necessary technical information and has a clear narrative.

This guidance is divided into three sections:

Section 1 provides an overview of the process for publishing analytical reports;

Section 2 provides more detailed guidance to the **style and content** of MoJ analytical publications;

Section 3 provides **drafting instructions** and explains **how to use the template** provided alongside this guidance.

1. Section 1: The Publication Process

It is the Project Manager's (PMs) responsibility to ensure that each of the following steps is completed before a report is submitted for publication.

1. PMs must ensure authors of the report are familiar with the publication process and the required style, contents and format for analytical publications. They should also agree appropriate levels of clearance for the report at the initial assessment of the project (Social Research commissioning, gateway and publication processes).
2. When the analytical work is complete but before drafting begins, PMs should invite authors to present key findings and a suggested narrative for the report. The aim of this meeting is to familiarise attendees with the research, allow authors to identify key points, agree how the report will be structured and give attendees an opportunity to seek early clarification of any issues or concerns. This should reduce the amount of time taken for clearance at later stages of the project.
3. Analytical reports must be drafted using the word template supplied alongside this guidance. Comments may be provided on the draft report by analytical and policy colleagues but the report must remain in the format defined by the template.
4. Before the report is submitted for clearance, the author should ensure the report is free from spelling and grammatical errors and has been proofread. **Thorough checks should be made by the author and PM throughout the process to ensure any errors are removed.**
5. Depending on the complexity of the analytical methodology, the level of sensitivity of the topic area and the quality of drafts, the report may go through several iterations of comments. This is to make sure the report meets the required quality standards. When a final draft of the report is produced, the PM will check the report first followed by the relevant Grade 6, and plans for policy sign off will be agreed.
6. All analytical publications will be independently peer reviewed and the PM will organise this ahead of the final draft of the report being signed off by the departmental Head of Unit (HOU)/Head of Profession (HOP) or as agreed with the team leader (Grade 6).
7. Once this clearance process is complete, the PM will submit the report for publication, informing Ministers of publication plans and liaising with Press Office to agree a publication date.

2. Section 2: Style and Content

3. Report Style

Writing evidence-based messages for non-technical audiences can be challenging. However, this is crucial if research is to be of real use to decision-makers. All outputs should use language that a non-analyst would understand and have clear policy-relevant messages.

Be open – Explain up front what the analysis adds to the evidence base.

Implications/conclusions – Focus on what conclusions can be drawn from the report's findings and their implications.

Clarity of structure and content – Ensure all outputs are clearly structured and sign-posted via the Table of Contents as not all readers will read the entire report. Make sure there is a full but succinct account of the methods employed.

Perspective and tense – Publications should be written in the third person and should refer to analytical findings in the past tense. Ensure the style and tense used does not change throughout the report. Drafts must be consistent in language and acronyms, use of footnotes and use of references throughout.

Plain English – Aim to keep sentences, headings and paragraphs short and concise. Avoid using the same word or phrase more than once in the same sentence or, ideally, the same paragraph. Use the simplest word (e.g. 'begin' rather than 'commence'; 'because' rather than

‘by virtue of the fact that’). Where complex and/or technical methods have been used, ensure that as far as possible these are described in a way that lay readers will be able to understand. Avoid slang/jargon/Latin. Where technical terms must be used, consider including a glossary.

Discriminatory language – Ministry of Justice is committed to equality of opportunity and diversity in all its employment practices, policies and procedures. It is essential that research and research outputs comply with this principle and be drafted in non-discriminatory language.

Graphics and tables – Statistics and tables are valuable but their relevance needs to be made clear in the text. Use tables where necessary and consider that they can, at times, present information more concisely than text. Further details on house style presentation details for graphics are given in Section 3.

4. Report Content – Overview

The Analytical Report should comprise a one-page summary and main report. Authors should aim to keep the report as short as possible with a maximum of 25 pages unless previously agreed with the Project Manager and Heads of Profession. Guidance for the style and content of the report is included below and formatting instructions are provided in Section 3.

In addition to the contents detailed in the sections below, an abstract and list of key words must also be provided. These are vital since they are used by the web team to make your report available through electronic information retrieval systems:

Title – The report title should not exceed 65 characters to meet the formatting needs of gov.uk

Keywords – The author must provide 10 key words, which search engines (e.g. Google) could use to find the published report. Avoid acronyms or use of capital letters in this list of words.

Abstract/synopsis – The abstract/synopsis must be no longer than 100 words. It should briefly summarise the purpose, methodology and findings of each project. It will be used by the web team and potentially by the Press Office in communications. Do not include information that is not in the body of the main report. It should be self-contained (spell out all abbreviations), concise and specific. It should begin with the most important information and be limited to the most important concepts, findings, or implications of the study.

5. Report Content

The Analytical Report comprises two parts: first, a one-page summary; and second, the main report which should be as succinct as possible and it is anticipated that it will be no more than 25 pages in length and typically should have a word limit of 8,000–10,000 (though in practice it may have substantially fewer words). Where necessary or appropriate more detailed information can be provided in appendices (outside of the word limit above) and for methodologically complex projects, a separate technical report may be necessary.

Writing an analytical summary for the public and for policy/operational decision-makers is not the same as writing an article for an academic journal. It has a different objective, and requires a different approach. A good summary is:

Concise and specific – Like any good newspaper article, each sentence needs to convey the maximum amount of information, especially the first sentence. Do not waste space by repeating the title.

Accurate – Ensure that it correctly reflects the purpose and content of the research/analysis.

Self-contained – Write the summary as a stand-alone document.

Coherent and readable – Write in clear and lively prose.

The main body of the report should typically include five main sections (sub-sections within these main themes can be included as appropriate), in the order given below:

Context – Outline the policy issue your research addresses. State the research question clearly. Highlight any key background information, and earlier relevant research and the additional contribution your research may make.

Approach – *More detailed guidance on the types of information to include in this key section is provided below.*

Results – Summarise your results highlighting themes and messages. Use graphs and tables if they will improve understanding. Use the format described in Annex A to lay out all graphs, tables and figures. Think carefully about what material should be included in the main report and whether some information may be better placed in an appendix.

Implications/Conclusions – This is where your readers should find the essence of your key messages. You should state what your findings mean for policy-makers and if it has different messages for different audiences (e.g. policy-makers, practitioners, etc.), separate the different messages and label them. Comment on how broadly (if at all) you can generalise from the results presented. Avoid the temptation to make recommendations that are not supported by the research methodology or findings. Where additional research is needed, specify the research questions that should be asked and suggest appropriate research strategies.

References and bibliography – Both bibliographies and end-report reference pages are outside the recommended word limits. Guidance on the format of references is provided in Section 3.

If relevant, you may also want to include additional categories.

6. Approach – Detailed Guidance

To enable readers to quality assure your research and facilitate its replication, it is essential that you provide clear and detailed information about the way the work was conducted. As a minimum the description of methods should include:

Type of sample – e.g. purposive, stratified or randomly selected, and why this approach was adopted.

Intended and achieved sample sizes and method of selection – e.g. all 100 magistrates in a pilot area; one in 10 CPS case files; all domestic violence cases reported to the police in the third week of each month. Where there are sampling concerns – e.g. shortfalls in the achieved sample – the implications for generalising findings should be openly discussed, as should any weighting, any significant problems with missing data, and any use of strategies such as imputation.

Form(s) of data collection – e.g. extraction of data from court records using a piloted pro forma, in-depth qualitative interview with victims, structured interviews with defence solicitors, assessments of offenders using a standardised risk assessment tool.

Ethical considerations – including how potential conflicts of interest were dealt with and the form of confidentiality agreements made with respondents.

Type(s) of qualitative and quantitative analyses – for qualitative analysis, this might involve content analysis of written victim impact statements with a discussion of designing a content frame and how it was applied (e.g. two separate analysts, and/or use of software such as NVIVO). Quantitative analyses might include, for example, noting that bi-variate analyses were conducted to establish which case factors are significantly related to reconviction using X² with an explanation of how variables were categorised. Information on multivariate analyses conducted, including the stages of model building (e.g. stepwise forward logistic regression) and key model statistics are also relevant. Any discussions of results generated

using statistical techniques should provide details of tests used and significance levels and/or confidence intervals, standard deviations, etc.

This information can be included as an appendix to the main report, with a more general summary in the methodology section within the body of the report. Alternatively, if you have a very large amount of technical material (particularly if these would be of interest only to a specialist audience) the author and PM should consider providing a stand-alone technical report. This might include detailed background information such as questionnaires or interview schedules. Usually technical reports will not be published, but will be available on request for interested parties.

7. Appendices and Annexes

Appendices and annexes are not included in the page/word limits for the Analytical Report but should be kept to a sensible length and not used as a 'dumping ground' for material that cannot be included in the main report. They should contain information that is relied upon in the report but in greater detail, perhaps to include results or analyses that provide context but do not relate directly to the report's conclusions.

8. Section 3: Format

MoJ analytical outputs **must** be drafted in the Analytical Report Word template which is provided alongside this guidance.

The template includes clear formatting instructions. To ensure that the final report meets MoJ formatting guidelines (and can therefore be published as quickly and easily as possible), it is essential that these instructions are followed and that format styles in the template are used and not overwritten or ignored.

The sections below summarise some aspects of MoJ house style and should be used in conjunction with the template. MoJ formatting requirements specify some stylistic requirements; any stylistic considerations that are not included in either this guidance or the template are left to your own discretion, but please ensure that you take a consistent approach throughout the report. The sections below provide guidance on:

- Headings and section numbering

- Paper size and margins, line spacing, font and font size selections

- Graphics

- Referencing

- Other drafting guidance.

9. Headings and Section Numbering

Chapter headings must be numbered and consistency must be maintained throughout the document. Section headings may be numbered. **Do not number sub-section headings and/or paragraphs. Do not underline headings.**

10. Paper Size and Margins, Line Spacing, Font and Font Size Selections

These elements of the report cannot be varied to suit individual's preferences or other house styles. Instructions are provided in the supplied templates and the box below provides a summary of the font styles and colours that must be used in the Analytical Report. The minimum font size in the main text of Analytical Report is 11pt (see template for further guidance on font size).

11. Analytical report styles:

12. 'Heading 1' style – Arial 17pt bold (corporate blue)

13. 'Heading 2' style – Arial 14pt bold (corporate blue)

14. 'Heading 3' style – Arial 12pt bold (corporate blue)

15. 'Heading 4' style – Arial 11pt bold (should be avoided if possible, as more levels of headings can make a document's structure more complicated for readers)

'Body - main text' style – Arial 11pt

'Body - interview extract' style – Arial 11pt

- 'Bullet points' style – only use round dots, same point size as font

'Bullet points (sub)' style – secondary bullets should be shown as dashes

Footnotes – 'Footnote Text' style, Arial, 9pt

Page numbers – Arial 9pt

Tables – Arial, minimum 9pt but preferably 10pt

Legends, axis information and data labels – Arial, minimum 9pt

16. Graphics and Tables

All graphs, illustrations/drawings, photographs, maps and screen dumps must be clear and of good quality and should be readable when printed in black and white.

Accessibility wording

It is essential that PDF versions of MoJ publications meet departmental requirements for compliance with the Disability Discrimination Act. This means **that accessibility wording must be supplied** to explain any graphics/images. For images that are explained elsewhere in the report (e.g. charts that illustrate tables), accessibility wording need only reference the source data (e.g. "Figure 1.1. Bar chart representation of Table 1.1). For images that are not described elsewhere in the report the description should give the same amount of information as a sighted person would get from looking at the image. This website provides guidance on how to provide appropriate wording – <http://webaim.org/techniques/alttext/>. You must provide us with a separate Word document with all necessary accessibility text, clearly linking each to the relevant image(s) in your report.

From an accessibility perspective there are two types of tables: those that are inserted in a format that can be accessed and amended directly (e.g. 'embedded' Word and Excel tables); and those that are copied into the text in picture form.⁶ Editable tables require a brief accessibility text summary, explaining the purpose of the table, so that users of assistive software can decide whether to listen to the full table. Any image of a table that cannot be edited requires a detailed,

⁶ To check whether a table meets the former category, put your cursor in one cell and try to move it to the next cell using tabs. If you are unable to 'tab' between cells, your table is not 'embedded' and you will need to provide accessibility wording.

row-by-row accessibility text description. You may find it quicker to create an editable version of a table than to write a detailed description of it.

Formatting graphics and tables

Graphics must not be wider than one page (portrait or landscape), keeping within the text margins. All graphics should be labelled 'figures' or 'tables', have a caption/heading, and be numbered by chapter (e.g. Figure 2.1 for the first graph in chapter 2; Table 2.1 for the first table).

When referring to graphics and tables in the body of the report, refer to them by number, avoiding 'above', 'below' or 'overleaf' as formatting may change the pagination.

Use Word's in-built table facility when creating tables. Where sums of money are tabulated, put the units in the column heading rather than beside each item. Set heading rows at the top of tables using Word's 'Repeat as header row at the top of each page' facility.

Charts produced by the authors should follow the principles outlined below:

Title – describe what, where and when.

Source – sources can be included with the chart.

Font – Arial only, size 9+.

Chart area – avoid borders around the chart.

Plot area – avoid borders and fill.

Gridlines – none, or light grey if required.

Axis labels – it is generally good practice to include them, though it may be better to make it clear in the title. Use horizontally aligned labels for ease of reading.

Axis tick marks – ensure the number of tick marks is appropriate and display them outside the plot area.

Axis units – where data are encoded by length (bar charts) always start the axis at 0. Minimise the space taken up by labels by using as few digits as possible (include the magnitude in the title or axis label).

Colour – ensure colour choices remain effective in black and white. Avoid "pejorative" colour choices such as red and green which are typically associated with positive and negative trends. Ensure that the main data in the chart have the most colour intensity, with comparison data in lighter colours.

Line-type – do not use "smoothed".

Data labels – do not label every point; only use data labels to draw attention to particularly important data points.

Legend – direct labelling of data is preferable where possible. If a legend is included, add it to an empty part of the plot area to maximise the room available for data. Do not use a border.

Notes – All tables and figures should be based on achieved sample sizes (i.e. missing numbers or percentages should be included as a separate category). Base numbers should be shown in all tables. Weighted bases should be shown as well as total sample sizes where these differ.

17. Referencing

Referencing should follow American Psychiatric Association (APA) format. The following notes provide some basic information, but more detailed guidance can be found on these websites:

<http://www.apastyle.org/learn/quick-guide-on-references.aspx#In-Text>

<http://library.bcu.ac.uk/APA.pdf>

Referencing in the text

When referring to a publication, the main text should cite the author's surname and the date of the publication. For example, "Taylor and Jones (1999) concluded that..." or "...a direct cause of crime (Tarling & Smith, 1982)".

If a publication has three, four or five authors, cite all authors the first time (e.g. Smith, Jones, Adams, and Parker, 2001); then, in subsequent citations use the surname of the first author followed by 'et al.' and the year as required (e.g. Smith *et al.*, 2001).

For six or more authors use only the surname of the first author plus 'et al.' in all citations including the first and include the year as appropriate (e.g. Jones *et al.*, 2001).

References section in report

All references should be given in full at the end of the publication. They should be listed in alphabetical order (by first author) as follows: [Punctuation is given in square brackets]:

Author's surname [comma] **initial(s)** [each followed by a full stop and then a comma if more than two authors] (Date) *Title of publication* [full stop] Place of publication [colon] Publisher [full stop].

For example:

Modood, T., Berthoud, R. S., Lakey, J., Nazroo, J., Smith, P. D., Virdee, S. and Beishon, S. (1997) *Ethnic Minorities in Britain: Diversity and Disadvantage. The Fourth National Survey of Ethnic Minorities*. London: Policy Studies Institute.

18. Referencing websites

Online sources should be presented in references in the same way as printed sources, giving a date when the web page was created or posted up on site (if known) and the address of the URL in between < > and the date accessed. This is to give the reader an idea how old the information may be. For example:

Author's name (if known), Title of article, section or page, Title of complete work in italics, (date created, published, posted) <URL address of electronic source, including http://> date accessed.

19. Other drafting guidance

Abbreviations / Acronyms – Write the words in full on first appearance with the abbreviation in brackets with no full stops. For example, The Human Rights Act (HRA), The Community Legal Service (CLS), Ministry of Justice (MoJ). Thereafter, use the abbreviation where possible, unless style dictates you must use the full name. When referring to MoJ, notice that no "the" is required.

Americanised text – Use 's', not 'z' in spellings; Use 's', for example in organisation, rationalise, prioritise.

Ampersand (&) – Generally, you should 'and' instead of '&' in text. However, ampersands in organisations' names should be used (e.g. 'HM Courts & Tribunals Service', 'Marks & Spencer') and it is acceptable to use an ampersand in table and figure headings (e.g. Divorce in England & Wales), but this should be used consistently throughout the document.

Bold use – Use bold in main body text sparingly for emphasis. Do not use capitals for emphasis.

Brackets – Use round brackets (parentheses) to add supplementary information to the text. If the whole statement is within the brackets, the final full stop should also be inside the closing bracket. Square brackets are used chiefly to enclose an explanation by someone other than the author.

Capitals – Avoid using too many capital letters. These should be used to punctuate sentences and to distinguish proper nouns. Except for acronyms, abbreviations or organisation names that are traditionally written in capitals, no word should be all in capitals. Only the first letter of the initial word of the title of a report or section should be capitalised unless other words within the title are covered by any of the above.

Data – Authors should provide the MoJ PM with all data (particularly that in specialist software, such as SPSS or SAS) – this may be needed when the report is laid out, or displayed separately with the report on release. Do not embed source data with graphs or tables in the report text as this will be lost when the report is converted into print document format (PDF) for publication.

Data/datum – The word “data” is a plural noun so write “data are”. Datum is the singular.

Disclaimer – All reports should include the disclaimer shown as standard in the supplied template.

Document electronic format – Final outputs must be supplied in the standard template to the MoJ PM electronically, if possible in one document (zipped if necessary), in a format compatible with Microsoft Word 97 (this includes any Microsoft Word versions up to Word 97). Do not insert additional macro/auto-formatting features into the template as this may cause difficulties when it is being prepared for print, and do not provide your final draft as a PDF.

Footnotes – Numbered footnotes should be used as footnote indicators in the main body of the text. Asterisks and other symbols are used as indicators if/when it is necessary to depart from the normal system of numbering or lettering. The indicator should be positioned so as to leave no doubt about the subject of the reference. When there are punctuation marks (e.g. a comma, colon or period) at the point where the footnote indicator should be inserted, the indicator is placed after the punctuation in English. When more than one indicator must be inserted at the same place, the indicators should be separated by a comma.

Full stops – Use for e.g. and i.e. but do not use in times, titles, initials (for example 9am, the Right Hon, Mr and Mrs, L S Lowry, JP, IT). It is usual to insert a space following a full stop and some authors prefer to use two. Both conventions are grammatically correct and acceptable, provided consistency is maintained within the report.

Italics – Use italics for titles of publications, for example the *White Paper Supporting Magistrates’ Courts to Provide Justice*. Do not italicise titles of Acts/Bills. Always include the date of an Act: e.g. section 3a of the Disability Discrimination Act 1996.

Numbers and currency – Avoid starting sentences with a numeral. If this cannot be avoided, the number should be written in full (e.g. “Fifty-two people took part”). Use words for numbers between zero and ten and numerals for 10 and above. Numbers such as twenty-one should be hyphenated. Include commas in thousands (e.g. 2,000) and use “m” and “bn” after quantities to denote millions and billions (e.g. £48bn, £12m). Where numbers in the same sentence fall below and above ten, use figures for both – for example “between the ages of 10 and 15”, not “ten and 15”. For currency, treat whole and fractional amounts in a consistent way (e.g. “£6.00, £5.25 and £0.25”, not “£6, £5.25 and 25p”).

Percentages – Use the words “per cent” in text and the “%” symbol in tables and where data are presented between parentheses (e.g. 10%). If percentages in a table do not add up to exactly 100, the individual percentages are usually rounded up or down and the total should fall between 99 and 101. Where this occurs, a note needs to be added at the bottom of the table to indicate the table does not total 100.

Quotation marks – Use double marks for a first quotation, then single marks for a quotation within a quotation (e.g. “He said ‘Gone fishing’ and then left”). Use single marks to highlight a

particular word or term. Substantial quotations (over three lines), for example from survey respondents, should be pulled out from the main text, indented and written in italics.

‘Significant’ and significance testing – The word ‘significant’ has a particular statistical meaning – please avoid using it in any other way in reports. If it cannot be avoided, ensure that the meaning is specified. When reporting statistical significance, try not to incorporate complicated statistics into the text – simply stating that a finding is significant is usually sufficient. Details of tests used and significance levels can be put into the appendices, or a brief footnote.

Annex F - MoJ Data sharing guidance

May 2018

Contents

Introduction

Part One – Sharing personal data: an overview

Part Two – Requests for specific individuals’ personal data

Part Three – Sharing data as part of a project

Part Four – Routine data sharing within MoJ

Part Five – Sharing Personal Data with Researchers: Privilege

Part Six – The Data Protection Laws

Part Seven – Data sharing quick tips

Introduction

This guidance is for staff who have to make decisions about sharing personal data. The aim of the guidance, and associated materials, is to support good practice in personal data sharing. It offers advice on when and how personal information can be shared.

When might I need to use the guidance? There are a number of scenarios in which you may need to make a decision about whether to share personal data, and also how this sharing should be conducted. These include responding to requests from:

- third parties for the personal data of a specific individual;
- other government departments on a regular basis in order to conduct business;
- third parties delivering part of our business;
- a project for a particular purpose;
- researchers;
- other teams across the department.

This guidance offers advice on when it is fair and legal to share personal data enabling you to balance the risks against the benefits whilst ensuring legislation is adhered to. It also provides you with a template data sharing agreement and a memorandum of understanding. 4

Part One – Sharing personal data: an overview

Sharing data can result in tangible benefits for the public through improving the way we formulate policies and deliver services. However, sharing data can create risks. It is important that we properly assess and appreciate these risks so that we can weigh up the pros and cons of going ahead and sharing MoJ data.

Any sharing of personal data – whether small or large scale – needs to be done in accordance with the data protection laws; the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). The data protection laws provide a framework for how personal data should be correctly handled. The laws neither promote nor prohibit the sharing of personal data, but their principles apply to data sharing as they apply to any other form of processing of personal data.

Whether or not you should go ahead with a data share will depend upon a number of key issues: Legality; Security; Proportionality; and Justification. These issues are explained in slightly more detail below.

Legality

Any data sharing needs to be legal. Therefore, it is first necessary to consider whether the MoJ and the party we propose to share with have the necessary powers. This will involve considering whether there are express or implied legal powers or obligations to share the data (i.e. a legal power designed to permit sharing or powers granted through legislation regulating MoJ's activities and business). You should also consider whether the proposed data share is compliant with the Human Rights Act, whether it is in breach of the law of confidence, and whether it is compliant with the data protection laws.

Whether sharing data will be legal or illegal will depend upon the circumstances of the situation. The issues that need to be considered and the outcome of that consideration will depend on the particular facts. There is no single piece of law regulating the sharing of personal data, instead there are a number of principles that need to be applied based on the common law and a range of statutory provisions.

The data protection laws require that we process personal data fairly. You must consider whether individuals would reasonably expect their data to be shared in the way you are planning. In some instances, it may be possible to ensure you are processing personal data fairly by obtaining the consent of the data subjects. In this situation it will be necessary for the data subjects to fully understand the circumstances of the processing by being provided with comprehensive privacy information and actively indicate their consent. The Information Governance and Data Protection Team (IGDP) will be able to provide further advice on providing privacy information and recording consents. On other occasions obtaining consent may not be possible. At which point you should consider whether or not there are other legal and fair reasons to share the data. Section Two looks in more detail at the legal gateways frequently relied on by the MoJ. For further information on consent please visit the ICO website:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/>

You need also to consider having mechanisms in place that ensure that the personal data we are sharing is accurate and up to date before we share it and that those we are sharing it with are also able to keep it up to date. 5

Personal data must not be shared where it would be a criminal offence to do so or where we have contractual obligation to keep the data confidential. As the legal landscape is complex we recommend that you initially consult your own lawyers when considering whether to share data

Security

Due to the increased risks to the security of the information that arise when a data share occurs it is important these risks are identified and mitigated as much as possible. It is necessary to agree with the requestor of the data the technical and physical security conditions under which it will be transferred, stored, used and destroyed. If the sharing you are doing requires a data sharing agreement it should cover these points and be compliant with the Central Government standards for handling information. For projects and policies that involve sharing personal data a Data Privacy Impact Assessment (DPIA) will enable you to evaluate and mitigate the risks around sharing data. Further guidance on conducting a DPIA can be found here <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/privacy-impact-assessments/>.

To find out more about our internal policies for looking after information securely please click here <https://intranet.justice.gov.uk/guidance/security/it-computer-security/>. The MoJ also has a procedure for handling incidents involving personal data. Before sharing data you should familiarise yourself with the policy <https://intranet.justice.gov.uk/guidance/security/report-a-security-incident/report-a-data-loss/> and ensure the data recipient also knows what to do were the data to be compromised.

Proportionality

In order to make a reasoned decision about whether or not to share data it is necessary to consider whether the type, nature and volume of data being shared is proportionate to achieve the stated aim of the data share. This goes beyond the need for data sharing to be proportionate in a legal sense. For example, does the requestor of the data “need to know” all of the details relating to each of the individual records or could less data or anonymised data be shared that achieves the same result? Similarly, do we know who in the requestor organisation will have

access to the information and is this the minimum number of people possible and are you confident that they understand and will apply sound security measures to the data?

The DPA requires that we consider this important point. You should also consider whether the stated aim of the requestor is compelling enough to expose the data to the potential increased risks to its security. Again, doing a DPIA <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/privacy-impact-assessments/>. will help to evaluate what these increased risks are.

Justification

It is important to consider whether the data share is justifiable on either legal or policy grounds, and whether it is for a demonstrable public benefit. Where the proposed data share would help meet cross government objectives consideration should be given to the request, whilst bearing in mind the extent to which MoJ is able to resource the data share. 6

Part Two – Requests for specific individuals’ personal data

The MoJ receives requests from various bodies asking us to disclose personal data relating to named third parties. For example: “Please can I be sent a copy of Mr Smith’s Court File”. Requests are received from bodies such as:

- Police forces
- HMRC and other Government Departments
- Local Authorities
- Regulatory bodies
- Credit reference agencies/debt collection/tracing organizations
- Employers
- Charities

If you receive such a request you should first consider whether it can be dealt with under existing protocols or agreements, for example Court Procedure Rules or Prison Service Instructions. You may also consider seeking advice from the relevant policy owners of the issue in question.

You can also contact the Disclosure or IGDP teams for advice on these requests. They can work with you to consider whether disclosure would be compliant with the data protection principles. A list of these principles can be found at Part Six of this guidance.

DPA 2018 Schedule 2 paragraph 2

Paragraph 2 of Schedule 2 of the DPA provides a means by which the MoJ can, if it wishes to do so, disclose information to a third party if the disclosure is necessary for the following purposes:

- The prevention or detection of crime;
- The apprehension or prosecution of offenders; or
- The assessment or collection of any tax or duty or of any imposition of a similar nature.

Requests from bodies such as the police, HMRC, Local Authorities and Regulatory bodies typically fall within this section, where the purpose the information is sought for falls within one or more of the three categories above, for example the police requesting conviction details of an offender.

DPA 2018 Schedule 2 paragraph 5

Paragraph 5 of Schedule 2 of the DPA provides a means by which the MoJ can, if it wishes to do so, disclose information: 7

- Where disclosure is required by or under any enactment, by any rule of law or by the order of a court or tribunal;
 - Where disclosure is necessary for the purpose of, or in connection with, any legal proceedings, including prospective legal proceedings;
 - Where disclosure is necessary for the purpose of obtaining legal advice; or
 - Where disclosure is necessary for the purposes of establishing, exercising or defending legal rights.
- With the notable exceptions of court orders for disclosure or warrants, there is rarely an obligation on MoJ to disclose information to third parties. For example, section 17 of the Criminal Appeal Act 1995 gives the Criminal Cases Review Commission the power to require public bodies to produce documents.

MoJ's approach

The MoJ expect the bodies making such requests to be specific and clear in their request. They must satisfy us that disclosure of the personal data is necessary and justified in all the circumstances of the case. In particular, the request should include the following information:

Which Article of the GDPR or section (and sub-section) of the DPA 2018 they are relying upon to justify us releasing the information in their request;

The legal or statutory instrument under which the request is being made to us, for example the Social Security Administration Act 1992 or the Offender Management Act 2007;

- What information they require (i.e. it should not be a 'fishing expedition');
- Why they need the information;
- Who will be using the information;
- How will the information be stored and for how long;
- What is the consequence of their not receiving the information;
- Who, if anyone, they intend to share the information with;
- A specific description of exactly what information they need; and
- Details of any DPA exemptions or permissions they think should apply, and why these enable us to share the information.

If these criteria are not met the MoJ must write to the requester explaining what additional information is required to proceed with the request. 8

There is no time limit for complying with these types of requests, but it is important to deal with requests quickly, as a time delay could be prejudicial to the matter being investigated. We should endeavour to be as helpful as possible to Police Forces, Other Government Departments, Local Authorities and Regulatory bodies, whilst complying with our obligation to protect the personal data in our possession.

If you receive a request from an individual asking for their own data you should forward this to the Disclosure team who will process it as a Subject Access Request under the protection laws 9

Part Three – Sharing data as part of a project

You may be asked by suppliers, third parties or colleagues in other government departments if we will share the personal data the MoJ holds with them as part of a project or policy initiative.

In the MoJ every collection of data has an “Information Asset Owner” who is responsible for the confidentiality, integrity and availability of that collection of data. In the majority of cases this will be a member of the Senior Civil Service, or a Prison Governor but other arrangements may apply.

If a request to share data with another Government Department or third party is received then the Information Asset Owner (IAO) of that data must be informed. Alternatively, if you wish to proactively share MoJ Data then the consent of the IAO must be sought at an early stage.

If the IAO is willing to consider the share then you should send the Data Sharing Request Form <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/sharing-personal-data/> to the requestor of the data. The completed form should contain all of the information necessary for the IAO to assure themselves that the data share would be legal (including in line with the data protection laws), justified and secure.

The request form should be completed by the requestor with which you are considering sharing MoJ data. Every assistance should be offered by MoJ to ensure that the form contains the most accurate information possible.

Once the completed form is received the IAO should use the information it contains to consider the request. If there are any areas of concern the IAO should contact IGDP for advice. If the IAO is not satisfied with any further supporting information supplied then they should refuse to share MoJ data.

The IAO sponsoring the data share must also make sure that a DPIA <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/privacy-impact-assessments/> is completed e.g. by the project or policy team. This DPIA should identify for the IAO any potential risks and issues that the data share might create.

If the IAO is satisfied with the response provided then a record should be kept justifying acceptance of the request, and an assurance that the data will be secure when it is being shared. For shares that involve a very large amount of data or carry with them significant risks the IAO should consider making the business group SIRO aware of the transfer.

The IAO should check whether any of the HMG Security Policy Framework (SPF) requirements on data handling are applicable to the situation.

If the SPF requirements are not relevant then an individual Data Sharing Agreement <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/sharing-personal-data/> must be drawn up. A template agreement is on the intranet page.

The IGDP team can provide advice on drawing up the agreement. You should also seek advice from your legal team about the legality of the share. Once the agreement has been signed it should be forwarded to IGDP who will maintain a register of current agreements. 10

Part Four – Routine data sharing within MoJ

Sharing personal data is imperative for the MoJ to be able to efficiently and effectively conduct its business. We routinely share personal data within the department as well as with other organisations to fulfil our functions. In many cases you may already have established processes that ensure the data we are sharing is being done so securely and proportionately.

For the purposes of the data protection laws the MoJ and its Executive Agencies (except the Criminal Injuries Compensation Authority) are a single organisation – known as a Data Controller. This means we decide how we process and use the personal data we hold. If one part of MoJ passes personal information to another part this will not normally constitute a disclosure of personal information (as defined by the data protection laws) so we would not need to draw up a data sharing agreement.

However, you may decide that for new routine data shares, or when you are reviewing your existing processes, that you wish to formalise the arrangement you have in place with an internal Data Sharing Agreement (internal DSA).

Having an internal DSA in place will help to ensure that the teams you are regularly sharing information with are aware of their responsibilities and are handling it in line with the data protection laws and the mandatory central government SPF.

An internal DSA should make clear why the sharing is occurring; how access to the personal data will be restricted; what other security arrangements are in place to protect the information; how long the data should be retained for; how the data will be securely transferred between teams; and how the data will be safely disposed of.

A template internal DSA is on the data sharing intranet page <https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/sharing-personal-data/>. IGDP can provide further advice about the detail that needs to be included in the internal DSA.

When might I not be able to share data internally?

If one part of MoJ passes information to another part so that the recipient can use the information for a different purpose to that which it was originally collected, then this will be a secondary use of the personal information by the recipient part of MoJ.

As with any other processing of personal data we have a duty to comply with the data protection laws. In the circumstance described above the key principles we need to comply with are a) ensuring that the processing is fair and legal; and b) that we do not further process the data in a manner incompatible with the purpose for which we collected it in the first place.

As previously explained fair processing means that we must ensure individuals whose personal information we collect understand what is being collected, why it is being collected and who is likely to see it. We must also explain any secondary uses for the personal information, particularly if these will not be obvious. If we are aware when we collect personal information that several of our agencies or business areas will use it for different reasons we should endeavour to make the data subjects aware at the point of collection. 11

If we wish to share data internally for a purpose that differs to the reason it was collected we need to be sure that a relevant exemption applies. You should consult with IGDP and your lawyers to see whether you can legally share information within the department for a reason that is different to why the information was initially collected. You should not share data internally if it is going to be used for a reason that is incompatible with the reason it was initially collected. 12

Part Five – Sharing Personal Data with Researchers: Privilege Access Agreements

The MoJ are can grant special access, subject to various conditions, for individuals to inspect files that would otherwise be exempt from disclosure under the Freedom of Information Act. This access is granted through a Privilege Access Agreement (PAA). Predominately, requests to inspect Court files in this way come from researchers from academic institutions.

The PAA must be granted through the Departmental Records Officer (DRO), who has delegated authority from the Lord Chancellor to grant access. The department's records management team oversees the process of granting access. If you are approached by a researcher who wants access to specific files you should ask them to write to:

Departmental Records Officer

Ministry of Justice

1st Floor,

102, Petty France

London, SW1H 9AJ

The PAA needs to be issued in advance of the research taking place. It is worth noting that it can take up to 13 weeks for the PAA to be issued, therefore individuals requiring such access should contact the DRO as soon as they possibly can.

Before granting access, the requestor needs to demonstrate to the department why it is proportionate or necessary to grant them access and how they intend to use the information. The final stage of the process is the production of a Privilege Access Agreement.

In HMCTS their Data Access Panel review who is granted access.

The PAA is a binding agreement between the researchers and the Department that the researcher will fully anonymise all information collected, and that certain other safeguards will be met. It ensures that sensitive information is protected in line with the principles outlined in the Public Records Acts 1958 and 1967 and the data protection laws. More information on PAAs can be found on the intranet <https://intranet.justice.gov.uk/guidance/knowledge-information/providing-information-to-the-public/>. 13

Part Six – The data protection laws

The data protection laws regulate the processing of personal data through an enforceable set of good practice handling rules known as the Data Protection Principles.

The six data protection principles are expressed in general terms and state that personal data must be:

- Processed, fairly, lawfully and transparently;
- Processed for specific and lawful purposes and not further processed in a way that is incompatible with the original purpose. Processing for archiving, research or statistical purposes in the public interest are not considered incompatible with the original purpose (purpose limitation);
- Adequate, relevant and limited to what is necessary;
- Accurate and up to date;
- Not kept for longer than is necessary;
- Kept secure.

The data protection laws also require that personal data is not transferred to countries outside the European Economic Area unless an adequate level of protection is ensured or an exemption applies.

Each of the above principles will need to be considered and then addressed in any DPIA you conduct before sharing data, and then in the data sharing agreement you draw up.

If you have any further questions on the protection laws please contact IGDP data.compliance@jsutice.gov.uk.

Part Seven – Data sharing quick tips

- You should consider whether sharing the data is fair to the data subjects.
- Is the share legal, proportionate and secure?
- Projects and policy initiatives must have a completed Privacy Impact Assessment.
- You should be clear that the share will have positive public interest benefits.
- For projects and policy initiatives there must be a data sharing agreement that makes clear how the MoJ information assurance standards are to be met by explaining:
 - Only personal data required for the stated purpose will be transferred;
- How data is protected and will only be accessed by those who need to do so to carry out
 - When and how the data share will take place;
- If relevant, why the transfer of data to any portable equipment is unavoidable and how it is
 - How any approved transfer must be encrypted and password protected, and that the
- Who the named individuals are between which the data is being transferred;
- That receipt of data must be acknowledged, and that if receipt is not acknowledged it must
- The data is only held for as long as necessary;
- How the data is going to be destroyed in a secure manner and removed from database
- The measures in place to deal with any compromise or suspected compromise; and
- How any compromise or suspected compromise is going to be reported to MoJ business
- Data sharing agreements must be reviewed and updated regularly.

SCHEDULE 3: STAFF TRANSFER

1. DEFINITIONS

In this Contract Schedule 3, the following definitions shall apply:

“Admission Agreement”	The agreement to be entered into by which the Supplier agrees to participate in the Schemes as amended from time to time;
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission
“Employee Liabilities”	<p>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 related to employment including in relation to the following:</p> <ul style="list-style-type: none">(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;(b) unfair, wrongful or constructive dismissal compensation;(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;(d) compensation for less favourable treatment of part-time workers or fixed term employees;(e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;(f) employment claims whether in tort, contract or statute or otherwise;

any investigation related to employment matters by the

“Fair Deal Employees”	those Transferring Customer Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal and any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal;
“Former Supplier”	any Supplier supplying services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Project (or any part of the Project) and shall include any sub-contractor of such Supplier (or any sub-contractor of any such sub-
“New Fair Deal”	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October
“Notified Sub-Contractor”	a Sub-Contractor identified in the Annex to this Contract Schedule 3 to whom Transferring Customer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-Contractor”	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“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;
“Schemes”	the Principal Civil Service Pension Scheme available to employees of the civil service and employees of bodies under the Superannuation Act 1972, as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the 2015 New Scheme (with effect from a date to be notified to the Supplier by the Minister for the Cabinet Office);
“Service Transfer”	any transfer of the Project (or any part of the Project), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
“Service Transfer Date”	the date of a Service Transfer;
“Staffing Information”	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Customer may reasonably request (subject to all

applicable provisions of the DPA), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self-employed contractors or consultants, Supplier 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 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;

“Supplier's Final Supplier Personnel List”

a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Relevant Transfer Date;

“Supplier's Provisional Supplier Personnel List”

a list prepared and updated by the Supplier of all Supplier Personnel who are engaged in or wholly or mainly assigned to the provision of the Project or any relevant part of the Project which it is envisaged as at the date of such list will no longer be provided by the Supplier;

“Transferring Customer Employees”

those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;

2. Where a provision in this Contract Schedule 3 imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Customer, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be.

PART A

TRANSFERRING CUSTOMER EMPLOYEES AT COMMENCEMENT OF SERVICES

3. RELEVANT TRANSFERS

3.1 The Customer and the Supplier agree that:

the commencement of the provision of the Project or of each relevant part of the Project will be a Relevant Transfer in relation to the Transferring Customer Employees; and

as a result of the operation of the Employment Regulations, the contracts of employment between the Customer and the Transferring Customer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Notified Sub-Contractor and each such Transferring Customer Employee.

3.2 The Customer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Customer Employees in respect of the period arising up to (but not including) the Relevant 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 which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Customer ; and (ii) the Supplier and/or any Notified Sub-Contractor (as appropriate).

4. CUSTOMER INDEMNITIES

4.1 Subject to Paragraph 4.2, the Customer shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities in respect of any Transferring Customer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

4.1.1 any act or omission by the Customer occurring before the Relevant Transfer Date;

4.1.2 the breach or non-observance by the Customer before the Relevant Transfer Date of:

a) any collective agreement applicable to the Transferring Customer Employees; and/or

b) any custom or practice in respect of any Transferring Customer Employees which the Customer is contractually bound to honour;

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

- 4.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority

relates to financial obligations arising before the Relevant Transfer Date; and

- b) in relation to any employee who is not a Transferring Customer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Customer to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- 4.1.5 a failure of the Customer 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 Customer Employees arising before the Relevant Transfer Date;
 - 4.1.6 any claim made by or in respect of any person employed or formerly employed by the Customer other than a Transferring Customer Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
 - 4.1.7 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Customer 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 Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 4.2 The indemnities in Paragraph 4.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub- Contractor (whether or not a Notified Sub-Contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 4.2.1 arising out of the resignation of any Transferring Customer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Sub- Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 4.2.2 arising from the failure by the Supplier or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 4.3 If any person who is not identified by the Customer as a Transferring Customer Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Customer Employee, that his/her contract of employment has been transferred from the Customer to the Supplier and/or any Notified Sub- Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 4.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer; and
- 4.3.2 the Customer may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Supplier and/or any Notified Sub-Contractor, or take such

other reasonable steps as the Customer considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

- 4.4 If an offer referred to in Paragraph 4.3.2 is accepted, or if the situation has otherwise been resolved by the Customer, the Supplier shall, or shall procure that the Notified Sub- Contractor shall, immediately release the person from his/her employment or alleged employment.
- 4.5 If by the end of the 15 Working Day period specified in Paragraph 4.3.2:
- 4.5.1 no such offer of employment has been made;
 - 4.5.2 such offer has been made but not accepted; or
 - 4.5.3 the situation has not otherwise been resolved,
 - 4.5.4 the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 4.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 4.3 to 4.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Customer shall indemnify the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 4.5 provided that the Supplier takes, or procures that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 4.7 The indemnity in Paragraph 4.6:
- 4.7.1 shall not apply to:
 - a) 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 Supplier and/or any Sub-Contractor; or
 - any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
 - b) shall apply only where the notification referred to in Paragraph 4.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer within 6 months of the Contract Commencement Date.
- 4.8 If any such person as is referred to in Paragraph 4.3 is neither re-employed by the Customer nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 4.5 such person shall be

treated as having transferred to the Supplier and/or any Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

5. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 5.1 Subject to Paragraph 3.2 the Supplier shall indemnify the Customer against any Employee Liabilities in respect of any Transferring Customer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 5.1.1 any act or omission by the Supplier or any Sub-Contractor whether occurring before, on or after the Relevant Transfer Date;
 - 5.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - a) any collective agreement applicable to the Transferring Customer Employees; and/or
 - b) any custom or practice in respect of any Transferring Customer Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 5.1.3 any claim by any trade union or other body or person representing any Transferring Customer Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 5.1.4 any plan by the Supplier or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Customer Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub- Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Customer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 5.1.5 any statement communicated to or action undertaken by the Supplier or any Sub-Contractor to, or in respect of, any Transferring Customer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer in writing;
 - 5.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - b) in relation to any employee who is not a Transferring Customer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer

his/her employment from the Customer to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

- 5.1.7 a failure of the Supplier or any Sub-Contractor 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 Customer Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 5.1.8 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Customer's failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 5.2 The indemnities in Paragraph 5.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Customer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Customer's failure to comply with its obligations under the Employment Regulations.
- 5.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Customer Employees, from (and including) the Relevant 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 which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Customer and the Supplier.

6. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer in writing such information as is necessary to enable the Customer to carry out its duties under regulation 13 of the Employment Regulations. The Customer shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

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

provisions of the Principles of Good Employment Practice.

- 7.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Customer Employee as set down in:
 - 7.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
 - 7.2.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;

- 7.2.3 HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk
- 7.2.4 Transfer Agreements and Related Issues" of June 2004; and/or
- 7.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 7.1 or 7.2 shall be agreed in accordance with the Variation Procedure.

The Supplier shall, and shall procure that each of its Sub-Contractors shall, comply with the pensions provisions in the following Annex to PART A (PENSIONS).

ANNEX TO PART A: PENSIONS

9. PARTICIPATION

- 9.1 The Supplier undertakes to enter into the Admission Agreement.
- 9.2 The Supplier and the Customer :
 - 9.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 9.2.2 agree that the Customer is entitled to make arrangements with the body responsible for the Schemes for the Customer to be notified if the Supplier breaches the Admission Agreement;
 - 9.2.3 notwithstanding Paragraph 9.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches the Admission Agreement; and
 - 9.2.4 agree that the Customer may terminate this Contract for material default in the event that the Supplier breaches the Admission Agreement.
- 9.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes.

10. FUTURE SERVICE BENEFITS

- 10.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 10.2 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.
- 10.3 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

11. FUNDING

- 11.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 11.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

12. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 12.1 to provide all information which the other Party may reasonably request concerning matters referred to in this Annex and set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 12.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

13. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

14. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

15. SUBSEQUENT TRANSFERS

The Supplier shall:

- 15.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;
- 15.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and
- 15.3 for the period either:
 - 15.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Agreement or any part of the Project; or
 - 15.3.2 after the date which is two (2) years prior to the date of expiry of this Contract, ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the Approval of the Customer (such Approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

16. RELEVANT TRANSFERS

16.1 The Customer and the Supplier agree that:

16.1.1 the commencement of the provision of the Project or of any relevant part of the Project will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

16.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-Contractor and each such Transferring Former Supplier Employee.

16.2 Subject to Paragraph 6, the Customer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant 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 which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Customer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

17. FORMER SUPPLIER INDEMNITIES

17.1 Subject to Paragraphs 17.2 and 21, the Customer shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

17.1.1 any act or omission by the Former Supplier arising before the Relevant Transfer Date;

17.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

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

a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and

- b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
- 17.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 17.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive;
- 17.1.6 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Former Supplier to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date; and
- 17.1.7 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier 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 Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 17.2 The indemnities in Paragraph 17.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
 - 17.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 17.2.2 arising from the failure by the Supplier and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 17.3 If any person who is not identified by the Customer as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 17.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, to the Former Supplier; and
 - 17.3.2 the Former Supplier may offer (or may procure that a third party may offer)

employment to such person within fifteen (15) Working Days of the notification by the Supplier and/or the Notified Sub-Contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

17.4 If an offer referred to in Paragraph 17.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.

17.4.1 If by the end of the fifteen (15) Working Day period specified in Paragraph 17.3.2:

17.4.2 no such offer of employment has been made;

17.4.3 such offer has been made but not accepted; or

17.4.4 the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

17.5 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 17.3 to 17.5 and in accordance with all applicable proper employment procedures set out in Law, the Customer shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 17.5 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

17.6 The indemnity in Paragraph 17.6:

17.6.1 shall not apply to:

a) 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 Supplier and/or any Sub-Contractor; or

b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and

17.6.2 shall apply only where the notification referred to in Paragraph 17.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer and, if applicable, the Former Supplier, within 6 months of the Contract Commencement Date.

17.7 If any such person as is described in Paragraph 17.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 17.5, such person shall be treated as having transferred to the Supplier or Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be

imposed upon it under the Law.

18. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 18.1 Subject to Paragraph 18.2, the Supplier shall indemnify the Customer and/or the Former Supplier against any Employee Liabilities in respect of any Transferring Former Supplier.
- 18.2 Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
 - 18.2.1 any act or omission by the Supplier or any Sub-Contractor whether occurring before, on or after the Relevant Transfer Date;
 - 18.2.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
 - b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 18.2.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 18.2.4 any plan by the Supplier or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 18.2.5 any statement communicated to or action undertaken by the Supplier or a Sub-Contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer and/or the Former Supplier in writing;
 - 18.2.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-

Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

- c) a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date; and;
- d) any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations.

18.3 The indemnities in Paragraph 18.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.

18.4 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant 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 which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

19. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and/or at the Customer's direction, the Former Supplier, in writing such information as is necessary to enable the Customer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. Subject to Paragraph 21, the Customer shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

20. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

20.1 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

- 20.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;

- 20.1.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
- 20.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
- 20.1.4 the New Fair Deal

20.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 20.1 shall be agreed in accordance with the Variation Procedure.

21. PROCUREMENT OBLIGATIONS

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

22. PENSIONS

The Supplier shall, and shall procure that each Sub-Contractor shall, comply with the pensions provisions in the following Annex in respect of any Transferring Former Supplier Employees who transfer from the Former Supplier to the Supplier.

ANNEX to PART B: PENSIONS

23. PARTICIPATION

- 23.1 The Supplier undertakes to enter into the Admission Agreement.
- 23.2 The Supplier and the Customer :
 - 23.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 23.2.2 agree that the Customer is entitled to make arrangements with the body responsible for the Schemes for the Customer to be notified if the Supplier breaches the Admission Agreement;
 - 23.2.3 notwithstanding Paragraph 23.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches the Admission Agreement; and
 - 23.2.4 agree that the Customer may terminate this Contract for material default in the event that the Supplier breaches the Admission Agreement.
- 23.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes.

24. FUTURE SERVICE BENEFITS

- 24.1 If the Supplier is rejoining the Schemes for the first time, the Supplier shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 24.2 If staff have already been readmitted to the Schemes, the Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 24.3 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.
- 24.4 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

25. FUNDING

- 25.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the

Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.

- 25.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, claim to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

26. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 26.1 to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 26.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

27. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

28. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

29. SUBSEQUENT TRANSFERS

The Supplier shall:

- 29.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;
- 29.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and
- 29.3 for the period either
- 29.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Agreement or any part of the Project; or
- 29.3.2 after the date which is two (2) years prior to the date of expiry of this Contract, ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the Approval of the Customer (such Approval not to be unreasonably

withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

PART C:
**NO TRANSFER OF EMPLOYEES AT COMMENCEMENT
OF SERVICES**

30. PROCEDURE IN THE EVENT OF TRANSFER

- 30.1 The Customer and the Supplier agree that the commencement of the provision of the Project or of any part of the Project will not be a Relevant Transfer in relation to any employees of the Customer and/or any Former Supplier.
- 30.2 If any employee of the Customer and/or a Former Supplier claims, or it is determined in relation to any employee of the Customer and/or a Former Supplier, that his/her contract of employment has been transferred from the Customer and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 30.2.1 the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, give notice to the Former Supplier; and
 - 30.2.2 the Customer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as the Customer or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 30.3 If an offer referred to in Paragraph 30.2.2 is accepted (or if the situation has otherwise been resolved by the Customer and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 30.4 If by the end of the fifteen (15) Working Day period specified in Paragraph 30.2.2:
 - 30.4.1 no such offer of employment has been made;
 - 30.4.2 such offer has been made but not accepted; or
 - 30.4.3 the situation has not otherwise been resolved,the Supplier and/or the Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

31. INDEMNITIES

- 31.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 30.2 to 30.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 31.4, the Customer shall:
 - 31.1.1 indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Customer referred to in Paragraph 30.2 made pursuant to the provisions of Paragraph 30.4 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
 - 31.1.2 subject to paragraph 32, procure that the Former Supplier indemnifies the

Supplier and/or any Notified Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the former Supplier made pursuant to the provisions of Paragraph 30.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

31.2 If any such person as is described in Paragraph 30.2 is neither re employed by the Customer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the fifteen (15) Working Day period referred to in Paragraph 30.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under Law.

31.3 Where any person remains employed by the Supplier and/or any Sub-Contract pursuant to Paragraph 30.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify the Customer and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify the Customer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.

31.4 The indemnities in Paragraph 31.1:

31.4.1 shall not apply to:

a) 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 Supplier and/or any Sub-Contractor; or

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

31.4.2 shall apply only where the notification referred to in Paragraph 30.2.1 is made by the Supplier and/or any Sub-Contractor to the Customer and, if applicable, Former Supplier within 6 months of the Contract Commencement Date.

32. PROCUREMENT OBLIGATIONS

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

PART D: EMPLOYMENT EXIT PROVISIONS

33. PRE-SERVICE TRANSFER OBLIGATIONS

- 33.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 33.1.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer;
 - 33.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Contract;
 - 33.1.3 the date which is twelve (12) months before the end of the Term; and
 - 33.1.4 receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.
- 33.2 At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer or at the direction of the Customer to any Replacement Supplier and/or any Replacement Sub-Contractor:
- 33.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 33.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 33.3 The Customer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 33.1 and 33.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 33.4 The Supplier warrants, for the benefit of the Customer, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 33.1 and 33.2 shall be true and accurate in all material respects at the time of providing the information.
- 33.5 From the date of the earliest event referred to in Paragraph 33.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Project who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the Approval of the Customer (not to be unreasonably withheld or delayed):
- 33.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier 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;
 - 33.5.2 make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);

- 33.5.3 increase the proportion of working time spent on the Project (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 33.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 33.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Project (or the relevant part of the Project); or
- 33.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

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

- 33.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer any information the Customer may reasonably require relating to the manner in which the Project are organised, which shall include:

- 33.6.1 the numbers of employees engaged in providing the Project;
- 33.6.2 the percentage of time spent by each employee engaged in providing the Project; and
- 33.6.3 a description of the nature of the work undertaken by each employee by location.

- 33.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Customer, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier 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 Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer or, at the direction of the Customer, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 33.7.1 the most recent month's copy pay slip data;
- 33.7.2 details of cumulative pay for tax and pension purposes;
- 33.7.3 details of cumulative tax paid;
- 33.7.4 tax code;
- 33.7.5 details of any voluntary deductions from pay; and
- 33.7.6 bank/building society account details for payroll purposes.

34. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 34.1 The Customer and the Supplier acknowledge that subsequent to the commencement of the provision of the Project, the identity of the Supplier of the Project (or any part of

the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Project being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. 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 Customer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier 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 Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.

- 34.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) 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 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 Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 34.3 Subject to Paragraph 34.4, where a Relevant Transfer occurs the Supplier shall indemnify the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 34.3.1 any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;
 - 34.3.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
 - a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 34.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - 34.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority

relates to financial obligations arising on and before the Service Transfer Date; and

- b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier and/or any Replacement Sub-Contractor, 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;
- 34.3.5 a failure of the Supplier or any Sub-Contractor 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 Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 34.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee for whom it is alleged the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 34.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor 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 Customer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 34.4 The indemnities in Paragraph 34.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 34.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
 - 34.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 34.5 If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 34.5.1 the Customer shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

- 34.5.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 34.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Customer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 34.7 If after the fifteen (15) Working Day period specified in Paragraph 34.5.2 has elapsed:
- 34.7.1 no such offer of employment has been made;
- 34.7.2 such offer has been made but not accepted; or
- 34.7.3 the situation has not otherwise been resolved
- the Customer shall advise the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 34.8 Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 34.5 to 34.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 34.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 34.9 The indemnity in Paragraph 34.8:
- 34.9.1 shall not apply to:
- a) 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 Supplier and/or Replacement Sub-Contractor; or
- b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and
- 34.9.2 shall apply only where the notification referred to in Paragraph 34.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within six (6) months of the Service Transfer Date.
- 34.10 If any such person as is described in Paragraph 34.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in Paragraphs 34.5 to 34.7, such person shall be treated as a Transferring Supplier Employee and the Replacement

Supplier and/or Replacement Sub-Contractor shall comply with such obligations as may be imposed upon it under applicable Law.

34.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Supplier Employees 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 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:

34.11.1 the Supplier and/or any Sub-Contractor; and

34.11.2 the Replacement Supplier and/or the Replacement Sub-Contractor.

34.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Customer, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Customer shall procure that the Replacement Supplier and/or Replacement Sub-Contractor shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

34.13 Subject to Paragraph 34.14, where a Relevant Transfer occurs the Customer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Supplier Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee) arising from or as a result of:

34.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor;

34.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:

a) any collective agreement applicable to the Transferring Supplier Employees; and/or

b) any custom or practice in respect of any Transferring Supplier Employees which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;

34.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

34.13.4 any plan by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working

conditions of any person who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

34.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

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

a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor 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;

34.13.7 a failure of the Replacement Supplier or Replacement Sub-Contractor 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 Supplier Employees in respect of the period from (and including) the Service Transfer Date; and

14.13.8 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.

34.14 The indemnities in Paragraph 34.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

SCHEDULE 4:

DISPUTE RESOLUTION PROCEDURE

1. Nothing in this dispute resolution procedure will prevent the Parties from seeking an interim court order restraining the other Party from doing any act or compelling the other Party to do any act.
2. The obligations of the Parties under this Contract will not be suspended, cease or be delayed during a dispute.
3. If any dispute arises between the Parties in connection with this Contract or any Project, they must try to settle it within 20 Working Days of either Party notifying the other of the dispute.
4. If the Parties have not settled the Dispute in accordance with paragraph 3 above, they must notify CCS of the details of the Dispute and escalate the dispute to the Customer Representative, the Supplier Representative and CCS who will have a further 10 Working Days from the date of escalation to settle the dispute.
5. If the dispute cannot be resolved by the Parties within 30 Working Days of the notice given under paragraph 3 above, they must refer it to mediation, unless the Customer considers that the dispute is not suitable for resolution by mediation.
6. If a dispute is referred to mediation, the Parties must:
 - appoint a neutral adviser or mediator (the “**Mediator**”). Ideally, Parties will agree on this appointment. If they are unable to agree upon a Mediator within 10 Working Days of the plan to appoint a mediator, or the chosen Mediator is unable or unwilling to act, either Party may apply to the Centre for Effective Dispute Resolution to appoint a Mediator
 - meet with the Mediator within 10 Working Days of the appointment, to agree how negotiations will take place and relevant information will be exchanged
7. Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
8. If the Parties reach a resolution, a written agreement may be produced for both Parties to sign. Once signed, this agreement will be binding on both Parties.
9. If the Parties fail to reach a resolution, either Party may invite the Mediator to provide a non-binding but informative opinion in writing. This opinion will be provided without prejudice and cannot be used in evidence in any proceedings relating to this Contract without the prior written consent of both Parties.
10. If the Parties fail to reach a resolution within 90 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then the dispute may be referred to arbitration, unless the Customer considers that it is not suitable for resolution by arbitration.
11. If a dispute is referred to arbitration, the Parties must comply with the following provisions:
 - the arbitration will be governed by the provisions of the Arbitration Act 1996

deemed to be incorporated into this Contract. It however there is any conflict between the LCIA procedural rules and this Contract, this Contract will prevail

- the decision of the arbitrator shall be binding on the Parties (in the absence of any material failure by the arbitrator to comply with the LCIA procedural rules)
- the tribunal shall consist of a sole arbitrator to be agreed by the Parties
- if the Parties fail to agree on the appointment of the arbitrator within 10 Working Days or, if the person appointed is unable or unwilling to act, LCIA will appoint an arbitrator, and
- the arbitration proceedings shall take place in a location to be agreed between the Parties.

SCHEDULE 5: VARIATION FORM

No of Letter of Appointment being varied:

.....

Variation Form No:

.....

BETWEEN:

[insert name of Customer] ("**the Customer** ")

and

[insert name of Supplier] ("**the Supplier**")

1. This Contract is varied as follows and shall take effect on the date signed by both Parties:

[Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in this Contract.
3. This 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 Customer

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

SCHEDULE 6: CONTRACT CHARGES

1. General provisions

1.1 This Contract Schedule 6 details:

- 1.1.1 the Contract Charges for the Project under this Contract ; and
- 1.1.2 the procedure applicable to any adjustments of the Contract Charges.

2. Contract Charges

2.1 The Contract Charges which are applicable to this Contract are set out in Annex 1 of this Contract Schedule 6.

2.2 The Supplier acknowledges and agrees that:

- 2.2.1 in accordance with paragraph 1 (General Provisions) and of this Contract Schedule 6 (Contract Charges), the Contract Charges can in no event exceed the Contract Charges set out in Annex 1 to Contract Schedule 6 (Contract Charges); and
- 2.2.2 The Contract Charges comprise of the maximum daily rates for each category of the Supplier staff and (in each case exclusive of VAT) are as set out in Annex 1 of this Contract Schedule 6.
- 2.2.3 Daily rates are based on a Working Day consisting of eight (8) hours (excluding break).
- 2.2.4 Unless a Customer agrees otherwise under the terms of a specific Contract, the Supplier cannot charge for any more than eight (8) working hours in one (1) day.
- 2.2.5 All daily rates are inclusive of travel, subsistence, lodging and related expenses. Any additional Charges shall be calculated as detailed in the Letter of Appointment as detailed in DPS Schedule 4 (Letter of Appointment) and agreed with the Customer. The Supplier shall provide invoices detailing additional Charges to the Customer.

3. Adjustment of Contract Charges

3.1 The Contract Charges shall only be varied:

- 3.1.1 due to a specific change in Law in relation to which the Parties agrees that a change is required to all of part of the Contract Charges in accordance with Clause 11.4 of the DPS Agreement, or
- 3.1.2 where a review of the Contract Charges is agreed by the Parties, in accordance with the provisions of Section 4 of this Contract Schedule 6.

4. Review of the Contract Charges

- 4.1 If the Supplier determines that some or all of the Contract Charges need to be increased, the Supplier shall notify the Customer in writing of its request to increase some or all of the Contract Charges. It must provide the Customer with a list of the Contract Charges it wishes to vary together with written evidence of the justification for the requested increase. This should include:
- 4.1.1 a breakdown of the profit and cost components that comprise the relevant rate
 - 4.1.2 details of the movement in the different identified cost components of the relevant rate
 - 4.1.3 reasons for the movement in the different identified cost components of the relevant rate
 - 4.1.4 evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components, and
 - 4.1.5 the date on which the Supplier wants the Variation to come into force
- 4.2 The Customer may in its absolute discretion, grant or refuse the Supplier's request (in whole or in part).

5. Implementation of adjusted Contract Charges

- 5.1 Variations to the Contract Charges will take effect on a date determined by the Customer.
- 5.2 Variations do not affect the Charges payable to a Customer under a Contract which had already been agreed before the variation takes effect.
- 5.3 Any variation to the Charges payable under a Contract must be agreed in writing between the Supplier and the relevant Customer and implemented in accordance with the provisions applicable to the Contract.

6 E-commerce transactions with central government bodies

- 6.1 The Supplier accepts e-commerce as the preferred transacting model for all Government's purchasing transactions.

ANNEX 1 – CONTRACT CHARGES

For the avoidance of doubt the total Contract value will not exceed £147,500.00 (ex VAT).

REDACTED

SCHEDULE 7: PROCESSING, PERSONAL DATA AND DATA SUBJECTS – N/A

1. The Supplier shall comply with any further written instructions with respect to processing by the Customer.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as 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 data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
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	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

SCHEDULE 8: ADDITIONAL CLAUSES – N/A