

## LETTER OF APPOINTMENT AND CONTRACT TERMS

### Part 1: Letter of Appointment

Dear Sir/Madam,

#### Letter of Appointment

This letter of Appointment dated 23<sup>rd</sup> September 2022, is issued in accordance with the provisions of the DPS Agreement (RM6018) between CCS and the Supplier.

Capitalised terms and expressions used in this letter have the same meanings as in the Contract Terms unless the context otherwise requires.

Order Number:	CCZZ22A20
From:	The Cabinet Office ("Customer")
To:	Qualtrics LLP ("Supplier")

Effective Date:	03 <sup>rd</sup> October 2022
Expiry Date:	End date of Initial Period 30 <sup>th</sup> September 2023 No Option

Services required:	Set out in Section 2, Part B (Specification) of the DPS Agreement and refined by:  The Customer's Project Specification attached at Annex A and the Supplier's Proposal attached at Annex B.
--------------------	--

Key Individuals:	<b>For the Customer:</b> <b>REDACTED TEXT under FOIA Section 40, Personal Information</b> <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>For the Supplier:</b> <b>REDACTED TEXT under FOIA Section 40, Personal Information</b> <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>
------------------	--

[Guarantor(s)]	N/A

Contract Charges (including any applicable discount(s), but excluding VAT):	<p>The contract charges can be found within the Contract Terms &amp; Conditions at Schedule 6, Annex 1.</p> <p>Total contract value £50,000.00 (excluding VAT but including all other expenses related to Contract delivery).</p> <p>An invoice schedule must be provided to and agreed with the Cabinet Office at the start of the contract.</p> <p>Payment will only be made following satisfactory delivery of pre-agreed certified products and deliverables.</p> <p>Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.</p>
Insurance Requirements	In line with the Terms & Conditions
Liability Requirements	<b>Suppliers limitation of Liability</b> (Clause <b>Error! Reference source not found.</b> of the Contract Terms);
Customer billing address for invoicing:	<p>Postal address:</p> <p><b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b>  <b>REDACTED TEXT under FOIA Section 40, Personal Information</b></p>

**REDACTED TEXT under FOIA Section 40, Personal Information**

GDPR	Schedule 7 (Processing, Personal Data and Data Subjects]
Alternative and/or additional provisions:	SCHEDULE 8: (ADDITIONAL CLAUSES) Security Management Schedule

--	--

## FORMATION OF CONTRACT

**BY SIGNING AND RETURNING THIS LETTER OF APPOINTMENT (which may be done by electronic means) the Supplier agrees to enter a Contract with the Customer to provide the Services in accordance with the terms of this letter and the Contract Terms.**

**The Parties hereby acknowledge and agree that they have read this letter and the Contract Terms.**

**The Parties hereby acknowledge and agree that this Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of this letter from the Supplier within two (2) Working Days from such receipt**

**For and on behalf of the Supplier:**

**For and on behalf of the Customer:**

Name and Title: **REDACTED TEXT under FOIA Section 40, Personal Information**

Signature: **REDACTED TEXT under FOIA Section 40, Personal Information**

Date: October 12, 2022

Name and Title: **REDACTED TEXT under FOIA Section 40, Personal Information**

Signature: **REDACTED TEXT under FOIA Section 40, Personal Information**

Date:

**ANNEX A**  
**Customer Project Specification**

**REDACTED TEXT under FOIA Section 43 Commercial Interests**





## **CONTRACT TERMS**



## **CONTENTS**

### **INTRODUCTION**

<u>1</u>	<u>APPOINTMENT &amp; 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 26th day of March 2020 between:

**REDACTED TEXT under FOIA Section 40, Personal Information**

("the Customer"); and  
Qualtrics LLC a company registered in England and Wales under Company Number 5596977 whose registered office is at **REDACTED TEXT under FOIA Section 40, Personal Information**  
("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 **Effective Date** and ends on the **Expiry Date**, as stated in the Letter of Appointment unless changed in accordance with the terms of this Contract.
- 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 (the **New Expiry Date**) 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 proposals 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. The Supplier will cover all costs incurred in meeting the certification and security requirements set out in Schedule 8 and the Government Service Standard (<https://www.gov.uk/service-manual/service-standard>) and Government Accessibility Requirements (<https://www.gov.uk/service-manual/helping-people-to-use-your-service/making-your-service-accessible-an-introduction>) including payment of an independent accessibility audit specified by the Government Digital Service.
- 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; payment will be by milestone, after the Customer has confirmed they have received and are satisfied with the Deliverables in question. 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 as set out under Service Credits below.
- 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.
- 12.9. The Invoice Schedules for Year One and Year Two of the Contract are set out at Annex A.**
- 12.10. Service Credits**
- 12.11. The Supplier's performance will also be assessed against the following indicators. The Customer reserves the right to amend and add indicators to this list, which will come into effect after being communicated in writing to the Supplier. If the Supplier fails to comply in full or in part with the indicators specified, they shall deduct the value of any service credits from the total charges payable.

<b>Indicator:</b>	<b>Measured through:</b>	<b>Service credits:</b>
Accessibility of the annual Civil Service People Surveys.	The Government Service Standard assessment which will be undertaken by GDS.  <a href="https://www.gov.uk/service-manual/service-assessments/check-if-need-to-meet-service-standard">https://www.gov.uk/service-manual/service-assessments/check-if-need-to-meet-service-standard</a>	25% service credit of the annual fixed price for the Survey Build if the outcome of the GDS Service Standard Beta assessment is 'Not Met'.
Accessibility of the annual Civil Service People Survey results reports/tools.  During dashboard design, every reasonable commercial effort will be made by Qualtrics to make the reports accessible.	The Government Service Standard assessment which will be undertaken by GDS  <a href="https://www.gov.uk/service-manual/service-assessments/check-if-need-to-meet-service-standard">https://www.gov.uk/service-manual/service-assessments/check-if-need-to-meet-service-standard</a>	No service credit will be payable for year one of the Contract.  For year two and the following years thereafter, a service credit of 25% of the annual fixed price for Reporting will be payable if the outcome of the GDS Service Standard Beta assessment is 'Not Met'.

Patching and Penetration Testing of all digital systems provided by the supplier for the Civil Service People Survey	Compliance with the terms specified in Security Schedule 8, including the outcome of each audit undertaken by an independent Crest or Check certified company	10% service credit of the annual fixed price for the Survey Build and Reporting if any risk is determined by the Crest or Check certified company to be medium or above, which is outstanding and not remediated or accepted by the Customer.
GDPR Compliance	GDPR legislation and the Memorandum of Understanding between the Supplier and Customer	Fines for data breaches under the GDPR are discretionary and determined by the Information Commissioner's Office
Live Phase of annual Civil Service People Survey	Online Civil Service People Survey available 24hrs a day during fieldwork period (typically October)	<p>5% service credit of the total annual price for the Survey Build if the online survey is unavailable for 30 to 120 minutes between the hours of 07:00 to 22:00 due to the fault of the Supplier</p> <p>7.5% service credit of the annual fixed price for the Survey Build if the online survey is unavailable for 121 to 240 minutes between the hours of 07:00 to 22:00 due to the fault of the Supplier.</p> <p>10% service credit of the annual fixed price for the Survey Build if the online survey is unavailable 241 minutes or greater between the hours of 07:00 to 22:00 due to the fault of the Supplier.</p>
Delivery of Civil Service People Survey and Pulse Survey results and tool(s)	All People Survey reporting outputs must be provided on time, as agreed in writing between the Supplier and Customer.	<p>Any delay in the provision of the reporting requirements shall result in the following service credits:</p> <p>Microdata and comments data: 5% of the total fixed price for Reporting per working day delayed beyond agreed delivery date</p>

		<p>Online reporting/ analysis tool(s): 5% of the total fixed price for Reporting per working day delayed beyond agreed delivery date</p> <p>Supplementary reporting: 5% of the agreed price for Supplementary Reporting per working day delayed beyond agreed delivery date</p>
Accuracy of reports and tools	All People Survey results, including the analysis and reporting of said results, must be 100% accurate.	<p>Any error in a survey reporting requirement which requires the recall and/or reissuing of the product will result in the following service credits:</p> <p>Microdata and comments data – 20% of the total fixed price for Reporting plus an additional 1% per working day until corrected</p> <p>Online reporting/analysis tools 20% of the total fixed price for Reporting plus an additional 1% per working day until corrected</p> <p>Supplementary reporting - 10% of the agreed price for Supplementary Reporting plus an additional 1% per working day until corrected</p>

### 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](http://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 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. All reporting platforms and tools provided by the Supplier will remain live for a period of 12 months after their launch with the most recent Civil Service People Survey results data, even if this contract is due to end before this date (for example, because the right to extend this contract is not invoked). The Supplier will charge the Customer its standard rate for the continued provision, hosting, support and maintenance of those platforms and tools after the 12 month period has lapsed, should they be required.

20.4. All Intellectual Property Rights in Project Specific Materials (including but not limited to: the Civil Service People Survey Questionnaire; all user research data and reports; all survey responses and analysis of survey data) 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. The Supplier will also make available to the Customer at no additional cost a detailed methodology paper setting out the approach and statistical assumptions taken to produce all analysis (including key drivers and segmentation), to enable the Customer to independently quality assure and replicate the results.

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 or 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
  - 23.3.6. fails to comply with legal obligations; or
  - 23.3.7. Supplier System ceases being compliant with the Certification Requirements
- 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 or to the extent necessary to comply with the Customer's instructions 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 as soon as

reasonably possible but in any event within 48 hours:

- 29.6.1. if it receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 29.6.2. if it receives a request to rectify, block or erase any Personal Data;
  - 29.6.3. if it receives any other request, any complaint, notice or communication relating to either Party's obligations under the Data Protection Legislation;
  - 29.6.4. if it receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - 29.6.5. if it 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. if it 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 if the Customer determines that the Supplier has not provided sufficient evidence of its compliance with the technical and organizational measures that protect the production systems of the cloud service through providing either: (i) a certification as to compliance with ISO 27001 or other standards (scope as defined in the certificate); or (ii) a valid ISAE3402 and/or ISAE3000 or other SOC1-3 attestation report. Upon the Customer's request audit reports or ISO certifications are available through the third party auditor or the Supplier;
- 29.10.1. A Personal Data Breach has occurred;
  - 29.10.2. An audit is formally requested by the Customer's data protection authority; or
  - 29.10.3. Mandatory Data Protection Legislation provides the Customer with a direct audit right and provided that the Customer shall only audit once in any twelve month period unless mandatory Data Protection Legislation requires more frequent audits.
  - 29.10.4. The Customer shall provide at least sixty days advance notice of any audit unless mandatory Data Protection Legislation or a competent data protection authority requires shorter notice. The frequency and scope of any audits shall be mutually agreed between the parties acting reasonably and in good faith. The Customer audits shall be limited in time to a maximum of three business days.
- 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 and give the Customer 30 days to refuse with a legitimate reason;
  - 29.12.2. 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
  - 29.12.3. provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

- 29.13. If the Customer has a legitimate reason under Data Protection Legislation to object to the new Sub-processors' processing of Personal Data, the Customer may terminate this Agreement (limited to the service for which the new Sub-processor is intended to be used) on written notice to the Supplier. Such termination shall take effect at the time determined by the Customer which shall be no later than thirty days from the date of the Supplier's notice to the Customer informing the Customer of the new Sub-processor. If the Customer does not terminate within this thirty-day period, the Customer is deemed to have accepted the new Sub-processor.
- 29.14. Within the thirty-day period from the date of the Supplier's notice to the Customer informing the Customer of the new Sub-processor, the Customer may request that the parties come together in good faith to discuss a resolution to the objection. Such discussions shall not extend the period for termination and do not affect the Supplier's right to use the new Sub-processor(s) after the thirty-day period.
- 29.15. Any termination under this Term 29.12 shall be deemed to be without fault by either party and shall be subject to the terms of the Agreement.
- 29.16. The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 29.17. The Supplier 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).
- 29.18. 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.
- 29.19. 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.
- 29.20. 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).
- 29.21. 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**

- 29.22. 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. Notwithstanding this, the Supplier may create analyses utilizing, in part, Customer Data and information derived from the Customer's use of the Supplier's cloud service during the term of the Contract ("Analyses") for the duration of this Contract unless otherwise agreed in writing between the Supplier and Customer. Analyses will anonymize and aggregate information and not identify the Customer, specific individuals, or organisations and teams participating in the Civil Service People Survey. Unless otherwise agreed, Personal Data contained in Customer Data is only used to provide the Project. Analyses may be used for the following purposes:
- 29.22.1. product improvement (in particular, product features and functionality, workflows and user interfaces) and development of new Supplier's products and services,
  - 29.22.2. improving resource allocation and support,
  - 29.22.3. internal demand planning,
  - 29.22.4. training and developing machine learning algorithms,
  - 29.22.5. improving product performance,
  - 29.22.6. verification of security and data integrity
- 29.22.7. identification of industry trends and developments, creation of indices and anonymous benchmarking.
- 29.23. 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.
- 29.24. The Supplier is responsible for preserving the integrity of any Customer Data it holds or processes, and preventing its corruption or loss.
- 29.25. 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.
- 29.26. 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.
- 29.27. 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**

- 29.28. 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.
- 29.29. 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 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 Proposal)
  - 1.1.2. the Statement of Work
  - 1.1.3. the Contract Terms
  - 1.1.4. the Supplier Proposal, 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 means 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:

<b>Agreement</b>	means this Contract;
<b>Approval</b>	means the Approval given in accordance with Clause 10.1 or 10.2 as the context requires and " <b>Approve</b> ", " <b>Approving</b> " and " <b>Approved</b> " shall be construed accordingly.
<b>Affected Party</b>	means the Customer or the Supplier affected by the event
<b>Associates</b>	A Party's employees, officers, agents, sub-contractors or authorised representatives.
<b>Authorised Supplier Approver</b>	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.
<b>Authorised Customer Approver</b>	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.
<b>Contract</b>	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.
<b>Contract Terms</b>	The terms and conditions set out in this Contract including this Schedule 1 but not including any other Schedules or Statement of Work.
<b>Central Government Body</b>	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.
<b>Change of Control</b>	Change of Control has the same meaning as in section 416 of the Income and Corporation Taxes Act 1988.
<b>Customer Affiliates</b>	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.
<b>Customer Project Specification</b>	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.
<b>Customer Cause</b>	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.
<b>Customer Confidential Information</b>	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.

<b>Customer Data</b>	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.
<b>Customer Materials</b>	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.
<b>Contracting Body</b>	CCS, the Customer and any other bodies listed in the OJEU Notice.
<b>Contract Charges</b>	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.
<b>Confidential Information</b>	The Customers Confidential Information and/or the Supplier Confidential Information.
<b>Contractor Personnel</b>	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.
<b>Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer</b>	The meaning given in the GDPR.
<b>Contract Year</b>	A consecutive 12- month period during the Term commencing on the Effective Date or each anniversary thereof.
<b>Data Loss Event</b>	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.
<b>DPA 2018</b>	Data Protection Act 2018
<b>Data Protection Impact Assessment</b>	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
<b>Data Subject Access Request</b>	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.
<b>Data Protection Legislation or DPA</b>	(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;
<b>Default</b>	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.
<b>Deliverables</b>	The applied research services from Section 2 of the DPS Agreement that are to be provided as specified in a Statement of Work.
<b>Dispute</b>	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.
<b>Dispute Resolution Procedure</b>	The dispute resolution procedure set out in Contract Schedule 4 (Dispute Resolution Procedure).
<b>DPS Agreement</b>	The DPS Agreement between CCS and the Supplier reference number: RM6018 referred to in the Letter of Appointment
<b>DPS</b>	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.
<b>Effective Date</b>	The date this Contract starts, as set out in the Letter of Appointment.
<b>Environmental Information Regulations or EIRs</b>	The Environmental Information Regulations 2004 together with any related guidance and/or codes of practice issued by the Information Commissioner or relevant Government department.
<b>Expenses</b>	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.
<b>Expiry Date</b>	The date this Contract ends, as set out in the Letter of Appointment.
<b>Extension Expiry Date</b>	The latest date this Contract can end, as set out in the Letter of Appointment.
<b>FOIA</b>	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.
<b>Force Majeure</b>	Means: <ul style="list-style-type: none"> <li>• acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li> <li>• fire, flood, any disaster and any failure or shortage of power or fuel</li> <li>• an industrial dispute affecting a third party for which a substitute third party is not reasonably available but does</li> </ul>

	<p>not mean:</p> <ul style="list-style-type: none"> <li>any industrial dispute relating to the Supplier, its staff, or any other failure in the Supplier's (or a subcontractor's) supply chain</li> <li>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</li> </ul> <p>any failure of delay caused by a lack of funds</p>
<b>Further Competition Procedure</b>	The process of a Customer issuing a Project Specification and the Supplier submitting a proposal in response to such Project Specification, as set out in DPS Clause 3.10.
<b>GDPR</b>	Means the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> )
<b>Good Industry Practice</b>	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.
<b>Guarantee</b>	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).
<b>Guarantor</b>	The person, in the event that a Guarantee is required under this Contract, acceptable to the Customer to give a Guarantee.
<b>Impact Assessment</b>	The assessment to be carried out by a Party requesting a Variation in accordance with Clause 9.4.
<b>Information</b>	The same meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time
<b>Insolvency Event</b>	<p>Means, in respect of the Supplier [or DPS Guarantor (as applicable)]:</p> <ul style="list-style-type: none"> <li>a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986; or</li> <li>b) 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</li> <li>c) 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</li> <li>d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</li> <li>e) 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</li> <li>f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</li> <li>g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a</li> </ul>

	<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>
<b>Intellectual Property Rights or IPR</b>	<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"> <li>• any patents or patent applications</li> <li>• any trade marks (whether or not registered)</li> <li>• inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration</li> <li>• copyright or design rights (whether registered or unregistered)</li> <li>• database rights</li> <li>• 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</li> <li>• any goodwill in any trade or service name, trading style or get-up and</li> <li>• any and all other intellectual or proprietary rights</li> </ul>
<b>Key Individuals</b>	Individuals named by the Supplier in the Letter or Appointment or Statement of Work as having a major responsibility for delivering the Project.
<b>Law</b>	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;
<b>LCIA</b>	means London Court of International Arbitration
<b>LED</b>	means Law Enforcement Directive (Directive (EU) 2016/680)
<b>Letter of Appointment</b>	The Letter of Appointment, substantially in the form set out in DPS Schedule 4, signed by both Parties and dated on the Effective Date.
<b>Losses</b>	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.
<b>Malicious Software</b>	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.
<b>Materials</b>	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.
<b>Moral Rights</b>	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.
<b>New Expiry Date</b>	Has the meaning given to it in Clause 2.3
<b>Party</b>	Means a Party to this Agreement.
<b>Personal Data</b>	Personal Data has the same meaning as set out in the Data Protection Act 2018
<b>Prohibited Act</b>	<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"> <li>a) induce that person to perform improperly a relevant function or activity</li> <li>b) reward that person for improper performance of a relevant function or activity</li> <li>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;</li> <li>d) commit any offence: <ul style="list-style-type: none"> <li>• under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>• under legislation or common law concerning fraudulent acts; or</li> <li>• defrauding, attempting to defraud or conspiring to defraud the Customer ; or</li> <li>• 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;</li> </ul> </li> </ul>
<b>Project</b>	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;
<b>Project Commencement Date</b>	The date a Project will start, as set out in the relevant Statement of Work.
<b>Project Completion Date</b>	The date by which a Project is to be completed, as set out in the relevant Statement of Work.
<b>Project Notice Period</b>	The period of notice for cancellation of a Project as set out in the Statement of Work.
<b>Project Specific Materials</b>	<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>
<b>Project Term</b>	The period during which the Project for each Project will be provided as specified in the applicable Statement of Work.
<b>Protective Measures</b>	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.
<b>Purchase Order Number</b>	The order number set out in the Letter of Appointment.
<b>Records</b>	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.
<b>Rectification Plan</b>	The rectification plan pursuant to the Rectification Plan Process.
<b>Rectification Plan Process</b>	The process set out in Clauses 5.8 to 5.14.
<b>Regulations</b>	The Public Contracts Regulations 2015.
<b>Relevant Requirements</b>	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;
<b>Request for Information</b>	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.
<b>Schedule</b>	Any Schedule attached to this Contract.
<b>Services</b>	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.
<b>Special Terms</b>	Any terms specifically designated as varying these Contract Terms or the terms of any schedule, as set out in the applicable Statement of Work.
<b>Standards</b>	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"> <li>standards detailed in the specification in DPS Section 2 (Services and Key Performance Indicators);</li> <li>standards detailed by the Customer in the Letter of Appointment and any Statement of Work or agreed between the Parties from time to time;</li> <li>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).</li> </ul>
<b>Statement of Work</b>	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 Proposal (whether agreed as part of a Call for Competition or during the Term of this Contract).
<b>Sub-Contract</b>	A contract entered into between the Supplier and a Sub-Contractor.
<b>Sub-Contractor</b>	Any person or Supplier appointed by the Supplier to provide elements of the Project on behalf of the Supplier to the Customer.



<b>Sub-Processor</b>	Means any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement
<b>Supplier Affiliate</b>	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.
<b>Supplier Confidential Information</b>	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.
<b>Supplier Materials</b>	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).
<b>Supplier Proprietary Materials</b>	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
<b>Supplier Proposal</b>	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.
<b>Tender</b>	The tender submitted by the Supplier in response to the Invitation to Tender.
<b>Term</b>	The period from the Effective Date to the earlier of: <ul style="list-style-type: none"> <li>the Expiry Date or New Expiry Date; and</li> <li>any date of termination</li> </ul>
<b>Territory</b>	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.
<b>Third Party Materials</b>	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.
<b>Transparency Principles</b>	The principles set out at <a href="http://www.gov.uk/government/publications/transparency-of-suppliers-and-government-to-the-public">www.gov.uk/government/publications/transparency-of-suppliers-and-government-to-the-public</a> detailing the requirement for the proactive release of contract information under the Government's transparency commitment.
<b>Transparency Reports</b>	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.
<b>Variation</b>	A change in this Contract that is formally agreed by both Parties, as detailed in Clause 10.2.
<b>Variation Form</b>	The template form to process and record variations to this

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

## SCHEDULE 2

### Statement of Work-

***[Note: For information on how to use this sample Statement of Work and the remaining Schedules, please see the section “How to use this Contract” on [x][insert reference to Guidance].***

**This Statement of Work is issued under and in accordance with the Contract entered**

<b>Project:</b>	<i>Set out a short description of the Project.</i>
<b>Project start Date</b>	<i>Set out the start date for this Project and its duration and the likely end date if known– state whether for a fixed term or an initial term and then rolling subject to notice.</i>
<b>Notice period for cancellation</b>	
<b>[Project Notice Period]:</b>	<i>Where the parties are agreeing a Project Notice Period for cancellation of Project, specify the notice period</i>
<b>Services &amp; Deliverables:</b>	<p>Set out a description of the Project and Deliverables to be supplied by the Supplier for this Project.</p> <p>State any specific agreed activities that are to be delivered as part of the Project.</p> <p>State if you require any specific requirements and ways of working such as third party consents, licenses, clearances that Supplier needs to obtain and products or purchases.</p> <p>State that Customers use of the Deliverables will be “subject to any third party usage rights which are notified to the Customer in accordance with this Contract”.</p>
<b>Inclusion of Additional Schedules</b>	<i>The following Schedule are incorporated into this Scope of Work. This could include a copy of the agreed Proposal from the Supplier or the original project description.</i>
<b>Project Plan:</b>	<i>Set out the timing of each phase of the project, any key dates and/or delivery of the Project and/or the Deliverables (if known)</i>

<b>Contract Charges:</b>	<p><i>Set out the calculation of the Contract Charges [(including rules for the recovery of expenses)] payable to Supplier for this Project e.g. details of any fixed price, time and materials in which case Supplier's Rate Card should be attached, together with invoice dates or milestones that trigger payment.</i></p> <p>All rates should be less than the maximum rates set out in the Supplier rate card submitted as part of the original DPS as set out in DPS Schedule 3.</p> <p><i>Set out any payment terms specific to the Project.</i></p> <p><b>Examples of different wording for Contract Charges:</b></p> <p><i>The Customer shall pay the Supplier the sum of £[...] for delivery of these Services, payable in monthly instalments. For the avoidance of doubt, the Contract Charges shall be inclusive of all third party costs</i></p> <p>OR</p> <p><i>The Contract Charges shall be calculated using the hourly charge out rates shown in [the Supplier's rate card, [provided that the total Contract Charges shall not exceed £ [...].] For the avoidance of doubt, the Contract Charges shall inclusive of all third party costs.</i></p>
<b>Customer Materials:</b>	<i>Set out details of the materials or information to be provided to the Supplier.</i>
<b>International locations</b>	<i>If Services are to be supplied outside the UK, specify additional territories here</i>
<b>Customer Affiliates:</b>	<i>If relevant, set out any Customer Affiliates which will be using Deliverables</i>
<b>Special Terms:</b>	<i>Set out any special terms that are intended to take precedence over the Contract Terms and/or the Schedules to the Contract Terms such as, security requirements, warranties, specific insurance requirements etc.</i>
<b>Key Individuals :</b>	<i>Set out details of the key personnel from the Supplier for this Project if relevant.</i>
<b>Authorised Supplier Approver:</b>	<i>Set out details of the person(s) who have the authority to agree day to day decisions on behalf of Supplier for this project.</i>

**Authorised  
Customer  
Approver:**

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

Signed by:.....  
by (print name):.....  
As Supplier Authorised Approver for and on behalf of [Supplier]

Date.....

Signed by:.....  
by (print name):.....  
As Customer Authorised Approver for and on behalf of  
[Customer]  
Date.....

## **SCHEDULE 3: STAFF TRANSFER**

### **1. DEFINITIONS**

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

<b>“Admission Agreement”</b>	The agreement to be entered into by which the Supplier agrees to participate in the Schemes as amended from time to time;
<b>“Eligible Employee”</b>	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
<b>“Employee Liabilities”</b>	<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"><li>(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;</li><li>(b) unfair, wrongful or constructive dismissal compensation;</li><li>(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;</li><li>(d) compensation for less favourable treatment of part-time workers or fixed term employees;</li><li>(e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;</li><li>(f) employment claims whether in tort, contract or statute or otherwise;</li></ul> <p>any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;</p>

<b>“Fair Deal Employees”</b>	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;
<b>“Former Supplier”</b>	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-contractor);
<b>“New Fair Deal”</b>	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 2013;
<b>“Notified Sub-Contractor”</b>	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;
<b>“Replacement Sub-Contractor”</b>	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);
<b>“Relevant Transfer”</b>	a transfer of employment to which the Employment Regulations applies;
<b>“Relevant Transfer Date”</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
<b>“Schemes”</b>	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);
<b>“Service Transfer”</b>	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;
<b>“Service Transfer Date”</b>	the date of a Service Transfer;
<b>“Staffing Information”</b>	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 proposal 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 Transfer Agreements and Related Issues" of June 2004; and/or

7.2.4 the New Fair Deal.

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.

## **8. PENSIONS**

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 TransferDate 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 paymentof 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 proposal 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 proposal 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 proposal 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 1A of this Contract Schedule 6 and the Invoice Schedules for Years One and Two of the Contract are set out at Annex 1B of this Schedule.

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 Annex1 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.



## Schedule 6. Annex 1A Contract Charges

### Year One Invoice Schedule

This sets out the invoice schedule for the Civil Service People Survey contract, effective from the contract start date. Any changes must be agreed in writing between the Customer and the Supplier. The Customer has the right to request changes to the activities covered by the Invoice Schedule, in line with the scope of the Contract, by notifying the Supplier in writing.

Invoice Number	TBC
Month	TBC
Total (excl. VAT)	£TBC
Itemised break-down	TBC

## Year One Exhibit 1

*Customer agrees that Qualtrics may use partners to deliver this project. Qualtrics partner Splitpin will be delivering the services as outlined below.*

### 1. Definitions

- “Deliverables” refers to those implementation deliverables included in the Project Scope in Section 2.
- “Delivery Team” refers to the set of resources assigned by Qualtrics for fulfillment of project scope.
- “Project” refers to the project that is the cumulation of Deliverables to be provided under this Professional Services Exhibit.
- “Standard Business Hours” are 0900 to 1700 hours according to the time zone of the office in which the Delivery Team is located, unless otherwise agreed to in writing during the Project.

### 2. Project Scope

- Inclusions
  - i. Deliverable descriptions are outlined in Schedules 1-3. Please note that **only the Deliverables listed immediately below are included in this Project**. Each line item represents a Deliverable.

#### IMPLEMENTATION SERVICES

Project setup and planning  
 IT and whitelisting  
 ALPHA PHASE  
 Survey set-up and build  
 Translations  
 Email invitations  
 Survey instrument usability testing  
 Trend data migration  
 Dashboard build for usability testing  
 BETA PHASE  
 Survey update  
 Email invitations and reminders  
 Reporting hierarchy build  
 Trend mapping  
 FAQ library  
 Paper surveys  
 User acceptance testing  
 Response rate monitoring  
 Telephone surveys  
 Dashboard build  
 Dashboard translations  
 Dashboard launch & training  
 Transfer of raw data file

#### ADVISORY SERVICES

Year 1 (20 Days)  
 User Research: As detailed in the Advisory Services Deliverable Description below

- Assumptions
  - i. For the duration of the Project, Customer will provide the Delivery Team with access to Customer's Qualtrics brand (account) as a brand administrator.
  - ii. Delivery Team and Customer will mutually agree to the list of specific browsers that should be tested as per Project requirements and in compliance with the Government Service Standards. Qualtrics' standard browser compatibility policy is specified in the "Browser Compatibility & Cookies" section of the Qualtrics support pages: (<https://www.qualtrics.com/support/survey-platform/getting-started/browser-cookies/>).

### 3. Responsibilities

- Delivery Team Responsibilities
  - i. Engages with Customer throughout the Project, keeping the Customer informed of timelines and progress toward completion throughout the Project.
  - ii. Completes all items listed under Delivery Team Responsibilities in Schedule 1 for each applicable Deliverable.
  - iii. Shares training resources as appropriate for each Deliverable, which may be in the form of live online training, online materials, and/or free online webinars.
  - iv. Offers guidance and support required to ensure Customer can fulfill the responsibilities listed in Schedule 1 for each Deliverable.
  - v. For projects that involve a new license setup, provides initial configuration of license and Qualtrics account, including creation of up to 3 brand administrator users.
  - vi. Engages with the Cabinet Office Security and GDS teams to ensure the Project meets the required security, information assurance, digital and accessibility standards as set out in the Contract.
  - vii. Completes all responsibilities outlined in Section 2.
- Customer Responsibilities
  - i. Engages actively throughout the Project, following a cadence decided with Delivery Team during kick-off call
  - ii. Manages User Acceptance Testing (“UAT”) process and any special testing requirements, ensuring that each stage of the Project is complete and the scope of work has been met. This may include:
    - 1. Providing sample data to Qualtrics to upload to the Qualtrics platform to test system functionality and license settings.
    - 2. Validating that scoped features and settings were implemented correctly and meet the requirements of the Project.
    - 3. Engaging other stakeholders within Customer’s organization as needed to test technical or functional aspects of the Qualtrics platform.
  - iii. As needed, provides resources to fill all required roles for successful implementation, which may include project sponsorship, signatory, stakeholder management, project coordination, customer experience lead, technical lead, operational support.
  - iv. For projects that involve a new license setup, provides required information for setup of brand administrator accounts; brand administrator users may create additional user accounts and manage access to the license, in accordance with any limitations specified in the license terms.
  - v. Completes all steps listed under Customer Responsibilities in Section 2.

#### **4. Governance**

- Delivery Team will coordinate with the Customer to schedule a Project kickoff call, at which time the Project begins. Timing of kickoff call will be mutually agreed between Delivery Team and Customer based on Delivery Team availability and Customer’s milestones.
- The Project is complete based on completion of delivery and Customer’s acceptance, per the terms of the Acceptance Criteria section.
- Unless otherwise agreed by both parties in writing, all interactions and meetings will be conducted in English, and will be conducted remotely, via phone, email, or video conference.

#### **5. Acceptance Criteria**

- Once a Project phase is completed and the Delivery Team provides notification of the Deliverables for review and approval, the Customer will either (1) confirm the requirements have reasonably been met and sign off on the approval for the next implementation phase to begin or (2) reply to the Delivery Team, in writing, detailing the specific requirements that must still be met. Upon mutual agreement, both parties may agree to extend the time period for UAT, though additional time may impact Project timelines and budget and be subject to a Change Order (as defined below).
- Deliverables are reviewed and signed off according to the following process:
  - i. Delivery Team will submit final drafts for review and sign-off within a mutually agreed timeframe prior to the Deliverable completion date.
  - ii. Customer will aim to sign off or report any issues within a mutually agreed timeframe.
  - iii. The Delivery Team will correct reported issues within a mutually agreed time frame.

- iv. Customer will provide written feedback and raise issues related to the reworked portion of the Deliverable within a mutually agreed time frame, and the Delivery Team will make changes necessary to resolve the issues.
- v. Customer will provide final review and signoff on the reworked Deliverables within a mutually agreed timeframe
- vi. Deliverables will be considered accepted if the Customer does not provide written notification of Deliverable rejection within the timelines specified above.

#### **6. Third Party Vendors and Products**

- o Customer remains responsible for their own vendors and third parties providing services related hereto.
- o Qualtrics is not responsible for third party products obtained by Customer outside of this Contract.
- o Qualtrics is responsible for any third party products they use to deliver the Contract.

#### **7. Change Orders**

- o If the Customer or Delivery Team wishes to change the scope of the Project, they will submit details of the requested change to the other in writing. The Delivery Team will, within a reasonable time after such request is received, provide a written estimate to the Customer of changes to Project cost, timeline, and/or scope.
- o Promptly after receipt of the written estimate, Customer and Delivery Team will negotiate and agree in writing on the terms of such change (a "Change Order"). Each Change Order complying with this Section will be considered an amendment to this Service Order.
- o Material changes to the Contract will need to be agreed through Crown Commercial Services through a Change Control Notice (amendment) to the Contract itself.

#### **8. Annual Hosting and Maintenance**

- o Qualtrics will provide support for any customizations that the Delivery Team has developed. This includes:
  - i. Costs for hardware and software necessary to operate the customizations together with the Services.
  - ii. Maintaining compatibility with the standard functionality as implemented by Customer.
  - iii. The custom capabilities integrate with Qualtrics' core software products but are separate.
  - iv. The Professional Services Support ensures ongoing compatibility with the evolving core products.
  - v. Qualtrics will provide maintenance and fix issues if the original functionality becomes inoperable within the licensing period for Qualtrics and within one year of the most recent annual hosting and maintenance renewal.
  - vi. Customer support and troubleshooting issues related specifically to the custom developed solution.
  - vii. Any and all updates or revisions that are needed for security purposes.
  - viii. Continuous monitoring and alerting of critical system functionality on a 24/7 basis.
  - ix. Management and execution of required migrations, deprecations, and upgrades.

#### **Descriptions of Implementation and Advisory Deliverables Glossary**

Implementation to be delivered by a Qualtrics Approved partner, Splitpin.

This outlines all Deliverables that *may* be included in a Qualtrics Implementation, along with associated Delivery Team and Customer responsibilities. **Deliverables listed below may not be included in the specific Project referenced in the above Service Order. For a list of specific Deliverables included in this Project, refer to Section 2: Project Scope above.**

Unless otherwise noted, all Deliverables will be configured using standard features available in the Qualtrics platform; custom features can be scoped and purchased separately through Qualtrics Engineering Services. Implementation Deliverables

Phases	Deliverables
<b>Project setup and planning</b>	<ul style="list-style-type: none"> <li>Set-up and management of online project plan and project control documents such as RAID logs</li> <li>CS will be given access to the online project plan which will be managed by Splitpin</li> <li>Preparation of materials and delivery of a 1 day in-person kick-off meeting in London</li> <li>Weekly 60 min catch-up calls with the CS core People Survey team which will include status updates, RAID log reviews and forward planning. Agenda and materials (when applic.) will be shared prior to meetings and summary notes/actions will be captured and shared post-meetings</li> <li>Where information and instructions need to be shared onwards to Survey Managers, these will be prepared by Splitpin</li> <li>Assumes day-to-day contact will be with the core People Survey team</li> </ul>
<b>IT and whitelisting</b>	<ul style="list-style-type: none"> <li>Splitpin will provide CS with the necessary platform IP addresses for whitelisting and relevant IT requirements for checking these internally</li> <li>CS will ensure the information is shared with IT colleagues across all departments and work with them to ensure whitelisting is implemented</li> <li>A short generic test survey can be provided at an early stage to support this set-up</li> <li>If needed, Splitpin will work with the CS core People Survey team to channel technical queries to Qualtrics for departments experiencing technical problems or barriers</li> </ul>
<b>ALPHA PHASE</b>	
<b>Survey set-up and build</b>	<ul style="list-style-type: none"> <li>Once the survey items have been agreed Splitpin will build the online survey using the Qualtrics XM platform.</li> <li>The survey will include: <ul style="list-style-type: none"> <li>1 core survey question set up to 120 question items</li> <li>Up to 3 open comments questions</li> <li>Up to 10 local questions for up to 120 departments. These will be selected from a library list or can be provided by local departments</li> <li>Up to 10 blocks of 5 question items which will be shown to a random sample of the population</li> <li>Up to 20 core demographic items which will be asked on the survey</li> <li>Up to 2 local department demographic items which will be asked on the survey</li> <li>Generic logo on core question pages and localised logos on the welcome/ introduction pages and/or local question/demographic item pages</li> <li>Localised department names can be used on core question items (where applicable) using the piped text feature</li> </ul> </li> <li>The online survey will be configured in English and Welsh (additional languages can be added upon request and costs can be provided accordingly)</li> <li>A Word version of the survey will be created for CS to share and print as an internal reference</li> </ul>
<b>Translations</b>	<ul style="list-style-type: none"> <li>Splitpin and CS will discuss and agree best method for providing Welsh translations</li> <li>Where question items are being re-used from previous surveys, we assume translations will be made available by the core People Survey team and re-used</li> <li>New question items/surrounding survey text that needs translating can be done as follows: <ul style="list-style-type: none"> <li>CS can translate internally</li> <li>Using Google Translate feature built into the survey platform (reviews will be needed)</li> <li>Using an external translation agency – costs for this service can be provided upon request</li> </ul> </li> <li>Once translations are loaded into the tool, CS local language reviewer(s) will be able to review translations online using the Qualtrics translation tool. Edits can be provided to Splitpin for updating (in the template provided by Splitpin), or specific restricted access can be given which allows reviewers to update translations directly into the tool (which can then be seen live as they are being implemented). Splitpin will discuss the pros and cons of both methods and provide a recommendation on best approach</li> </ul>
<b>Email invitations (if required)</b>	<ul style="list-style-type: none"> <li>Splitpin will provide an initial review of previous survey comms (email invitation and reminders) if needed</li> <li>One generic email invitation will be uploaded to the platform</li> <li>Tester emails will be shared directly from the platform for final review</li> <li>Assumes one email invitation will be deployed for the alpha phase test in English and Welsh</li> <li>Assumes Welsh translations are provided by CS</li> </ul>

Phases	Deliverables
	<ul style="list-style-type: none"> <li>Assumes all email batch transmissions are sent as one batch on date agreed</li> </ul>
<b>Survey instrument usability testing</b>	<ul style="list-style-type: none"> <li>CS will provide a test audience who will take part in the alpha phase survey testing</li> <li>Testing will primarily focus on the online survey instrument but can also include other survey access methods that arise through the discovery phase (e.g. kiosk)</li> <li>The purpose of this testing will be: <ul style="list-style-type: none"> <li>Technical – can users access and move through the survey without facing technical issues</li> <li>Test usability for colleagues using assisted technologies or with other disabilities</li> <li>To check understanding on survey items and gain feedback on improvements or gaps</li> </ul> </li> <li>CS will collate feedback internally and share in a consolidated format/in the template provided with Qualtrics and Splitpin</li> <li>Qualtrics, Splitpin and CS will review feedback and implement any agreed changes, improvements for beta phase as needed, and as specified by GDS to meet the Government Service Standards.</li> </ul>
<b>Trend data migration</b>	<ul style="list-style-type: none"> <li>Splitpin will provide CS with a set of requirements for the transfer of data.</li> <li>Once historical data files and data maps are received, Splitpin will review and prepare them so they are ready for import into the Qualtrics platform</li> <li>Splitpin will create one historical project and import data</li> <li>A historical hierarchy will be created which will allow us to produce results for all levels of the hierarchy that meet the threshold from the 2019 survey, and are mapped to the 2020 hierarchy</li> <li>A reporting dashboard will be created for the historical project and the output results will be checked against previous year's reports (these need to be provided by CS)</li> </ul>
<b>Dashboard build for usability testing</b>	<ul style="list-style-type: none"> <li>We will review previous survey reports, and together with CS, agree elements to retain vs new outputs which are available in the Qualtrics dashboard tool</li> <li>The dashboard will be built using historical question items only</li> <li>We will aim to design and build the alpha dashboard with our beta version in mind so the look and feel and results outputs aren't dissimilar</li> <li>CS will provide a test audience together with a specification on what access/views/rights they require (if anything other than just their own team's data)</li> <li>Once the dashboard is in a final state, we will launch it to the test group</li> <li>Although the dashboards are intuitive and easy to use, we will also provide a user guide and webinar in English</li> <li>CS will collate feedback internally and share in a consolidated format with Qualtrics and Splitpin</li> <li>Qualtrics, Splitpin and CS will review feedback and implement any agreed changes and improvements for beta phase dashboard build, including feedback from GDS to meet the Government Service Standards</li> </ul>
<b>BETA PHASE</b>	
<b>Survey update</b>	<ul style="list-style-type: none"> <li>Splitpin will implement pre-agreed alpha phase changes to the online survey</li> <li>Includes up to 2 rounds of changes before sign-off of the online survey tool in English and Welsh</li> </ul>
<b>Email invitations and reminders (if required)</b>	<ul style="list-style-type: none"> <li>Email invitation will be updated based on feedback from the alpha phase test</li> <li>Email reminder will be uploaded</li> <li>Tester emails will be shared with the core team directly from the platform for final review and sign-off</li> <li>Assumes one generic version of the email invitation in both English and Welsh</li> <li>Assumes one generic version of the email reminder in both English and Welsh</li> <li>Assumes Welsh translations will be provided by CS</li> <li>Assumes all email batch transmissions are sent as one batch on dates agreed</li> <li>Includes 1 email invitation on date of launch and up to 3 reminder emails</li> </ul>
<b>Reporting hierarchy build</b>	<ul style="list-style-type: none"> <li>We will review previous participant data file process and agree a suitable approach for 2020, where possible, aiming to streamline and simplify the process</li> <li>To aid this process, if possible, we would request CS share files from the previous year (these can be provided in an anonymised format if need be)</li> <li>Template and instructions will be provided to ensure we have consistency across all data files received from participating departments</li> </ul>

Phases	Deliverables
	<ul style="list-style-type: none"> <li>• CS core team will collate all participant files and share with Splitpin</li> <li>• Splitpin will review the files and provide feedback/queries on each file (where applicable) to the core CS team who will then disseminate these to the relevant Survey Managers</li> <li>• Updated files will be verified and collated by the CS core team and one final master file will then be shared with Splitpin</li> <li>• Splitpin will do one final round of quality checks (e.g. duplicate employees/email addresses)</li> <li>• Once all participants have been uploaded to the system, we will build a reporting hierarchy for CS using the Qualtrics hierarchy tool</li> <li>• At this point, up to 120 Survey Managers will be provided with access to the online hierarchy tool and will be able to review and update the hierarchy for their organisation if needed, using point-and-click or drag and drop features. Survey managers will only have access to their organisation's part of the hierarchy.</li> <li>• Up to 4 x 1-hour live videocon training sessions will be provided to hierarchy reviewers. These sessions can be recorded and shared internally</li> <li>• A user guide will be provided in English</li> <li>• Up to 3 hierarchy clinics will be scheduled during the review window for reviewers to ask questions and get live support with their local needs/challenges</li> <li>• The hierarchy tool will be locked down one week before survey launch</li> <li>• Minor hierarchy changes required post-lock down will be managed as they arise and may be implemented if they are critical and pose no risk to survey launch</li> <li>• Similarly, if there are minor structural changes needed after the survey has closed, these may be implemented if they are critical and pose no risk to the data or dashboard launch</li> <li>• No hierarchy structural changes will be implemented during the live survey window</li> </ul>
<b>Trend mapping</b>	<ul style="list-style-type: none"> <li>• Historical questions will be mapped to current year questions (once the current year questions are signed off as final)</li> <li>• Once the current year hierarchy is final, we will connect the historical project hierarchy to the current year</li> <li>• Where the system recognises a common denominator across the current vs trend hierarchy, these will be automapped</li> <li>• Trend mapping will be exported to Excel and CS will be expected to review and manually map missing units</li> <li>• Up to 4 x 30 min live videocon training sessions will be provided for the Survey Managers on how to review and do trend mapping</li> <li>• Sessions can be recorded and shared</li> <li>• A user guide will be provided in English</li> <li>• Mapping files will be collated by the CS core team and shared with Splitpin in a consolidated format</li> <li>• Mapping will be imported and assumed final</li> </ul>
<b>FAQ library</b>	<ul style="list-style-type: none"> <li>• Splitpin will provide an initial draft FAQ library in English to reduce/limit common survey queries during the survey window.</li> <li>• In addition, these can also include information such as survey purpose, summarise question items changes, confidentiality and any other internal communication etc</li> <li>• FAQs will be hosted on CS intranet site or the survey – the best approach can be discussed</li> <li>• Should CS require FAQs in Welsh, these can either be done internally or externally by a translation agency (costs for external translations can be provided upon request)</li> </ul>
<b>Paper surveys</b>	<ul style="list-style-type: none"> <li>• We will discuss and agree paper requirements with the aim to hopefully move away from as much paper as possible</li> <li>• Splitpin will prepare a master paper survey template in English which will be reviewed and signed off by CS</li> <li>• Once the master paper template is agreed, local language versions will be created by Splitpin</li> <li>• It is assumed CS will provide all local language translations (existing Welsh translations will be exported from the online survey) or input them directly into the local language paper templates</li> <li>• CS team will collate final paper survey templates and submit final PDF versions to Splitpin</li> <li>• Splitpin will manage the print, distribution and scanning process with the agreed provider</li> </ul>

Phases	Deliverables Year 1
<b>User acceptance testing</b>	<ul style="list-style-type: none"> <li>• A final round of User Acceptance Testing will be done prior to launch (typically 2 weeks before launch)</li> <li>• A brief outlining the purpose and expectations of the User Acceptance Testing (UAT) exercise will be provided to CS which can be shared with testers</li> <li>• CS will nominate test respondents</li> <li>• CS will be responsible for collating UAT feedback and will share the consolidated feedback with Splitpin</li> <li>• Upon initiation of UAT, CS will have 5 business days to work with Splitpin utilising best efforts to jointly identify, address and validate any bugs, errors or issues related to the survey</li> </ul>
<b>Response rate monitoring</b>	<ul style="list-style-type: none"> <li>• Prior to survey launch, we will agree response rate reporting variables and access rights</li> <li>• CS will provide a list of up to 130 response rate users which we assume to be the core survey team and Survey Managers</li> <li>• Upon launch of the survey, a response rate dashboard will be built</li> <li>• User roles and access rights will be programmed, and users will be sent an email with their access to the response rate dashboard on day 2 of the survey window</li> <li>• A user guide will be provided in English</li> </ul>
<b>Telephone surveys</b>	<ul style="list-style-type: none"> <li>• A telephone survey service has been included for up to 30 employees in English</li> <li>• We will agree dates and times for telephone survey participation and will provide a UK dial in number</li> <li>• Telephone responses will be entered directly into the survey platform by Splitpin</li> </ul>
<b>Dashboard build</b>	<ul style="list-style-type: none"> <li>• During design meeting we will agree content and layout for the dashboard, user roles and access rights (i.e. who sees what)</li> <li>• Dashboard will be built and configured by Splitpin and will include: <ul style="list-style-type: none"> <li>– Up to 6 pages with a maximum of 5 widgets per page for core item reporting</li> <li>– Up to 120 department pages containing 1 widget with local question items</li> <li>– Up to 10 core demographic filters on core item pages</li> <li>– Local demographic filters can be available on local question pages</li> <li>– Internal and external benchmarking</li> <li>– Action planning</li> <li>– Comments</li> <li>– Ability to export to various formats including PowerPoint and csv</li> </ul> </li> <li>• Up to 2 rounds of updates/changes before sign-off</li> <li>• Assumes dashboard is built using standard features (custom programming costs can be provided as needed)</li> </ul>
<b>Dashboard translations</b>	<ul style="list-style-type: none"> <li>• We will move into the translation process once the dashboard template is signed off as final</li> <li>• The dashboard will be configured in English and Welsh</li> <li>• Welsh question item translations will be used from the survey</li> <li>• Translations for other custom descriptive text and widget headers will be provided by CS in a template provided by Splitpin</li> <li>• After translations have been be uploaded, CS reviewer/s will review Welsh dashboard version</li> <li>• Includes up to 2 rounds of changes and reviews after the initial upload and all changes must be submitted in the template provided by Splitpin</li> </ul>
<b>Dashboard launch &amp; training</b>	<ul style="list-style-type: none"> <li>• CS will specify dashboard access permissions required for the Qualtrics platform and Splitpin will assign these in the system.</li> <li>• All managers that meet minimum threshold for reporting can be given access to their team results in Qualtrics Platform</li> <li>• We assume a maximum of 130 user roles and that all users have an email address</li> <li>• One dashboard invitation email will be programmed in English and Welsh (Welsh translation to be provided by CS)</li> <li>• A launch will plan will be agreed between Splitpin and CS. Release to managers will be cascaded across a minimum of 2 working days (assumes during the hours of 7am – 6pm UK), but this is wholly dependent on the final number of managers needing access</li> <li>• A user guide and tutorial video/s will be provided in English to CS which will be hosted on your internal intranet</li> <li>•</li> </ul>



Phases	Deliverables Year 1
<b>Transfer of raw data file</b>	<ul style="list-style-type: none"> <li>• A raw data file will be exported and securely transferred to CS within 5 working days of the survey launch, to enable the CS team to conduct independent quality assurance checks of the results being pulled through to the dashboards</li> <li>• We will agree all variables to be included/excluded and levels of anonymisation needed</li> </ul>
<b>Survey window support</b>	<ul style="list-style-type: none"> <li>• A support inbox will be available during the survey window for a maximum of four weeks</li> <li>• Splitpin will respond to queries within 2 working days during the UK hours of 09:00 – 17:00, Monday to Friday</li> <li>• A support guide will also be provided to CS in English to enable local survey support teams to answer queries internally where needed</li> </ul>

## Year One Advisory Services Deliverable Description

*To be capped at 20 days of XM Scientist time to cover the following deliverables. Additional hours can be purchased using the change management process.*

<p><b>User Research: Online survey of key stakeholders from each organisation</b></p> <p><i>Qualtrics designs an online survey for key stakeholders in each organisation to inform the design of the 2021 questionnaire and future vision.</i></p>	<p><b>Delivery Team Responsibilities</b></p> <p>Set-up &amp; launch online survey to key stakeholders in 120 organisations. The key stakeholders will be the Survey Manager, HR Leadership, Senior Leaders, D&amp;I Team, IT Lead, and People Analytics Team Lead in each organisation (assuming up to 15 stakeholders per organisation). Qualtrics to review and summarise feedback.</p> <p>The survey will likely address topics such as: EX Maturity; Enhancing people data collection; Flexibility on local issues; Current and desired future approaches to EX; Survey Manager community creation and collaboration requirements; hierarchy build; User experience; Deep dive analytics requirements for non-data analysts; Assistive technology requirements; and, Alternative approaches where there is limited IT.</p> <p><b>Customer Responsibilities</b></p> <p>Identify the key stakeholders in each organisation to be surveyed, share the individual contact details (incl email address), and communicate to stakeholders to raise awareness of the approach. Facilitate introductions with Qualtrics. Agree the survey design with Qualtrics. Ensure proper roles are aligned internally for timely approval.</p>
<p><b>In-depth interviews with a selection of organisations</b></p> <p><i>Qualtrics facilitates in-depth one-on-one interviews with a sample of organisations to inform the 2020 programme and design of the results dashboards.</i></p>	<p><b>Delivery Team Responsibilities</b></p> <p>Design and facilitate up to ten 60 minute stakeholder interviews for input and content to support overall program, survey design and/or dashboard design. One interview protocol will be designed, interview notes will be summarized and used as input into survey design and other applicable program needs.</p> <p>The selected stakeholders will likely come from the “Big 5” government departments plus a selection of others based on, for example, those with the highest and lowest levels of maturity, or those with particular access issues, as identified by the Customer.</p> <p><b>Customer Responsibilities</b></p> <p>Identify the key stakeholders in each organisation to be interviewed, share the individual contact details (incl email address), and facilitate introductions with Qualtrics. Agree the design of the interview guide with Qualtrics. Ensure proper roles are aligned internally for timely</p>

	approval.
<p><b>Conference of representatives from across organisations</b></p> <p><i>Qualtrics prepares a proposal for 2020 and longer-term vision and facilitate agreement across the Civil Service organisations</i></p> <p>(This section is subject to change and will be agreed in writing between CO and Qualtrics)</p>	<p><b>Delivery Team Responsibilities</b></p> <p>Based on the above steps, Qualtrics will prepare a proposal for the overall design and implementation of the 2020 programme and a longer term skeleton vision for the future. This proposal will then be shared with each organisation for review, refinement and finalisation. In Year 1 (2020) only, Qualtrics can facilitate an in-person one-day conference of representatives from each organisation to gain agreement on the proposal.</p> <p><b>Customer Responsibilities</b></p> <p>Identify the key stakeholders in each organisation responsible for agreeing the proposed approach for 2020 and 2021, share the individual contact details (incl email address), and facilitate introductions with Qualtrics. Agree the proposed design of the 2020 programme and longer term vision. Ensure proper roles are aligned internally for timely approval.</p>

## Year One Custom Engineering Deliverable Description

### 1. Comment Scrubbing

Qualtrics will provide comment scrubbing as per the below:

- Replace vulgar language, swear words and profanities with [FOUL], from the customer (list provided separately by the customer).
- Replace employee names/job titles/grades with [e.g. Name Removed] – list of names to be provided by the customer, based on employee participant file for survey.
- Original comment from employee remains in back-end dataset but not reported to managers. Only “cleaned” comments reported to dashboard users.

### 2. Add Welsh language functionality to dashboards

Qualtrics will add functionality to support the following languages for dashboard translation in the Qualtrics platform:

#### Welsh (CY)

#### Assumptions

For the duration of the Project, Customer will provide Qualtrics with access to Customer’s Qualtrics account as a brand administrator.

Delivery Team and Customer will mutually agree to the list of specific browsers that should be tested as per project requirements. Qualtrics' standard browser compatibility policy is specified in the "Browser Compatibility & Cookies" section of the Qualtrics support pages:

(<https://www.qualtrics.com/support/survey-platform/getting-started/browser-cookies/>).

#### **Qualtrics Deliverables**

- Ability to translate the dashboard into new language(s) using the dashboard translation interface
- Translation of default dashboard content such as standard text and error messages (for example the word 'filters') on a dashboard page will be facilitated via a third party vendor (**AMPLEXOR Ireland Ltd (Sajan)**).
- Qualtrics delivery team will run and scrub test data mapped to the dashboard to unit test (i.e. testing the dashboard in isolation to make sure it is functioning as expected) the language configuration.

#### **Client Responsibilities**

- Customer will be responsible for the validation of custom created content (for example the names of the filters on the page, all custom created widget labels)

#### **Splitpin Responsibilities**

- Splitpin will upload their translated labels for widgets and filters to the platform.
- Splitpin will perform user acceptance testing (UAT) in accordance with this Order to check the dashboard components of the platform are working in the translated language(s) as described herein.

### **SCHEDULE 7: PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

1. The Supplier shall comply with any further written instructions with respect to processing by the Customer.
2. Types of personal data likely to be collected and processed under this Contract includes (but is not limited to):
  - (a) Survey responses: although the vast majority of survey responses in the Civil Service People Survey and pulse surveys are anonymised, they are considered personal data as the number of demographic questions asked about individuals mean a person looking at the individual-level data could feasibly identify an individual. Special categories of personal data collected include ethnicity, disability status, religion, sexual orientation, gender, age and socio-economic background.
  - (b) Contact information for staff: including email addresses and on occasion telephone numbers. This would be necessary for some user research with respondents; if emailing the survey link to them for completion; and if using their email address as a login credential for any reporting/analysis tools.
  - (c) Email address of staff who will work with the Cabinet Office and Supplier to deliver the Civil Service People Survey.
3. The Supplier will comply with all relevant provisions under GDPR and will be required to sign a Memorandum of Understanding with the Cabinet Office at the start of the Contract setting out all types of personal data to be collected and processed, and the roles and responsibilities of the Supplier and Cabinet Office under the Regulation.

4. At a minimum and subject to section 29.5.4 of the Contract, all Data pursuant to this Contract shall be stored, processed and managed within the European Economic Area.
5. If the supplier proposes that the data collected and processed under this Contract is held within the European Economic Area (non-UK), they will need to agree to contractual clauses specified by the Customer to manage the risk associated with No Deal EU Exit, which might make processing personal data between EU member states and the UK illegal.

## SCHEDULE 8: ADDITIONAL CLAUSES

### Security Management Schedule

Herein “the Authority” has the same meaning as the “Customer”. Where there is a conflict between the terms and conditions of this Contract and the additional clauses set out under this Security Management Schedule, the clauses under this Security Management Schedule shall take precedence.

### Definitions

In this Schedule, the following definitions shall apply:

<b>"Accreditation"</b>	the assessment of the Core Information Management System by the Authority or an independent information risk manager/professional appointed by the Authority, which results in an Accreditation Decision;
<b>"Accreditation Decision"</b>	is the decision of the Authority to issue the Supplier with a Risk Management Approval Statement or a Risk Management Rejection Notice in respect of the Core Information Management System;
<b>"Accreditation Plan"</b>	the Supplier's plan to attain an Accreditation Approval Statement from the Authority, which is prepared by the Supplier and approved by the Authority;
<b>"Breach of Security"</b>	the occurrence of:  <b>a.</b> any unauthorised access to or use of the Services, the Authority Premises, the Sites, the Supplier System, the Authority System and/or any information or data (including the Confidential Information and the Authority Data) used by the Authority where the Authority information or data from this Project was breached, the Supplier or any Sub-contractor in connection with this Agreement;  <b>b.</b> the loss (physical or otherwise) and/or unauthorised disclosure of any information or data (including the Confidential Information and the Authority Data), including copies of such information or data, used by the Authority, the Supplier or any Sub-contractor in connection with this Agreement; and/or  <b>c.</b> any part of the Supplier System ceasing to be compliant with the Certification Requirements,
<b>"Certification Requirements"</b>	the requirements set out in Paragraph 6;
<b>"Core Information Management System"</b>	those information assets, ICT systems and/or Sites which will be used by the Supplier and/or its Sub-contractors to Process Authority Data, together with the associated information management system (including organisational structure, controls, policies, practices, procedures, processes and resources, which the Authority has determined shall be subject to Accreditation;
<b>"IT Health Check"</b>	has the meaning given Paragraph 7;

<b>Personal Data</b>	has the meaning given in the Data Protection Legislation;
<b>Personal Data Breach</b>	has the meaning given in the Data Protection Legislation;

<b>Personal Data Processing Statement</b>	sets out: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; (ii) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, (iv) the Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach in the form of a Security and Privacy White Paper;
<b>"Process Authority Data"</b>	any operation which is performed on Authority Data, whether or not by automated means, including adapting, altering, collecting, combining, copying, destroying, erasing, organising, publishing retrieving, storing, structuring, transmitting or otherwise using Authority Data;
<b>"Required Changes Register"</b>	is a register which forms part of the Civil Service People Survey Risk Management Documentation which records each of the changes that the Supplier has agreed with the Authority shall be made to the Core Information System and/or the Civil Service People Survey Risk Management Documentation as a consequence of the occurrence of any of the events set out in this Schedule together with the date on which each such change shall be implemented and the date on which each such change was implemented;
<b>"Risk Management Approval Statement"</b>	a notice issued by the Authority which sets out the information risks associated with using the Core Information Management System and confirms that the Authority is satisfied that the identified risks have been adequately and appropriately addressed and that the residual risks are understood and accepted by the Authority;
<b>"Security Test"</b>	has the meaning given Paragraph 7;
<b>"Statement of Information Risk Appetite"</b>	has the meaning given in Paragraph 4;
<b>"Vulnerability Correction Plan"</b>	has the meaning given in Paragraph 7;
<b>"Wider Information Management System"</b>	those information assets, ICT systems and/or Sites which will be used by the Supplier and/or its Sub-contractors to Process Authority Data which have not been determined by the Authority to form part of the Core Information Management System together with the associated information management system (including organisational structure, controls, policies, practices, procedures, processes and resources.

## 1. Introduction

This Schedule sets out:

- 1.1. the principles which the Supplier shall comply with in order to ensure the security of the Authority Data, the IT Environment, the Supplier Solution and the Civil Service People Survey Information Management System;

- 1.2. the process which shall apply to the Accreditation of the Core Information Management System;
- 1.3. the Certification Requirements applicable to the Wider Information Management System;
- 1.4. the Security Tests which the Supplier shall conduct;
- 1.5. the Security Tests which the Authority may conduct;
- 1.6. the requirements to patch vulnerabilities in the Core Information Management System;
- 1.7. the obligations on the Supplier to prevent the introduction of Malicious Software into the Civil Service People Survey Information Management System and to scan for, contain the spread of, and minimise the impact of Malicious Software which is introduced into the Civil Service People Survey Information Management System; and
- 1.8. each Party's obligations in the event of an actual Breach of Security.

## **2. Principles of Security**

- 2.1. The Supplier acknowledges that the Authority places great emphasis on the confidentiality, integrity and availability of the Authority Data and, consequently on the security of: the IT Environment; the Supplier Solution; and the Civil Service People Survey Information Management System.
- 2.2. Notwithstanding the involvement of the Authority in the Accreditation of the Core Information Management System, the Supplier shall be and shall remain responsible for:
  - 2.2.1. the security, confidentiality, integrity and availability of the Authority Data whilst that Authority Data is under the control of the Supplier or any of its Sub-contractors;
  - 2.2.2. the security of the Supplier Solution; and
  - 2.2.3. the security of the Civil Service People Survey Information Management System.
- 2.3. The Authority shall monitor and may also provide recommendations to the Supplier on the Accreditation of the Core Information Management System.
- 2.4. [Intentionally Omitted]

## **3. Civil Service People Survey Information Management System**

- 3.1. The Civil Service People Survey Information Management System comprises the Core Information Management System and the Wider Information Management System.
- 3.2. The Supplier shall be responsible for determining the boundary between the Core Information Management System and the Wider Information Management System.
- 3.3. [Intentionally Omitted]
- 3.4. [Intentionally Omitted]
- 3.5. [Intentionally Omitted]

## **4. Statement of Information and Baseline Security Requirements**

- 4.1. The Supplier acknowledges that the Authority has provided and the Supplier has received a statement of information risk appetite for the Supplier System and the Services.
- 4.2. The Authority's Baseline Security Requirements in respect of the Core Information Management System are set out in Section 11 below.
- 4.3. The Statement of Information Risk Appetite and the Baseline Security Requirements shall inform the Accreditation of the Core Information Management System.

## **5. Accreditation of the Core Information Management System**

- 5.1. The Core Information Management System shall be subject to Accreditation in accordance with this Paragraph 5.
- 5.2. The Accreditation shall be performed by the Authority or by representatives appointed by the Authority.
- 5.3. Prior to the Operational Services Commencement Date, the Supplier shall prepare and submit to the Authority the risk management documentation for the Core Information Management System, which shall comply with, and be subject to approval by the Authority.
- 5.4. The Civil Service People Survey Risk Management Documentation shall include:
  - 5.4.1. the Accreditation Plan, which shall include: i. the dates on which each subsequent iteration of Civil Service People Survey Risk Management Documentation will be delivered to the Authority for review and staged approval; and ii. the date by which the Supplier is required to have received a Risk Management Approval Statement from the Authority together with details of each of the tasks which must be completed by the Supplier, Milestones which must be Achieved and the Authority Responsibilities which must be completed in order for the Supplier to receive a Risk Management Approval Statement;
  - 5.4.2. [Intentionally Omitted];
  - 5.4.3. a completed ISO 27001:2013 Statement of Applicability for the Core Information Management System; the process for managing any security risks from Sub-contractors and third parties with access to the Services, processes associated with the delivery of the Services, the Authority Premises, the Sites, the Supplier System, the Authority System (to extent that it is under the control of the Supplier) and any IT, and Information and data (including the Authority Confidential Information and the Authority Data);
  - 5.4.4. unless such requirement is waived by the Authority, proposed controls that will be implemented in respect of all aspects of the Services and all processes associated with the delivery of the Services, including the Authority Premises, the Sites, the Supplier System, the Authority System (to the extent that it is under the control of the Supplier) and any IT, Information and data (including the Authority Confidential Information and the Authority Data) to the extent used by the Authority or the Supplier in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
  - 5.4.5. the Required Changes Register;
  - 5.4.6. evidence that the Supplier and each applicable Sub-contractor is compliant with the Certification Requirements where publicly available or permitted to do so; and
  - 5.4.7. a Personal Data Processing Statement.
- 5.5. If the Civil Service People Survey Risk Management Documentation submitted to the Authority is approved by the Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule.
- 5.6. If the Civil Service People Survey Risk Management Documentation is not approved by the Authority, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Parties shall use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority.



- 5.7. If the Authority does not approve the Civil Service People Survey Risk Management Documentation following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No approval to be given by the Authority pursuant to this Paragraph may be unreasonably withheld or delayed. However, any failure to approve the Civil Service People Survey Risk Management Documentation on the grounds that it does not comply with the requirements set out in this Schedule shall be deemed to be reasonable.
- 5.8. To facilitate Accreditation of the Core Information Management System, the Supplier shall provide the Authority and its authorised representatives with:
- 5.8.1. [Intentionally Omitted]
- 5.8.2. such other information and/or documentation that the Authority or its authorised representatives may reasonably require, to enable the Authority to establish that the Core Information Management System is compliant with the Civil Service People Survey Risk Management Documentation.
- 5.9. The Authority shall, by the relevant date set out in the Accreditation Plan, review the identified risks to the Core Information Management System and issue to the Supplier either:
- 5.9.1. a Risk Management Approval Statement which will then form part of the Civil Service People Survey Risk Management Documentation, confirming that the Authority is satisfied that the identified risks to the Core Information Management System have been adequately and appropriately addressed and that the residual risks are understood and accepted by the Authority; or
- 5.9.2. a rejection notice stating that the Authority considers that the residual risks to the Core Information Management System have not been reduced to a level acceptable by the Authority and the reasons why ("Risk Management Rejection Notice").
- 5.10. The Authority shall, by the relevant date set out in the Accreditation Plan, review the identified risks to the Core Information Management System and issue to the Supplier either:
- 5.10.1. If the Authority issues a Risk Management Rejection Notice, the Supplier shall, as soon as reasonably practicable: i. address all of the issues raised by the Authority in such notice; and ii. notify the Authority that the Core Information Management System is ready for an Accreditation Decision.
- 5.10.2. If the Authority determines that the Supplier's actions taken pursuant to the Risk Management Rejection Notice have not reduced the residual risks to the Core Information Management System to an acceptable level and issues a further Risk Management Rejection Notice, the failure to receive a Risk Management Approval Statement shall constitute a material Default and the Authority may by terminate this contract with immediate effect by issuing a Termination Notice to the Supplier.
- 5.11. The shall be repeated until such time as the Authority issues a Risk Management Approval Statement to the Supplier or terminates this Agreement.
- 5.12. The Supplier acknowledges that it shall not be permitted to use the Core Information Management System to Process Authority Data prior to receiving a Risk Management Approval Statement.
- 5.13. The Supplier shall keep the Core Information Management System and Civil Service People Survey Risk Management Documentation under review and shall update the Civil Service People Survey Risk Management Documentation annually in accordance with this Paragraph and the Authority shall review the Accreditation Decision annually.
- 5.14. The Supplier shall notify the Authority within 2 Working Days after becoming aware of:

5.14.1. a significant change to the components or architecture of the Core Information Management System;

5.14.2. [Intentionally Omitted];

5.14.3. a change in the threat profile;

5.14.4. a Sub-contractor failure to comply with the Core Information Management System code of connection;

5.14.5. a significant change to any risk component;

5.14.6. [Intentionally Omitted];

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

5.14.8. an ISO27001 audit report produced in connection with the Certification Requirements indicates significant concerns;

5.15 Upon request and no more than twice per year, the Supplier will provide the Customer a remote overview of the Supplier's internal risk assessment.

5.16 The Supplier shall update the Required Changes Register and provide the updated Required Changes Register to the Authority for review and approval within 10 Working Days after the initial notification or such other timescale as may be agreed with the Authority.

5.17 If the Supplier fails to implement a change which is set out in the Required Changes Register by the date agreed with the Authority, such failure shall constitute a material Default and the Supplier shall:

5.17.1 immediately cease using the Core Information Management System to Process Authority Data until the Default is remedied, unless directed otherwise by the Authority in writing and then it may only continue to Process Authority Data in accordance with the Authority's written directions; and

5.17.2 where such Default is capable of remedy, the Supplier shall remedy such Default within the timescales agreed with the Authority and, should the Supplier fail to remedy the Default within such timescales, the Authority may terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier.

5.18 The Supplier shall review each Change Request against the Civil Service People Survey Risk Management Documentation to establish whether the documentation would need to be amended should such Change Request be agreed and, where a Change Request would require an amendment to the Civil Service People Survey Risk Management Documentation, the Supplier shall set out any proposed amendments to the documentation in the Impact Assessment associated with such Change Request for consideration and approval by the Authority.

5.19 The Supplier shall be solely responsible for the costs associated with developing and updating the Civil Service People Survey Risk Management Documentation and carrying out any remedial action required by the Authority as part of the Accreditation process.

## **6. Certification Requirements**

6.1. The Supplier shall ensure, at all times during the contract, that the Supplier and any Sub-contractor with access to Authority Data or who will Process Authority Data are certified as compliant with:

6.1.1. ISO/IEC 27001:2013 or are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; or

- 6.1.2. Cyber Essentials PLUS or;
- 6.1.3. SOC 2 Type II attestation.
- 6.2. The Supplier shall provide the Authority with a copy of each such certificate of compliance or attestation report before the Supplier or the relevant Sub-contractor (as applicable and allowed by contract) shall be permitted to use the Core Information Management System to receive, store or Process any Authority Data.
- 6.3. The Supplier shall ensure, at all times during the Term, that the Supplier and each Sub-contractor who is responsible for the secure destruction of Authority Data:
  - 6.3.1. securely destroys Authority Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013 or attestation report.
  - 6.3.2. [Intentionally Omitted]
- 6.4. The Supplier shall provide the Authority with evidence of its and its Sub-contractor's compliance with the requirements set out in this Paragraph before the Supplier or the relevant Sub-contractor (as applicable) shall be permitted to carry out the secure destruction of the Authority Data.
- 6.5. The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier or any Sub-contractor ceases to be compliant with the Certification Requirements and, on request from the Authority, shall or shall procure that the relevant Sub-contractor shall:
  - 6.5.1. within 28 days cease using the Authority Data; and
  - 6.5.2. procure that the relevant Sub-contractor promptly returns, destroys and/or erases the Authority Data in accordance with Baseline Security Requirements.

## **7. Security Testing**

- 7.1. The Supplier shall, at its own cost and expense:
  - 7.1.1. provide an annual external penetration test of the pre-production environment carried out by a Check or Crest accredited provider;
  - 7.1.2. conduct vulnerability scanning and assessments of the Core Information Management System monthly;
  - 7.1.3. conduct an assessment as soon as reasonably practicable following receipt by the Supplier or any of its Sub-contractors of a critical vulnerability alert from a Supplier of any software or other component of the Core Information Management System to determine whether the vulnerability affects the Core Information Management System; and
  - 7.1.4. conduct such other tests as are required by: any Vulnerability Correction Plans; the ISO27001 certification requirements; and the Authority following a Breach of Security or a significant change to the components or architecture of the Core Information Management System (each a "Security Test").
- 7.2. The Supplier shall provide the Authority, upon request, with the results of such web application penetration test.
- 7.3. [Intentionally Omitted]
- 7.4. The Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests. Subject to the Supplier complying with this Paragraph, if a Security Test

causes a Performance Failure in a particular Measurement Period, the Supplier shall be granted relief in respect of such Performance Failure for that Measurement Period.

7.5. [Intentionally Omitted]

7.6. The Authority and/or its authorised representatives shall be entitled, with at least 30 day notice and in conjunction with Supplier security personnel, to carry out a web application penetration test against the pre-production environment as it may deem necessary in relation to the Service, the Civil Service People Survey Information System and/or the Supplier's compliance with the Civil Service People Survey Risk Management Documentation ("**Authority Security Tests**").

7.7. The Authority shall notify the Supplier of the results of such Authority Security Tests after completion of each Authority Security Test.

7.8. The Authority Security Tests shall be designed and implemented so as to minimise their impact on the delivery of the Services. If an Authority Security Test causes a Performance Failure in a particular Measurement Period, the Supplier shall be granted relief in respect of such Performance Failure for that Measurement Period.

7.9. [Intentionally Omitted]

7.10. If the Authority unreasonably withholds its approval to the implementation of any changes proposed by the Supplier to the Civil Service People Survey Risk Management Documentation, the Supplier shall not be deemed to be in breach of this Agreement to the extent it can be shown that such breach:

7.10.1. has arisen as a direct result of the Authority unreasonably withholding its approval to the implementation of such proposed changes; and

7.10.2. would have been avoided had the Authority given its approval to the implementation of such proposed changes.

7.11. For the avoidance of doubt, where a change to the Core Information Management System and/or the Civil Service People Survey Risk Management Documentation is required to remedy non-compliance with the Risk Management Documentation, the Baseline Security Requirements and/or any obligation in this Agreement, the Supplier shall effect such change at its own cost and expense.

7.12. If any repeat Security Test carried out reveals an actual Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default and the Authority may by terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier.

7.13. The Supplier shall, upon request and no more than once per 12 month period, provide to the Authority a letter, certification, or attestation from a third-party confirming that having made due and careful enquiry:

7.13.1. the Supplier has in the previous year carried out all tests and has in place all procedures required in relation to security matters under this Agreement; and

7.13.2. the Supplier is confident that its security and risk mitigation procedures with respect to the Services remain effective.

## **8. Vulnerabilities and Corrective Action**

8.1. The Authority and the Supplier acknowledge that from time to time vulnerabilities in the Civil Service People Survey Information System will be discovered which unless mitigated will present an unacceptable risk to the Authority Data.

- 8.2. The severity of vulnerabilities for Supplier COTS Software and Third Party COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the Civil Service People Survey Risk Management Documentation and using the appropriate vulnerability scoring systems including:
  - 8.2.1. the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST at <http://nvd.nist.gov/cvss.cfm>); and
  - 8.2.2. Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 8.3. The Supplier shall procure the application of security patches to vulnerabilities in the Core Information Management System within:
  - 8.3.1. 14 days after the public release of patches for those vulnerabilities categorised as 'Critical';
  - 8.3.2. 30 days after the public release of patches for those vulnerabilities categorised as 'Important' or 'High';
  - 8.3.3. 90 days after the public release of patches for those vulnerabilities categorised as 'Other' or 'Medium'; and
  - 8.3.4. 180 days after the public release of patches for those vulnerabilities categorised as 'Low';
- 8.4. The timescales for applying patches to vulnerabilities in the Core Information Management System shall be extended where:
  - 8.4.1. the Supplier can demonstrate that a vulnerability in the Core Information Management System is not exploitable within the context of the Services (e.g. because it resides in a Software component which is not involved in running in the Services) provided such vulnerabilities shall be remedied by the Supplier within the timescales set out above if the vulnerability becomes exploitable within the context of the Services;
  - 8.4.2. the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Authority; or
  - 8.4.3. the Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in Civil Service People Survey Risk Management Documentation.
- 8.5. The Civil Service People Survey Risk Management Documentation shall include provisions for major version upgrades of all Supplier COTS Software and Third Party COTS Software to be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Authority in writing.
- 8.6. The Supplier shall:
  - 8.6.1. implement a mechanism for receiving, analysing and acting upon threat information supplied by NCSC, or any other competent Central Government Body;
  - 8.6.2. promptly notify NCSC of any actual Breach of Security in accordance with paragraph 9;

- 8.6.3. ensure that the Core Information Management System is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
- 8.6.4. ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the Core Information Management System by actively monitoring the threat landscape during the Term;
- 8.6.5. pro-actively scan the Core Information Management System for vulnerable components and address discovered vulnerabilities through the processes described in the Civil Service People Survey Risk Management Documentation;
- 8.6.6. [Intentionally Omitted];
- 8.6.7. [Intentionally Omitted];
- 8.6.8. remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the Core Information Management System); and
- 8.6.9. [Intentionally Omitted].
- 8.7. [Intentionally Omitted].
- 8.8. If the Supplier fails to patch vulnerabilities in the Core Information Management System, such failure shall constitute a material Default and the Authority may by terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier.

## **9. Breach of Security**

- 9.1. If either Party becomes aware of a Breach of Security it shall notify the other in accordance with the security incident management process as set out in the Civil Service People Survey Risk Management Documentation.
- 9.2. The security incident management process set out in the Civil Service People Survey Risk Management Documentation shall, as a minimum, require the Supplier upon becoming aware of a Breach of Security to:
  - 9.2.1. immediately take all reasonable steps (which shall include any action or changes reasonably required by the Authority which shall be completed within such timescales as the Authority may reasonably require) necessary to:
    - 9.2.1.1. minimise the extent of actual or potential harm caused by such Breach of Security;
    - 9.2.1.2. remedy such Breach of Security to the extent possible and protect the integrity of the Civil Service People Survey Information System against any such potential or attempted Breach of Security;
    - 9.2.1.3. apply a tested mitigation against any such Breach of Security and, provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to deliver the Services so as to meet any Performance Indicator, the Supplier shall be granted relief against the failure to meet such affected Performance Indicator for such period as the Authority, acting reasonably, may specify by written notice to the Supplier; and
    - 9.2.1.4. prevent a further Breach of Security or attempted Breach of Security in the future exploiting the same root cause failure;

9.2.2. as soon as reasonably practicable and, in any event, within 2 Working Days, following the Breach of Security, provide to the Authority notification of the Breach of Security, including summary of available data as it relates of the Breach of Security.

9.3. In the event that any action is taken in response to a Breach of Security which occurred as a result of non-compliance of the Civil Service People Survey Information System and/or the Civil Service People Survey Risk Management Documentation with the Baseline Security Requirements and/or this Agreement, then such action and any required change to the Civil Service People Survey Information System and/or Civil Service People Survey Risk Management Documentation shall be completed by the Supplier at no cost to the Authority.

9.4. If the Supplier fails to comply with its obligations set out in this Paragraph, such failure shall constitute a material Default, which if not remedied to the satisfaction of the Authority, shall permit the Authority to terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier.

## **10. Data Processing, Storage, Management and Destruction**

10.1. In addition to the obligations on the Supplier set out in the contract in respect of Processing Personal Data and compliance with the DPA, the Supplier shall:

10.1.1. Process Authority Data only at the Sites and such Sites must not be located outside of the EEA except where the Authority has given its consent to a transfer of the Authority Data outside of the EEA, to the extent necessary to comply with Authority's instructions or the Authority Data is transferred to a Sub-Contractor located in a country outside of the EEA provided there is a binding agreement containing GDPR standard contractual clauses in place with the Sub-Contractor;

10.1.2. on demand, provide the Authority with all Authority Data in an agreed open format;

10.1.3. make self-service tools available to Authority to perform a final export of Authority Data before the termination or expiration of the Agreement;

10.1.4. enable the Authority with the ability to securely erase any or all Authority Data held by the Supplier; and

10.1.5. securely destroy all media that has held Authority Data at the end of life of that media in accordance with Supplier policies and procedures.

## **11. Baseline Security Requirements**

### **11.1. End User Devices**

11.2. The Supplier shall ensure that no personal devices are used by the Supplier to access the production environment or Authority Data.

11.3. The Supplier shall ensure that any Authority Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted.

11.4. The Supplier shall ensure that any device which is used to Process Authority Data meets all of the security requirements set out in the [Supplier's](#) policy and procedures.

### **11.5. Networking**

11.6. The Supplier shall ensure that any Authority Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

### **11.7. Personnel Security**

11.8. All Supplier Project team Personnel shall be subject to a pre-employment check, where allowed by applicable law, before they may participate in the provision and or management of the Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record.

11.9. [Intentionally Omitted].

11.10. The Supplier shall not permit Supplier Personnel who fail the security checks required to be involved in the management and/or provision of the Services except where the Authority has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the Services.

11.11. The Supplier shall ensure that Supplier Personnel are only granted such access to Authority Data as is necessary to enable the Supplier Personnel to perform their role and to fulfil their responsibilities.

11.12. The Supplier shall ensure that Supplier Personnel who no longer require access to the Authority Data (e.g. they cease to be employed by the Supplier or any of its Sub- contractors), have their rights to access the Authority Data revoked within 1 Working Day.

#### **11.13. Identity, Authentication and Access Control**

11.14. The Supplier shall operate an access control regime to ensure:

11.14.1. all users and administrators of the Supplier System are uniquely identified and authenticated when accessing or administering the Services; and

11.14.2. all persons who access the Sites are identified and authenticated before they are allowed access to the Sites.

11.15. The Supplier shall apply the 'principle of least privilege' when allowing persons access to the Supplier System and Sites so that such persons are allowed access only to those parts of the Sites and the Supplier System they require.

11.16. The Supplier shall retain records of access to the Sites and to the Supplier System.

#### **11.17. Audit and Protective Monitoring**

11.18. The Supplier shall collect audit records which relate to security events the Civil Service People Survey Core Information Management System or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the Core Information Management System, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data.

11.19. The Supplier and the Authority shall work together to establish any additional audit and monitoring requirements for the Core Information Management System.

11.20. The retention periods for audit records and event logs must be agreed with the Authority and documented in the Civil Service People Survey Risk Management Documentation.

#### **11.21. Secure Architecture**

11.22. The Supplier shall design the Core Information Management System in accordance with ISO 27001:2013 or later standard and aligned with the Security Principles below:



11.22.1. [Intentionally Omitted]

11.22.2. [Intentionally Omitted]

11.22.3. [Intentionally Omitted]

- (a) "Cloud Security Principle 1: data in transit protection" which, amongst other matters, requires that user data transiting networks should be adequately protected against tampering and eavesdropping;
- (b) "Cloud Security Principle 2: asset protection and resilience" which, amongst other matters, requires that user data, and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure;
- (c) "Cloud Security Principle 3: separation between users" which, amongst other matters, requires that a malicious or compromised user of the service should not be able to affect the service or data of another;
- (d) "Cloud Security Principle 4: governance framework" which, amongst other matters, requires that the Supplier should have a security governance framework which coordinates and directs its management of the Services and information within it;
- (e) "Cloud Security Principle 5: operational security" which, amongst other matters, requires that the Services need to be operated and managed securely in order to impede, detect or prevent a Breach of Security;
- (f) "Cloud Security Principle 6: personnel security" which, amongst other matters, requires that where Supplier Personnel have access to Authority Data and/or the Authority System that those personnel be subject to appropriate security screening and regular security training;
- (g) "Cloud Security Principle 7: secure development" which, amongst other matters, requires that the Services be designed and developed to identify and mitigate threats to their security;
- (h) "Cloud Security Principle 8: supply chain security" which, amongst other matters, requires the Supplier to ensure that appropriate security controls are in place with its Sub-contractors and other suppliers;
- (i) "Cloud Security Principle 9: secure user management" which, amongst other matters, requires the Supplier to make the tools available for the Authority to securely manage the Authority's use of the Service;
- (j) "Cloud Security Principle 10: identity and authentication" which, amongst other matters, requires the Supplier to implement appropriate controls in order to ensure that access to Service interfaces is constrained to authenticated and authorised individuals;
- (k) "Cloud Security Principle 11: external interface protection" which, amongst other matters, requires that all external or less trusted interfaces with the Services should be identified and appropriately defended;

- (l) "Cloud Security Principle 12: secure service administration" which, amongst other matters, requires that any ICT system which is used for administration of a cloud service will have highly privileged access to that service;
- (m) "Cloud Security Principle 13: audit information for users" which, amongst other matters, requires the Supplier to be able to provide the Authority with the audit records via the activity log found within the platform user interface it needs to monitor access to the Service and the Authority Data held by the Supplier and/or its Sub- contractors;

"Cloud Security Principle 14: secure use of the service" which, amongst other matters, requires the Supplier to educate Supplier Personnel on the safe and secure use of the Civil S

