

Crown Commercial Service

**PROJECT MANAGEMENT AND FULL DESIGN TEAM SERVICES FRAMEWORK SCHEDULE 4 –
TEMPLATE CALL OFF AGREEMENT (INCORPORATING THE NEC3 PROFESSIONAL SERVICES
CONTRACT APRIL 2013), CONTRACT DATA AND Z CLAUSES**

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Date.....

FORM OF AGREEMENT

Incorporating the NEC3 Professional Services Contract April 2013

Between

THE SECRETARY OF STATE FOR WORK AND PENSIONS

And

GLEEDS ADVISORY LTD

For the provision of

**Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and
FY22/23**

THIS AGREEMENT BY DEED is made the [.....] day of [.....]

PARTIES:

1. **THE SECRETARY OF STATE FOR WORK AND PENSIONS** acting as part of the Crown (the "**Employer**"); and
2. **GLEEDS ADVISORY LTD** which is a company incorporated in and in accordance with the laws of England and Wales (Company No.06472422) whose registered office address is at 95 New Cavendish Street, London, W1W 6XF (the "**Consultant**").

BACKGROUND

- (A) The Minister for the Cabinet Office (the "**Cabinet Office**") as represented by Crown Commercial Service, a trading fund of the Cabinet Office, without separate legal personality (the "**Authority**"), established a framework for project management and full design team services for the benefit of public sector bodies.
- (B) The *Consultant* was appointed to the framework and executed the framework agreement (with reference number **RM3741**) which is dated 03 May 2017 (the "**Framework Agreement**"). In the Framework Agreement, the Consultant is identified as the "Supplier".
- (C) On the *05 May 2021* the *Employer*, acting as part of the Crown, and in the Framework Agreement is identified as a "Contracting Authority" invited the *Consultant* along with other framework suppliers to tender for the *Employer's* project management and full design team services requirements in accordance with the Call Off Procedure (as defined in the Framework Agreement).
- (D) On the *26 May 2021* the *Consultant* submitted a tender response and was subsequently selected by the *Employer* to provide the *services*.
- (E) The *Consultant* has agreed to Provide the Services in accordance with this agreement and the Framework Agreement.

IT IS AGREED AS FOLLOWS:

1. The *Employer* will pay the *Consultant* the amount due and carry out his duties in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.
2. The *Consultant* will Provide the Services in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.
3. This Call Off Contract is the entire agreement between the Parties in relation to the *services* and supersedes and extinguishes all prior arrangements, understandings, agreements, statements, representations or warranties (whether written or oral) relating thereto.
4. Neither party has been given, nor entered into this agreement in reliance on any arrangements, understandings, agreements, statements, representations or warranties other than those expressly set out in this agreement.
5. Nothing in clauses 3 or 4 shall exclude liability in respect of misrepresentations made fraudulently.

6. The Contract Schedules are:

1. [Employer's Statement of Requirements and Scope](#)
2. [Consultant Proposal](#)
3. [Price List](#)
4. [TUPE Schedules \(Annex G\) and list of Notified Sub-consultants](#)
5. [Personal Data and Data Subjects](#)
6. [Form of Task Order](#)
7. [Security Policy](#)
8. [Employer's Code of Conduct](#)
9. [Key Performance Indicators](#)
10. [BIM Protocol](#)
11. [Other documents comprised within Invitation to Tender for Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23 dated 5th May 2021, as amended](#)

Executed as a deed

This Call Off Contract is EXECUTED AS A DEED by the Parties and is delivered on the date which first appears in this Deed.

The corporate seal of Secretary of State for)
Work and Pensions is hereunto)
affixed and authenticated by:)
REDACTED)
)
)
)

SEAL OF **SECRETARY OF STATE FOR WORK AND PENSIONS**

Signed as a deed by **GLEEDS ADVISORY LTD** acting by a Director and the Company Secretary/two Directors

REDACTED

Director

REDACTED

Director/Company Secretary

Professional Services Contract

Contract Data

Part one – Data provided by the Employer

- 1 General**
- The *conditions of contract* are the core clauses and the clauses for main Option A and/or main Option E (as specified in the relevant Task Order), dispute resolution Option W2 and secondary Options X2, X8, X10, X11, X18, X19, X20, Y(UK)2, Y(UK)3 and Z of the NEC3 Professional Services Contract (April 2013).
 - The *Employer* is The Secretary of State for Work and Pensions, Caxton House, Tothill Street, London, SW1H 9NA.
 - The *Adjudicator* is the person agreed by the Parties from the list of *Adjudicators* published by the Royal Institution of Chartered Surveyors or nominated by the *Adjudicator nominating body* in the absence of agreement.
 - The *services* are as set out in DWP's Statement of Requirements and Scope in Schedule 1 to this agreement.
 - The *Scope* is in as set out in DWP's Statement of Requirements and Scope in Schedule 1 to this agreement.
 - The *language of this contract* is English.
 - *The law of the contract* is the law of England and Wales and the Courts of the country selected above, shall have exclusive jurisdiction with regard to any dispute in connection with this contract and the Parties irrevocably agree to submit to the jurisdiction of those courts.
 - The *period for reply* is two weeks.
 - The *period for retention* is 12 years following Completion or earlier termination.
 - The *Service Manager* is:
Name: Sodexo Limited (company number: 00842846)
Address: One Southampton Row, Holborn, London, WC1B 5HA
 - The *Adjudicator nominating body* is the *Royal Institution of Chartered Surveyors*.
 - The *tribunal* is arbitration.
 - The following matters will be included in the Risk Register

1. Covid-19

2 The Parties' main responsibilities

- The *Employer* provides access to the following persons, places and things:
 - a) access to DWP premises as necessary; and
 - b) such additional access as is set out in the relevant Task Order.

3 Time

- The *starting date* is 19/07/2021.
- The *service period* is the period of 1 year and 9 months commencing on the *starting date* (the ***initial service period***), provided that the *Employer* may extend the *service period* by up to 6 months (an ***extension period***), commencing on the day following the last day of the *initial service period* as appropriate, by giving not less than 8 weeks' written notice to the *Consultant* prior to the commencement of the relevant *extension period*.
- The *Consultant* submits revised programmes at intervals no longer than two weeks.

4 Quality

- The quality policy statement and quality plan are provided within 2 weeks of the *starting date*.
- The *defects date* is 52 weeks after Completion of the whole of the *services*.

5 Payment

- The *assessment interval* is monthly.
- The *currency of this contract* is the pound sterling (£).
- The *interest rate* is, 3% per annum above the Bank of England base rate in force from time to time.

8 Indemnity, insurance and liability

- The amounts of insurance and the periods for which the *Consultant* maintains insurance are

event

cover

Period

failure of the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	£REDACTED in respect of each claim, without limit to the number of claims except for claims arising out of pollution or contamination or fire safety notifications, where the minimum amount of cover applies in the aggregate in any one period of insurance and except for claims arising out of asbestos where a lower level may apply in the aggregate.	from the <i>starting date</i> until 12 years following completion of the whole of the <i>services</i> or earlier termination
death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	As required under Framework Schedule 14 (Annex 1 - Part A)	from the <i>starting date</i> until all notified Defects have been corrected or earlier termination
death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	As required under Framework Schedule 14 (Annex 1 - Part C)	from the <i>starting date</i> until all notified Defects have been corrected or earlier termination
<ul style="list-style-type: none"> • <i>The Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to £REDACTED for each and every claim, except for claims arising out of pollution, contamination, asbestos or fire safety notifications, where the total liability is in the aggregate in any one period of insurance. 		

Optional Statements

If the *Employer* has decided the *completion date* for the whole of the *services*

- The *completion date* for the *services* is 31st March 2023.

If the *Employer* has identified work which is to meet a *stated condition* by a *key date*

- The *key dates* and *conditions* to be met are
 - 1: The management and evaluation of Contractor tenders, followed by production of Tender Reports, which shall be correct and in accordance with the Statement of Requirements and Scope at the first attempt, will be completed and issued to the *Employer* and the Employer's Agent.
 - 1: Within timescales communicated in writing (which may include email) by the Employer's Agent to the Consultant, provided that the Consultant shall not be provided with less than 5 Working Days' notice to complete the Tender Report.
 - 2: Handover documentation will be provided electronically in a form specified by the Employer (e.g. uploaded to SharePoint) and closed out.
 - 2: Within 10 Working Days of project completion, to be determined in the Task Order.
 - 3: NEC timescales for responding to Contractor Early Warning Notices and Compensation Events will be adhered to, in line with the *Employer's* governance process as outlined in the Statement of Requirements and Scope.
 - 3: Within the NEC timescales in place in the contract between the *Employer* and the *Contractors*.
 - 4: Responses to requests for information and/or input or review defined in the Statement of Requirements and Scope from the Cost Management Team (CMT), Design Team North (DTN) and Design Team South (DTS) will be provided and issued.
 - 4: Within 2 Working Days of the request for information and/or input or review being submitted to the Consultant in writing (which may include email), unless otherwise agreed by the Employer.
 - 5: Attendance at a meeting(s) to discuss the report(s) of performance against each Key Performance Indicator and application of the *incentive schedule*.
 - 5: Will be communicated in writing (which may include email) by the Employer to the Consultant as and when required.

If the period in which payments are made is not three weeks and Y(UK)2 is not used

- Not applicable

If Y(UK)2 is used and the final date for payment is not 14 days after the date when payment is due

- The period for payment is 30 days after the date when payment is due.

If the *Employer* states any *expenses*

- The *Employer* does not state any *expenses*.

If the *tribunal* is arbitration

- The *arbitration procedure* is the London Court of International Arbitration Rules.
- The number of arbitrators shall be agreed by the Parties before the commencement of arbitration proceedings.
- The place where arbitration is to be held will be agreed by the Parties before the commencement of arbitration proceedings.
- The language to be used in the arbitration proceedings shall be English.
- If the Parties cannot agree the identity of the arbitrator then the nominating body shall be Chartered Institute of Arbitrators.

If Option A is used:

- The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than 4 weeks.

If Option C or E is used:

- The *Consultant* prepares forecasts of the total Time Charge and *expenses* at intervals no longer than 4 weeks.
- The *exchange rates* are *those* published in the Financial Times on the *assessment date* when payment in another currency is included in the Price for Services Provided to Date.

Option X2 Option X2 is used:

- *The law of the project* is the law of England and Wales.

Option X8 If Option X8 is used

- The *Sub-consultant collateral warranties* are in the form(s) contained in the Scope or if not contained in the Scope the form(s) attached as a Contract Schedule and shall be made in favour of the *Employer* and those persons identified in the relevant Task Order.

Option X10 Option X10 is used

- The *Employer's Agent* is
- Name: Sodexo Limited (company number 00842846)
- Address: One Southampton Row, Holborn, London WC1B 5HA

The authority of the *Employer's Agent* is as set out in clause Z51.

Option X18 Option X18 is used:

- The *Consultant's* liability to the *Employer* for indirect or consequential loss is limited to £REDACTED.
- The *Consultant's* liability to the *Employer* for Defects that are not found until after the *defects date* is limited to £REDACTED for each and every claim, except for claims arising out of pollution, contamination, asbestos or fire safety notifications, where the total liability is in the aggregate in any one period of insurance.
- The *end of liability* date is 12 years after Completion of the whole of the *services*.

Option X19 Option X19 is used

- The *Consultant* submits a Task Order programme to the *Service Manager* within 5 Working Days of receiving the Task Order.

Option X20 Option X20 is used:

- The *incentive schedule* for Key Performance Indicators (**KPIs**) is in Contract Schedule 9.
- During the first 3 months of the contract (the **KPI Benchmarking Period**), the KPIs in the incentive schedule will be monitored and measured, but Red, Amber and Green ratings will not be applied in respect of the KPI Benchmarking Period.
- Within 10 Working Days following the end of the KPI Benchmarking Period, the Consultant shall propose any amendments to the KPIs, that it reasonably considers would incentivise good and effective performance of the contract by the Consultant (the **RAG Proposal**).
- Following receipt of the RAG Proposal (or at any time if the RAG Proposal is not provided within the applicable period), the *Employer* may by written notice amend any part of the incentive schedule, including the criteria for Red, Amber and Green ratings, based on the reported performance of the *Consultant* in the KPI Benchmarking Period. The *Employer* shall have regard to the RAG Proposal and shall consult with the *Consultant* when determining such amendments. The *Consultant* shall co-operate with and provide reasonable assistance to the *Employer* and the Employer's Agent to identify such amendments as are required to effect an effective incentive schedule.
- A report detailing performance against each KPI is provided at intervals of 1 month.
- The Parties shall meet within 5 Working Days following each KPI performance report being provided at a monthly performance meeting. Without prejudice to the Improvement Plan Process set out below, actions and associated timescales will be agreed to share best practice and/or agree how improvements to performance will be implemented.
- The performance of the Consultant in the preceding month is classified as 'Good', 'Poor' or 'Requiring Improvement' in accordance with Contract Schedule 9.
- Without prejudice to any other right or remedy of the *Employer*, where the performance of the *Consultant* is classified as 'Poor':
 1. in three or more consecutive months, the *Employer* may, at its discretion notify the Consultant that it will suspend the instruction of any new Tasks that may be required and provision of associated Task Orders until the expiry of three months from the date of suspension (the "**Initial TO Suspension Period**");
 2. in two or more consecutive months within the Initial TO Suspension Period or a Further TO Suspension Period (as defined below), the *Employer* may, at its discretion notify the Consultant that it will further suspend the

instruction of any new Tasks that may be required and provision of associated Task Orders (a “**Further TO Suspension Period**”). The Further TO Suspension Period shall be for a period of three months from the date of expiry of the Initial TO Suspension Period or the then-current Further TO Suspension Period (as appropriate); and

3. in two or more consecutive months during a Further TO Suspension Period or in any five or more consecutive months (whether or not provision of Task Orders is suspended), the *Consultant* shall be deemed to have substantially failed to comply with his obligations and such default shall be deemed not to be capable of being put right. Accordingly, the *Employer* may terminate the *Consultant’s* obligation to Provide the Services.
- Any suspension of the instruction new Tasks and provision of associated Task Orders shall be without prejudice to the obligation of the *Consultant* to continue to Provide the Services. For the avoidance of doubt the *Employer* may procure provision of such new Tasks from third parties during any period of suspension.
 - For the avoidance of doubt, no guarantee is given by the *Employer* in respect of levels or values of work and the *Consultant* is appointed by the *Employer* on a non-exclusive basis.
 - Where X20 is used, the amount due under clause 50 is adjusted to account for the application of the *incentive schedule*.
 - The *Employer* reserves the right to disapply the *incentive schedule* in whole or in part where the *Employer* considers that mitigating circumstances apply.

Improvement Plan Process

- An **Improvement Plan** is the plan to address the impact of and prevent the reoccurrence of performance by the *Consultant* which is ‘Poor’ or ‘Requiring Improvement’.
- Where the performance of the *Consultant* is ‘Poor’ or ‘Requiring Improvement’ in the previous month, the *Employer* may serve notice (an **Improvement Notice**) on the *Consultant* setting out sufficient detail to make it clear what the *Consultant* has to rectify.
- Where an Improvement Notice is served the *Consultant* submits to the *Employer* a draft Improvement Plan and the *Employer* reviews it as soon as possible and in any event within 10 Working Days (or such other period as the Parties agree) of the monthly performance meeting or, if later, the date of service of the Improvement Notice. The *Consultant* submits a draft Improvement Plan even if it disputes the performance rating in the previous month.
- The draft Improvement Plan sets out:

1. full details of the performance rating in the previous month and which KPIs were rated as Red or Amber to achieve this rating; and
 2. the steps the *Consultant* proposes to take to rectify and improve the performance of these KPIs and to prevent any issues from recurring, including timescales for such steps.
- The *Consultant* provides the *Employer* with such additional information or documentation as the *Employer* reasonably requires.
 - The *Employer* notifies the *Consultant* that:
 1. it agrees the draft Improvement Plan; or
 2. it rejects the draft Improvement Plan because it is inadequate, for example because it is not detailed enough to evaluate, will take too long to complete, will not prevent reoccurrence of the Red or Amber markings it was drafted to improve or is otherwise unacceptable to the *Employer*. Where the *Employer* does so it shall set out its reasons for doing so.
 - Where the *Employer* accepts the Improvement Plan the *Consultant* immediately implements the actions in the Improvement Plan.
 - Where the *Employer* rejects the Improvement Plan the *Consultant* resubmits its draft Improvement Plan taking into account the *Employer's* comments within 5 Working Days of notice that the *Employer* rejects the preceding Improvement Plan.
 - If performance of the *Consultant* is classified as 'Poor' and the *Consultant* fails in respect of any of such incidences of 'Poor' performance:
 1. to submit a draft Improvement Plan to the *Employer* as required by this clause X20;
 2. to submit a draft Improvement Plan which the *Employer* acting reasonably does not approve;
 3. to implement an Improvement Plan agreed by the Parties by the date of rectification stipulated in the Improvement Plan; or
 4. following implementation of a previous Improvement Plan, where one or more of the same KPIs has received a Red marking in consecutive months for the same (or substantially the same) root cause,

then the *Consultant* shall be deemed to have substantially failed to comply with his obligations and such default shall be deemed not to be capable of being put right and, without prejudice to any other right or remedy of the *Employer*, the *Employer* may:

1. suspend the instruction of any new Tasks that may be required and provision of associated Task Orders (and for the avoidance of doubt the *Employer* may procure provision of such Tasks from third parties) until the expiry

of three months from the date of suspension; or (b) the performance of the Consultant having been classified as 'Good' or 'Requiring Improvement' for a period of not less than 2 consecutive months, without prejudice to the obligation of the Consultant to continue to Provide the Services; and/or

2. terminate the *Consultant's* obligation to Provide the Services.

Option Y(UK)3 • If Option Y(UK)3 is used

term	person or organisation
Paragraphs 2.1 and 2.6 of Part A, Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C and Paragraphs 1.4, 2.3 and 2.8 of Part D of Contract Schedule 4 – TUPE Schedules	The persons named or identified in such provisions (other than the Parties)

- Contract Data relating to Z clauses** • The *additional conditions of contract* are clauses Z1 to Z53 set out with this contract save for:
Z9, Z21, Z26, Z36, Z37 and Z41.

Clause Z19 Employer's Limitation of Liability

- The limit of the Employer's liability is 150% of the total Price payable in respect of all Task Orders which have been issued under this contract from time to time.

Clause Z35 Collateral Warranty Agreements

If Clause Z35 applies

- the *Consultant* provides *collateral warranty agreements* in favour of those persons identified in the relevant Task Order, which may include the persons referred to below.
- the Consultant procures *collateral warranty agreements* from the following Sub-consultants:

The Sub-consultants referred to in Annex A in favour of those persons identified in the relevant Task Order, which may include the persons referred to below.

Collateral warranty agreements shall be required in favour of the following persons:

- the *Employer* (save in respect of collateral warranties from the *Consultant*)
- (where not the *Employer*) each owner of the Site or any property on the site or any part of it
- (where not the *Employer*) each landlord of the Site or any property on the Site or any part of it
- any person who purchases a freehold or long leasehold interest in the Site or any part of it
- any person who has entered into a lease or an agreement for the grant of a leasehold interest in the Site or any part of it
- any other person reasonably required by the *Employer*, as identified in the Task Order

Clause Z39 Financial Distress

If Clause Z39 applies

The *credit ratings* at the Contract Date and the rating agencies issuing them are

party	rating agency	<i>credit rating</i>
<i>Consultant</i>	Fame	Secure

Clause Z42 Off Shoring of Data

The Risk Assessment is a full risk assessment and security review carried out by the *Employer* in accordance with the [Offshoring Policy for DWP Contractors](#) or any later revision or replacement.

Clause Z48 Building Information Modelling

A BIM Protocol applies and is appended in Schedule 10 to this Call Off Contract.

Part two – Data provided by the Consultant

1 Statements given in all contracts

- The *Consultant* is
Name: Gleeds Advisory Ltd
Address: 95 New Cavendish Street, London, W1W 6XF.
- The *key people* are as provided in Contract Schedule 2 - Consultant Proposal
- The *staff rates* are as set out in Contract Schedule 3 - Price List.

The *Consultant* shall keep records of hours and days properly worked by the *Consultant's* staff in the form of timesheets.

- The following matters will be included in the Risk Register
Covid-19

Optional statements

- **The *Consultant* does not state any expenses**

If the *Consultant* requires additional access

The *Employer* provides access to:

- (a) all persons, places and things as are reasonably required for performance of the Contract; and
- (b) such additional persons, places and things that may be specified in the Task Order.

If Option A or C is used

- The *activity schedule* is comprised of the work involved in the Task Orders instructed under clause X19 and added to the *activity schedule* under clause X19.2. The work in respect of each Task Order is added to the *activity schedule* in compliance with Contract Schedule 1 - Employer's Statement of Requirements and Scope, Contract Schedule 2 - Consultant Proposal and Contract Schedule 3 - Price List.
- The tendered total of the Prices is:
 - in respect of core services for each project, the aggregate of the applicable core service percentages of the construction cost of that project as set out in the *activity schedule*.
- The anticipated aggregate total amount of the Prices in respect of all Batch 3 projects (including anticipated core and non-core services) is **£REDACTED**, exclusive of VAT (being **£REDACTED** in respect of core services and **£REDACTED** in respect of non-core services),

estimated by the Employer using anticipated requirements at the Contract Date.

Additional conditions of contract – clauses Z1 to Z53

Clause Z1 Interpretation and the law

Z1.1 In this contract, except where the context shows otherwise:

- references to a document include any revision made to it in accordance with this contract;
- references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it;
- references to a British, European or International standard include any current relevant standard that replaces it;
- references to persons or organisations will be construed so as to include bodies corporate, unincorporated associations, partnerships and any other legal entity; and
- the words “includes” or “including” are construed without limitation.

Z1.2 Terms for which no interpretation is provided in this contract shall have the meaning ordinarily given to them by the legal profession where appropriate but otherwise shall be interpreted in accordance with their dictionary meaning.

Acquired Rights Directive is the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time

Authority means The Minister for the Cabinet Office (“Cabinet Office”) as represented by Crown Commercial Service, a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP

Confidential Information is any information, however it is conveyed, that relates to the business, personnel, affairs, developments, trade secrets, ideas, concepts, schemes, information, knowledge, techniques, methodology, and without limiting the above anything else in the nature of know-how, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably to be considered to be confidential.

Consultant Personnel is all persons employed or engaged by the *Consultant* together with the *Consultant’s* servants, agents, suppliers, consultants and Sub-consultants (and all persons employed by any Sub-consultant together with the Sub-consultant’s servants, consultants, agents, suppliers and sub-Sub-consultants);

Contracting Authorities means the bodies listed in the contract notice 2016/S 180-323830 on 17/09/2016 in the Official Journal of the

European Union and “Contracting Authority” shall be construed accordingly;

Employment Regulations are the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;

Environmental Information Regulations is the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations;

FOIA is the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

Former Consultant is the *Consultant* supplying services to the *Employer* before the Relevant Transfer Date that are the same as or substantially similar to the service (or any part of the service) and shall include any sub-consultant of such supplier (or any sub-consultant of any such sub-consultant);

Information has the meaning given under section 84 of the Freedom of Information Act 2000;

Law means any applicable law, Act of Parliament, subordinate legislation including legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, exercise of the royal prerogative, enforceable European Union right including enforceable rights within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, regulation, directive, order, mandatory guidance, code of practice and/or requirements or any regulatory body of which the Consultant is bound to comply;

A Prohibited Act is:

- to directly or indirectly offer, promise or give any person working for or engaged by the *Employer* and/or the Authority or other Contracting Authority or any other public body a financial or other advantage to:
 - induce that person to perform improperly a relevant function or activity; or
 - reward that person for improper performance of a relevant function or activity;
- 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 contract; and /or
- committing any offence:
 - under the Bribery Act 2010 (or any legislation repealed or revoked by such Act)

-
- under legislation or common law concerning fraudulent acts; or
 - defrauding, attempting to defraud or conspiring to defraud the *Employer*; or
 - any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK;

Relevant Requirements are all applicable Laws 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;

Material means all designs, drawings, models, plans, specifications, design details, photographs, brochures, reports, feasibility studies, planning submissions, notes of meetings, CAD materials, calculations, data, databases, schedules, programmes, bills of quantities, budgets and any other materials provided in connection with this contract and all updates, amendments, additions and revisions to them and any works, designs, or inventions incorporated or referred to in them for any purpose relating to this contract;

Relevant Transfer is a transfer of employment to which the Employment Regulations applies;

Relevant Transfer Date is, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;

Request for Information is a request for information or an apparent request under the FOIA or the Environmental Information Regulations;

Security Policy means the *Employer's* security policy attached as a Contract Schedule as may be updated from time to time;

Transferring Employer Employees are those employees of the *Employer* to whom the Employment Regulations will apply on the Relevant Transfer Date;

Transferring Former Consultant Employees are, in relation to a Former Consultant, those employees of the Former Consultant to whom the Employment Regulations will apply on the Relevant Transfer Date;

Working Day is any day other than a Saturday or Sunday or public holiday in England and Wales.

Clause Z2 Prevention of fraud and bribery

(i) Insert new clauses:

Z2.1 The *Consultant* represents and warrants that neither it, nor to the best of its knowledge any of its employees, have at any time prior to the Contract Date:

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- been listed by any government department or agency 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.

Z2.2. Throughout the period in which the *services* are performed the *Consultant* does not:

- commit a Prohibited Act; and/or
- do or suffer anything to be done which would cause the *Employer* or any of the *Employer's* employees, consultants, contractors, sub-consultants or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements

Z2.3 Throughout the period in which the *services* are performed the *Consultant*:

- establishes, maintains and enforces, and requires that its Sub-consultants 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;
- keeps appropriate records of its compliance with this contract and make such records available to the *Employer* on request;
- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the *Employer* on request) to prevent it and any *Consultant's* employees or any person acting on the *Consultant's* behalf from committing a Prohibited Act.

Z2.4 The *Consultant* immediately notifies the *Employer* in writing if it becomes aware of any breach of clause Z2.1, Z2.2 and / or Z2.3, or has reason to believe that it has or any of the its employees or Sub-consultants have:

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- been listed by any government department or agency 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; and/or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

Z2.5 If the *Consultant* makes a notification to the *Employer* pursuant to clause Z2.4, the *Consultant* responds promptly to the *Employer's* enquiries, co-operates with any investigation, and allows the *Employer* to audit any books, records and/or any other relevant documentation in

accordance with this contract.

Z2.6 Without limitation to clause 22.2 if the *Consultant* breaches Clause Z2.3, the *Employer* may instruct the *Consultant* to remove a person employed by the *Consultant* who has caused the *Consultant's* breach to remove that person and the *Consultant* shall immediately ensure that person has no further connection with the work included in this contract.

Clause Z3 Recovery of sums due from *Consultant*

Where the Employer is a Crown Body, then Z3.1 applies to the exclusion of Z3.2. Otherwise, Z3.2 applies to the exclusion of Z3.1.

Z3.1 Where under this contract any sum of money is recoverable from or payable by the *Consultant*, such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time after may become due to the *Consultant* under this contract or any other contract with any Department or Office of Her Majesty's Government.

Z3.2 Where under this contract or any other contract between the *Consultant* and the *Employer* any sum of money is recoverable from or payable by the *Consultant*, such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time after may become due to the *Consultant* under this contract or any other contract with the *Employer*.

Clause Z4 Assignment and Novation

Z4.1 The *Employer* is entitled to assign or otherwise dispose of its rights under this contract or any part thereof to:

- any Contracting Authority; or
- any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the *Employer*.

Z4.2 The *Consultant* does not, without the written consent of the *Employer*, assign or transfer this contract, or any part of, share of or interest in it. In the absence of the *Employer's* written consent no sum of money becoming due under this contract is payable to any person other than the *Consultant*.

Z4.3 The *Employer* is entitled to, and the *Consultant* gives consent to, the novation of this contract or any part thereof to:

- any Contracting Authority; or
- any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the *Employer*;

upon such terms as the *Employer* proposes, provided that where such

novation increases the burden on the *Consultant* pursuant to this contract, the novation shall be a compensation event. Accordingly a new clause 60.1(13) shall be added that reads “A novation pursuant to clause Z4.3 occurs which increases the burden on the *Consultant* pursuant to this contract”.

Z4.5 Any change in the legal status of the *Employer* such that it ceases to be a Contracting Authority does not affect the validity of this contract. In such circumstances, this contract binds and inures to the benefit of any successor body to the *Employer*.

Z4.6 If this contract is novated to a body which is not a Contracting Authority or if a successor body which is not a Contracting Authority becomes the *Employer* (both such bodies being referred to in the remainder of this clause as the “transferee”) the transferee is only able to assign, novate or otherwise dispose of its rights and obligations under this contract or any part thereof with the written consent of the *Consultant*.

Clause Z5 Discrimination

Z5.1 The *Consultant* does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Equality Act 2010, any predecessor statute of it or any amendment or re-enactment of it from time to time (the “Discrimination Acts”).

Z5.2 In connection with the *services* the *Consultant* co-operates with and assists the *Employer* to satisfy his duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.

Z5.3 Where any employee or Sub-consultant is required to carry out any activity alongside the *Employer's* employees, the *Consultant* ensures that each such employee or Sub-consultant complies with the *Employer's* employment policies and codes of practice relating to discrimination and equal opportunities.

Z5.4 The *Consultant* notifies the *Employer* in writing as soon as he becomes aware of any investigation or proceedings brought against the *Consultant* under the Discrimination Acts in connection with this contract and

- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
- attends (and permits a representative from the *Employer* to attend) any associated meetings,
- promptly allows access to any relevant documents and information and
- cooperates fully and promptly with the investigatory body, court or tribunal.

Z5.5 The *Consultant* indemnifies the *Employer* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Employer* arising out of or in connection with

any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the *Consultant*.

Z5.6 The *Consultant* includes in the conditions of contract for each Sub-consultant obligations substantially similar to those set out above.

Clause Z6 Conflict of interest

Z6.1 The *Consultant* does not take an action which would cause a conflict of interest to arise in connection with this contract. The *Consultant* notifies the *Employer* if there is any uncertainty about whether a conflict of interest may exist or arise.

Z6.2 The *Consultant* immediately notifies the *Employer* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Consultant* and/or the *Employer* (including without limitation its reputation and standing), of which it is aware or anticipates may justify the *Employer* taking action to protect its interests.

Z6.3 The *Consultant* must take positive steps to mitigate any conflict of interest that may exist or arise under Clause Z6.1 or there are circumstances that may give rise to a conflict of interest under Z6.2.

Z6.4 Should the Parties be unable to either remove the conflict of interest and/or to reduce its damaging effect to a reasonably acceptable level, the *Employer* has the right to terminate this contract whereupon the provisions of PSC clause 92.2 apply to the termination.

Clause Z7 Merger, take-over or change of control

Z7.1 In clauses Z7, Z30 (Consortia), Z39 (Financial Distress), Z40 (Change of Control – new guarantee) and Z41 (Parent Company Guarantee)

- **Change of Control** is an event where a single person (or group of persons acting in concert)
 - acquires Control of the *Consultant* or
 - acquires a direct or indirect interest in the relevant share capital of the *Consultant* and as a result holds or controls the largest direct or indirect interest in (and in any event more than 25% of) the relevant share capital of the *Consultant*,
- **Consortium Member** is an organisation or person which is a member of a group of economic operators comprising the *Consultant*, whether as a participant in an unincorporated joint venture or a shareholder in a joint venture company,
- **Control** has the meaning set out in section 1124 of the Corporation Tax Act 2010,
- **Controller** is the single person (or group of persons acting in concert) that
 - has Control of the *Consultant* or a Consortium Member

or

- holds or controls the largest direct or indirect interest in the relevant share capital of the *Consultant* or a Consortium Member,
- **Credit Rating Threshold** means the minimum credit rating for the *Consultant*, a Consortium Member or a proposed guarantor, such credit rating being set out at Annex 2 to Schedule 16 of the Framework Agreement,
- **Framework Agreement** means the framework agreement pursuant to which this contract has been entered into
- **Guarantor** is a person who has given a Parent Company Guarantee to the *Employer* and
- **Parent Company Guarantee** is a guarantee of the *Consultant's* performance in the form set out in the Scope, or if not set out in the Scope, the template form attached to this contract.

Z7.2 A Change of Control does not happen without the prior agreement of the *Employer*, and if a Change of Control occurs without the *Employer's* prior consent, then the *Employer* may treat the Change of Control as a substantial failure by the *Consultant* to comply with his obligations.

Z7.3 The *Consultant* notifies the *Employer* immediately if a Change of Control has occurred or is expected to occur.

Z7.4 If the Change of Control will not allow the *Consultant* to perform its obligations under this contract, the *Employer* may treat the Change of Control as a substantial failure by the *Consultant* to comply with his obligations.

Z7.5 The *Consultant* notifies the *Employer* immediately of any material change in

- the direct or indirect legal or beneficial ownership of any shareholding in the *Consultant*. A change is material if it relates directly or indirectly to a change of 3% or more of the issued share capital of the *Consultant*, or
- the composition of the *Consultant*. Without limitation a change is material if it directly or indirectly affects the performance of this contract by the *Consultant*.

Z7.6 The *Consultant* notifies the *Employer* immediately of any change or proposed change in the name or status of the *Consultant*.

Z7.7 If the *Consultant* does not provide a notification required by clause Z7.5 or Z7.6, the *Employer* may treat that failure as a substantial failure by the *Consultant* to comply with his

obligations.

Z7.8 In this clause Z7 a Change of Control in relation to

- material change in the ownership of shares in, or
- change in the name or status of

a Consortium Member is treated as a change relating to the *Consultant*.

Clause Z8 Appointment of *Adjudicator*

Z8.1 The *Adjudicator's* appointment under the NEC *Adjudicator's* Contract current at the *starting date* includes the following additional conditions of contract

"The *Adjudicator* complies, and takes all reasonable steps to ensure that any persons advising or aiding him comply, with the Official Secrets Act 1989. Any information concerning the *contract between the Parties* obtained either by the *Adjudicator* or any person advising or aiding him is confidential, and may not be used or disclosed by the *Adjudicator* or any such person except for the purposes of this Agreement."

Clause Z9 Project Bank Account

Z9.1 If Option Y(UK)1 applies to this contract then this Z clause applies

Z9.2 Clause Y1.6 is amended by inserting the following after the second sentence:

"The *Employer* may propose that a Supplier is added to the Named Suppliers. The *Consultant* accepts the proposal if the addition of the Supplier to the Named Suppliers is practicable."

Z9.3 The *Employer* may notify the *Consultant* that payments under this contract will no longer be made using the Project Bank Account. This notice is a compensation event. Within one week of the *Employer's* notice, the *Consultant* notifies the Named Suppliers that the Project Bank Account is no longer to be used and proposes an alternative method to ensure that the Named Suppliers receive payments in accordance with their contracts.

Clause Z10 Employer's Codes of Conduct

Z10.1 The *Consultant* complies (and ensures that any person employed by him or acting on his behalf complies) with the *Employer's* code of conduct to the extent one is included as a Contract Schedule to this contract. The *Consultant* complies with the code of conduct until Completion and for the *period of retention*.

Z10.2 A failure to comply with this clause is treated as a substantial failure by the *Consultant* to comply with his obligations.

Clause Z11 Fair payment

Z11.1 The *Consultant* assesses the amount due to a Sub-consultant

without taking into account the amount assessed under this contract.

Z11.2 The *Consultant* includes in the contract with each Sub-consultant

- a period for payment of the amount due to the Sub-consultant not greater than 19 days after the date on which payment becomes due under this contract. The amount due includes, but is not limited to, payment for work which the Sub-consultant has completed from the previous assessment date up to the current assessment date in this contract,
- a provision requiring the Sub-consultant to include in each subsubcontract the same requirement, except that the period for payment is to be not greater than 23 days after the date on which payment becomes due under this contract and
- a provision requiring the Sub-consultant to assess the amount due to a subSub-consultant without taking into account the amount paid by the *Consultant*.

Z11.3 The *Consultant* notifies non-compliance with the timescales for payment through the Efficiency and Reform Group supplier feedback service. The *Consultant* includes this provision in each subcontract, and requires Sub-consultants to include the same provision in each subsubcontract.

Z11.4 A failure to comply with this condition is treated as a substantial failure by the *Consultant* to comply with his obligations.

Clause Z12 Confidentiality

Z12.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each party shall:

- treat the other party's Confidential Information as confidential and safeguard it accordingly; and
- not disclose the other party's Confidential Information to any other person without that other party's prior written consent.

Z12.2 Clause Z12.1 shall not apply to the extent that:

- such disclosure is a requirement of the law of the contract placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z16 (Freedom of Information);
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure;
- such information was obtained from a third party without obligation of confidentiality;
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract; or
- it is independently developed without access to the other party's Confidential Information.

Z12.3 The *Consultant* shall not, and shall procure that the Consultant Personnel do not, use any of the *Employer's* Confidential Information received otherwise than for the purposes of this contract.

Z12.4 The *Consultant* may only disclose the *Employer's* Confidential Information to the Consultant Personnel who are directly involved in the provision of the services and who need to know the information, and shall ensure that such Consultant Personnel are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any Consultant Personnel causes or contributes (or could cause or contribute) to the *Consultant* breaching its obligations as to confidentiality under or in connection with this contract, the *Consultant* shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any Consultant Personnel, the *Consultant* shall provide such evidence to the *Employer* as the *Employer* may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the *Consultant* is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from Consultant Personnel, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with Consultant Personnel in connection with obligations as to confidentiality.

Z12.5 At the written request of the *Employer*, the *Consultant* shall procure that those members of the Consultant Personnel identified in the *Employer's* notice signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

Z12.6 Nothing in this contract shall prevent the *Employer* from disclosing the *Consultant's* Confidential Information:

- to any Crown Body or any other Contracting Authorities. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
- to any consultant, contractor or other person engaged by the *Employer* or any person conducting an Office of Government Commerce gateway review;
- for the purpose of the examination and certification of the *Employer's* accounts; or
- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Employer* has used its resources.

and for the purposes of the foregoing, disclosure of the *Consultant's* Confidential Information shall be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less

stringent than those placed on the *Employer* under this clause Z12.6.

Z12.7 The *Employer* shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-consultant to whom the *Consultant's* Confidential Information is disclosed pursuant to the above clause is made aware of the *Employer's* obligations of confidentiality.

Z12.8 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of this contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of intellectual property rights.

Clause Z13 Security Requirements

Z13.1 The *Consultant* complies with, and procures the compliance of its personnel, with:

- the Security Policy;
- the Security Management Plan produced pursuant to the Security Provisions; and
- the Security Provisions contained within the Security Policy or the Scope.

Z13.2 The *Consultant* shall ensure that the Security Management Plan produced by the *Consultant* fully complies with the Security Policy.

Clause Z14 Official Secrets Act

Z14.1 The Official Secrets Act 1989 applies to this contract from the *starting date* until the *defects date* or earlier termination.

Z14.2 The *Consultant* notifies his employees and Sub-consultants of their duties under the Official Secrets Act 1989.

Z14.3 A failure to comply with this clause is treated as a substantial failure by the *Consultant* to comply with his obligations.

Z14.4 The *Consultant* complies with the staff vetting and training requirements stated in the Statement of Requirements and Scope.

Clause Z15 Data protection

Z15.1 In this clause Z15 the following terms shall have the following meanings:

“Consultant Personnel”	means all directors, officers, employees, agents, consultants and contractors of the <i>Consultant</i> and/or any Sub-Processor engaged in the performance of its obligations under this contract;
“Data Controller”	shall have the same meaning as given in Data Protection Legislation.

“Data Loss Event”	means any event that results, or may result, in unauthorised access to Personal Data held by the <i>Consultant</i> under this contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this contract, including any Personal Data Breach;
“Data Processor”	has the meaning given to it in the Data Protection Legislation, as amended from time to time;
“Data Protection Legislation”	means: <ul style="list-style-type: none"> (a) the Data Protection Act 2018; (b) the GDPR; and (c) all applicable Laws and regulations relating to Processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation, in each case as amended from time to time;
“Data Subject”	has the meaning given to it in the Data Protection Legislation, as amended from time to time;
“Data Subject Access Request”	means a request made by a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access his or her Personal Data;
“GDPR”	means UK GDPR (as defined in the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419);
“Personal Data”	has the meaning given to it in the Data Protection Legislation as amended from time to time and shall include Special Categories of Personal Data;
“Personal Data Breach”	shall have the meaning as given in the Data Protection Legislation;

“Processing”	has the meaning given to it in the Data Protection Legislation but, for the purposes of this contract, it shall include both manual and automatic processing and “Process” and “Processed” shall be interpreted accordingly;
“Protective Measures”	<p>means appropriate technical and organisational measures which shall be sufficient to secure that the Data Processor will meet the requirements of the Data Protection Legislation and ensure the protection of the rights of the Data Subject and may include (without limitation):</p> <ul style="list-style-type: none"> (i) Pseudonymisation and encrypting Personal Data; (ii) ensuring on-going confidentiality, integrity, availability and resilience of systems and services used for data processing; (iii) measures to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident (iv) ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident; and (v) regularly assessing and evaluating the effectiveness of such measures adopted by it.
“Pseudonymisation”	shall have the same meaning as given in Data Protection Legislation;
“Restricted Country”	<p>means any country which:</p> <ul style="list-style-type: none"> a) is outside the United Kingdom; b) is not determined to be adequate pursuant to regulations made under s17A of the Data Protection Act 2018; and c) has not been confirmed by the Contracting Authority as a non-Restricted Country in writing from time-to-time.
“Special Categories of Personal Data”	shall have the meaning given in Data Protection Legislation;

“Sub-Processor” means any third party appointed to Process Personal Data on behalf of the *Consultant* related to this contract;

Z15.2 Where any Personal Data is Processed in connection with the exercise of the Parties’ rights and obligations under this contract, the Parties acknowledge that the *Employer* is the Data Controller and that the *Consultant* is the Data Processor.

Z15.3 The *Consultant* shall:

- Z15.3.1 ensure that it and the Consultant Personnel comply with all of the applicable requirements of the Data Protection Legislation and shall not knowingly or negligently by any act of omission, place the *Employer* in breach or potential breach of Data Protection Legislation;
- Z15.3.2 process the Personal Data only to the extent and in such manner as is necessary for the purposes specified in this contract and in accordance with instructions from the *Employer* to perform its obligations under this contract in accordance with Contract Schedule 5 – Personal Data and Data Subjects, unless otherwise required by Law. In such case, the *Consultant* shall inform the *Employer* of that legal requirement unless the Law prevents such disclosure on the grounds of public interest;
- Z15.3.3 notify the *Employer* immediately if it considers that any of the *Employer*’s instructions infringe the Data Protection Legislation;
- Z15.3.4 maintain complete and accurate records and information to demonstrate its compliance with its Processor obligations under this clause Z15;
- Z15.3.5 keep a record of any Processing of Personal Data it carries out on behalf of the *Employer* including (without limitation) the records specified in Article 30(2) of the GDPR and upon request provide a copy to the *Employer*;
- Z15.3.6 ensure that at all times it has in place appropriate Protective Measures to guard against a Data Loss Event, which the *Employer* may reasonably reject (but failure to reject shall not amount to approval by the *Employer* of the adequacy of the Protective Measures) and which shall be implemented at the

Consultant's own expense and at no cost to the *Employer*;

Z15.3.7 not disclose or transfer the Personal Data to any third party or Consultant Personnel unless necessary for the provision of the *services* and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the *Employer* (save where such disclosure or transfer is specifically authorised under this contract);

Z15.3.8 take reasonable steps to ensure the reliability and integrity of any Consultant Personnel who have access to the Personal Data and ensure that the Consultant Personnel:

Z15.3.8.1 are aware of and comply with the *Consultant's* duties under this contract;

Z15.3.8.2 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 *Employer* or as otherwise permitted by this contract; and

Z15.3.8.3 have undergone adequate training in the use, care, protection and handling of Personal Data;

Z15.3.9 notify the *Employer* immediately if it becomes aware of a Data Loss Event or if it receives:

Z15.3.9.1 from a Data Subject (or third party on their behalf) a Data Subject Access Request (or purported Data Subject Access Request) a request to rectify, block or erase any Personal Data or any other request, complaint or communication relating to the *Employer's* obligations under the Data Protection Legislation;

Z15.3.9.2 any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or

Z15.3.9.3 a request from any third party for disclosure of Personal Data where compliance with such request is

required or purported to be required by Law;

Z15.3.10 provide the *Employer* with full cooperation and assistance (within the timescales reasonably required by them) in relation to any complaint, communication or request made (as referred to at Clause **Error! Reference source not found.**(e)) at no cost to the *Employer* including by promptly providing:

Z15.3.10.1 the *Employer* with full details and copies of the complaint, communication or request;

Z15.3.10.2 where applicable, such assistance as is reasonably requested by the *Employer* to enable them to comply with the Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation; and

Z15.3.10.3 the *Employer*, on request by the *Employer*, with any Personal Data it holds in relation to a Data Subject; and

Z15.3.11 if requested by the *Employer*, provide a written description of the measures that the *Consultant* has taken and the Protective Measures in place, for the purpose of compliance with its obligations pursuant to Clause **Error! Reference source not found.** and provide to the *Employer* copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

Z15.3.12 at the written direction of the *Employer*, delete or return Personal Data (and any copies of it) using a secure method of transfer to the *Employer* on expiry or earlier termination of this contract unless the *Consultant* is required by Law to retain Personal Data.

Z15.4 The *Consultant* shall not Process or otherwise transfer any Personal Data in or to a Restricted Country. If, after the Commencement Date, the *Consultant* or any Sub-consultant wishes to Process and/or transfer any Personal Data in or to any Restricted Country, the following provisions shall apply:

Z15.4.1 the *Consultant* shall give a written request in accordance with Clause Z15.4.2 ("**Third Country Processing Request**") to the *Employer* which the *Employer* shall consider in its absolute discretion;

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- Z15.4.2 the *Consultant* shall set out in its proposal to the *Employer* for a Third Country Processing Request details of the following:
- Z15.4.2.1 the Personal Data which will be transferred to and/or Processed in or to any Restricted Countries;
 - Z15.4.2.2 the Restricted Countries to which the Personal Data will be transferred and/or Processed;
 - Z15.4.2.3 any Sub-consultants or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries; and
 - Z15.4.2.4 how the *Consultant* will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries (in accordance with Article 46 of the GDPR and/or Data Protection Legislation) so as to ensure the *Employer's* compliance with the Data Protection Legislation;
- Z15.4.3 in providing and evaluating the Variation, the Parties shall ensure that they have regard to and comply with the Data Protection Legislation and then-current *Employer*, Contracting Authority and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Countries; and
- Z15.4.4 the *Consultant* shall comply with such other instructions and shall carry out such other actions as the *Employer* may notify in writing, including:
- Z15.4.4.1 incorporating standard and/or model clauses (which are approved as offering adequate safeguards under the Data Protection Legislation) into this contract or a separate data processing agreement between the Parties; and
 - Z15.4.4.2 procuring that any Sub-consultant or other third party who will be Processing and/or receiving or

accessing the Personal Data in any Restricted Countries either enters into:

- (a) a direct data processing agreement with the *Employer* on such terms as may be required by them; or
- (b) a data processing agreement with the *Consultant* on terms which are equivalent to those agreed between the *Employer* and the Sub-consultant relating to the relevant Personal Data transfer, and

Z15.4.4.3 in each case which the *Consultant* acknowledges may include the incorporation of model contract provisions (which are approved as offering adequate safeguards under the Data Protection Legislation) and technical and organisation measures which the *Employer* deems necessary for the purpose of protecting Personal Data.

Z15.5 The *Consultant* shall use its reasonable endeavours to assist the *Employer* to comply with any obligations under the Data Protection Legislation and shall not perform its obligations under this contract in such a way as to cause the *Employer* to breach any of their obligations under the Data Protection Legislation to the extent the *Consultant* is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

Z15.6 The *Consultant* shall allow for audits of its Processing activity by the *Employer* or the *Employer's* designated auditor and comply with all reasonable requests or directions by the *Employer* to enable the *Employer* to verify that the *Consultant* is in full compliance with its obligations under this contract.

Z15.7 The *Consultant* shall designate a data protection officer if required by the Data Protection Legislation.

Z15.8 Before allowing any Sub-Processor to process any Personal Data related to this contract, the *Consultant* shall:

- (a) notify the *Employer* in writing of the intended Sub-Processor and processing;
- (b) obtain the written consent of the *Employer*;
- (c) enter into a written agreement with the Sub-Processor which gives effect to the terms set out in this Clause 35

such that they apply to the Sub-Processor; and provide the *Employer* with such information regarding the Sub-Processor as they may reasonably require.

Z15.9 The *Consultant* shall remain fully liable for all acts or omissions of any Sub-Processor.

Z15.10 Within thirty (30) Working Days of the date of termination or expiry of this contract, the *Consultant* shall return to the *Employer* any data belonging to the *Employer* that is in the *Consultant's* possession, power or control, either in its then current format or in a format nominated by *Employer*, save that it may keep one copy of any such data or information for a period of up to twelve (12) months to comply with its obligations under the contract, or such period as is necessary for such compliance.

Clause Z16 Freedom of Information

Z16.1. The *Consultant* acknowledges that unless the *Employer* has notified the *Consultant* that the *Employer* is exempt from the provisions of the FOIA, the *Employer* is subject to the requirements of the FOIA and the Environmental Information Regulations. The *Consultant* cooperates with and assists the *Employer* so as to enable the *Employer* to comply with its information disclosure obligations.

Z16.2 The *Consultant*:

- transfers to the *Employer* all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
- provides the *Employer* with a copy of all Information relevant to the Request for Information in its possession, or power in the form that the *Employer* requires within five Working Days (or such other period as the *Employer* may specify) of the *Employer's* request;
- provides all necessary assistance as reasonably requested by the *Employer* to enable the *Employer* to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations; and
- procures that its Sub-consultants do likewise.

Z16.3 The *Employer* is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

Z16.4 The *Consultant* does not respond directly to a Request for Information unless authorised to do so by the *Employer*.

Z16.5 The *Consultant* acknowledges that the *Employer* may, acting in accordance with the MoJ Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of

Information Act 2000, be obliged to disclose Information without consulting or obtaining consent from the *Consultant* or despite the *Consultant* having expressed negative views when consulted.

Z16.6 The *Consultant* ensures that all Information is retained for disclosure throughout the period for retention and permits the *Employer* to inspect such records as and when reasonably requested from time to time.

Clause Z17 Records and Audit Access

Z17.1 In addition to its obligations under clause 13.6 of the *conditions of contract* the *Consultant* keeps documents and information obtained or prepared by the *Consultant* or any Sub-consultant in connection with this contract for the *period for retention*.

Z17.2 The *Consultant* permits the *Employer*, comptroller, auditor general and any other auditor appointed by the *Employer* to examine documents held or controlled by the *Consultant* or any Sub-consultant.

Z17.3 The *Consultant* provides such oral or written explanations as the *Employer* or comptroller and auditor general considers necessary.

Z17.4 The *Consultant* acknowledges that, for the purpose of examining and certifying the *Employer's* accounts or any examination pursuant to Section 6(1) of the National Audit Act 1983, the comptroller and auditor general or any other auditor appointed by the *Employer* may examine documents held or controlled by the *Consultant* or any Sub-consultant and may require the *Consultant* to provide such oral or written explanations as he considers necessary. The *Consultant* promptly complies with any such requirements at his own cost. This clause does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the *Consultant* and the carrying out of an examination under Section 6(3)(d) of the National Audit Act 1983 in relation to the *Consultant* is not a function exercisable under this contract.

Clause Z18 Reporting: Small and Medium Enterprises

Z18.1 In this clause "SME" is

- a Sub-consultant or
- a Sub-consultant to a Sub-consultant

that also:

- is autonomous,
- is a United Kingdom or European Union enterprise not owned or controlled by a non-United Kingdom or non-European Union parent company,
- for a medium sized enterprise (medium class) employs fewer than 250 staff, has turnover no greater than 50 million Euros and does not have a balance sheet greater than 43 million Euros,

-
- for a small sized enterprise (small class) employs fewer than 50 staff, has turnover no greater than 10 million Euros and does not have a balance sheet greater than 10 million Euros and
 - for a micro sized enterprise (micro class) employs fewer than 10 staff, has turnover no greater than 2 million Euros and does not have a balance sheet greater than 2 million Euros.

Z18.2 For each SME employed in connection with the *services*, the *Consultant* reports to the *Employer* on a monthly basis from the *starting date* until Completion and at the *defects date*

- the name of the SME,
- the class of SME (medium, small or micro),
- the value and percentage of the contract undertaken by the SME,
- the amounts paid to the SME and
- the aggregated value paid to the SME since the *starting date*.

Z18.3 The *Consultant* acknowledges that the *Employer* may

- publish the information supplied under clause Z18.2, along with the *Consultant's* name and this contract name and
- pass the information supplied under this clause Z18 to any government department who may then publish it along with the names of the SMEs, the *Consultant's* name and this contract name.

Z18.4 The *Consultant* ensures that the conditions of contract for each Sub-consultant who is an SME include

- a term allowing the *Employer* to publish the information supplied under Z18.2 and
- obligations substantially similar to those set out in this clause Z18.

Z18.5 The *Consultant* further ensures that the conditions of contract for each Sub-consultant include a requirement that the conditions of contract for any subSub-consultant engaged by the Sub-consultant who is an SME include obligations substantially similar to those set out in clause Z18.4.

Clause Z19 The *Employer's* liability

Z19.1 The *Employer's* total liability to the *Consultant* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to the amount stated in the Contract Data, and applies in contract, tort or delict or otherwise to the extent allowed under the *law of the contract*.

Z19.2 The excluded matters are the amounts payable to the *Consultant* as stated in this contract for

- the total of the Prices if Option A applies,

-
- the Price for Services Provided to Date adjusted by the *Consultant's* share if Option C applies.
 - the Price for Services Provided to Date if Option E applies.
 - the amount of any expenses properly spent by the *Consultant* in Providing the Services.
 - Any tax which the law requires the *Employer* to pay to the *Consultant*.

Clause Z20 Tax Non-Compliance

Z20.1

(1) Tax Non-Compliance is where a tax return submitted by the *Consultant* to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:

- a Relevant Tax Authority successfully challenging the *Consultant* under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rule or legislation with similar effect or
- the failure of an avoidance scheme in which the *Consultant* was involved which was (or should have been) notified to a Relevant Tax Authority under the DOTAS or a similar regime or
- gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax-related offences which is not spent at the Contract Date or to a civil penalty for fraud or evasion.

(2) DOTAS are the Disclosure of Tax Avoidance Schemes rules contained in Part 7 of the Finance Act 2004 and in secondary legislation made pursuant to it, as extended to National Insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (SI 2012/1868).

(3) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 and
- any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions.

(4) Halifax Abuse Principle is the principle explained in the CJEU case C-255/02 Halifax and others.

(5) Relevant Tax Authority is HM Revenue & Customs or, if the *Consultant* is established in another jurisdiction, the tax authority in that jurisdiction.

Z20.2 The *Consultant* warrants that it has notified the *Employer* of any Tax Non-Compliance or any litigation in which it is involved relating to any Tax Non-Compliance prior to the Contract Date.

Z25.3 The *Consultant* notifies the *Employer* within one week of any Tax Non-Compliance occurring after the Contract Date and provides details

of

- the steps the *Consultant* is taking to address the Tax Non-Compliance and to prevent a recurrence,
- any mitigating factors that it considers relevant and
- any other information requested by the *Employer*.

Z20.4 The *Consultant* is treated as having substantially failed to comply with his obligations if

- the warranty given by the *Consultant* under clause Z20.2 is untrue,
- the *Consultant* fails to notify the *Employer* of a Tax Non-Compliance or
- the *Employer* decides that any mitigating factors notified by the *Consultant* are unacceptable.

Clause Z21 Quality Management Points - Not used

Clause Z22 Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE")

Z22.1 The Parties agree that:

- where the commencement of the provision of the *service* or any part thereof results in one or more Relevant Transfers, Contract Schedule 4 shall apply as follows:
 - where the Relevant Transfer involves the transfer of Transferring Employer Employees, Part A of Contract Schedule 4 shall apply;
 - where the Relevant Transfer involves the transfer of Transferring Former Consultant Employees, Part B of the Contract Schedule 4 shall apply;
 - where the Relevant Transfer involves the transfer of Transferring Employer Employees and Transferring Former Consultant Employees, Parts A and B of Contract Schedule 4; and
 - Part C of Contract Schedule 4 shall not apply;
- where commencement of the provision of the *service* or a part of thereof does not result in a Relevant Transfer:
 - Part C of Contract Schedule 4 shall apply and Parts A and B of Contract Schedule 4 shall not apply; and
- Part D of Contract Schedule 4 shall apply on the expiry or termination of the *service* or any part of thereof.

Clause Z23 Changes to *staff rates* and Sub-consultants

Z23.1 When the *Consultant* proposes a revision to an existing *staff rate* or a new *staff rate*, the proposal is accompanied by a certificate from the *Consultant's* (or if appropriate Consortium Member's – as defined in clause Z7) Chief Financial Officer or Director of Finance (or an equivalent officer authorised to bind the *Consultant* and agreed by the *Employer* before the proposal is issued) confirming that the proposal

- is accurate and not misleading,
- has been prepared in conformity with generally accepted accounting principles within the United Kingdom,
- is a true and fair reflection of the information included within the *Consultant's* books, management and statutory accounts and other documents and records and
- complies with this contract.

Z23.2 Subject always to paragraphs 2.1 and 7 of Framework Schedule 3, with effect from the first day of the first *extension period* ("Indexation Adjustment Date") the *staff rates* shall be adjusted as follows. The relevant adjustment shall:

Z23.2.1 be applied on Indexation Adjustment Date and the Parties shall amend the *staff rates* shown in this contract to reflect such variations;

Z23.2.2 be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index ("CPI Index") published for the twelve (12) Months ended on the 31st of January immediately preceding the Indexation Adjustment Date

(<https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/d7g7/mm23>);

Z23.2.3 where the published CPI Index figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the *Employer* and the *Consultant* shall agree otherwise;

Z23.2.4 if the CPI Index is no longer published, the *Employer* and the *Consultant* shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this clause Z23.2.

Z.23.3 Except as set out in clause Z23.2, no costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the *Employer*

or Sub-consultants of the performance of their obligations under this contract.

Z23.4 If a Sub-consultant wishes to propose revisions to an existing staff rate or a new staff rate and the *Consultant* considers that, in order to comply with any Law, the Sub-consultant should submit its proposal directly to the *Employer*, the *Consultant* submits a request to that effect to the *Employer* for acceptance. A reason for not accepting the *Consultant's* request is that Law does not require the Sub-consultant to submit its proposal directly to the *Employer*. If the *Employer* accepts the *Consultant's* request, the *Consultant* directs the Sub-consultant to submit its proposal directly to the *Employer*.

Z23.5 Where, in order to verify an invoice submitted by the *Consultant*, the *Employer* requires a Sub-consultant to provide

- records of any Time Charge and expenses incurred by it or
- a certificate that its invoice and records of any Time Charge and expenses incurred by it are accurate and not misleading

and the *Consultant* considers that, in order to comply with any Law, the Sub-consultant should submit its records and certificate directly to the *Employer*, the *Consultant* submits a request to that effect to the *Employer* for acceptance. A reason for not accepting the *Consultant's* request is that the Law does not require the Sub-consultant to submit its records and certificate directly to the *Employer*. If the *Employer* accepts the *Consultant's* request, the *Consultant* directs the Sub-consultant to submit its records and certificate directly to the *Employer*.

Z23.6 The *Consultant* includes in the conditions of contract for each Sub-consultant

- provisions substantially similar to those set out in clause Z23.1,
- a right for the *Employer* to audit any records and certificates provided by the Sub-consultant under this clause Z23,
- an obligation on the Sub-consultant to discuss directly with the *Employer* any concerns that the *Employer* may have as to the accuracy of any records and certificates provided by the Sub-consultant,
- a right for the *Consultant* to recover from the Sub-consultant (or to deduct from any amount that would otherwise be due to the Sub-consultant) the amount of any overpayment identified by the *Employer* as a result of its audits and discussions with the Sub-consultant and
- an acknowledgment from the Sub-consultant that the *Employer* may enforce these provisions directly against the Sub-consultant under the Contracts (Rights of Third Parties) Act 1999.

Clause Z24 Insurance cover

Z24.1 All insurances required to be effected and maintained under this contract by the *Consultant* are placed with reputable insurers, to whom the *Employer* has no reasonable objection and upon customary and usual terms prevailing for the time being in the insurance market. The said terms and conditions do not include any term or condition to the effect that any insured must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 2010 or the Third Parties (Rights Against Insurers) Act (Northern Ireland) Order 1930 as amended by the Insolvency (Northern Ireland) Order 1989.

Z24.2 Nothing in this clause relieves the *Consultant* from any of its obligations and liabilities under this contract.

Clause Z25 Professional indemnity insurance

Z25.1 The *Consultant* obtains and maintains the professional indemnity insurance required by Clause 81.1 of the *conditions of contract* upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business on the basis and in an amount not less than that stated in the Contract Data, provided always that such insurance is available at commercially reasonable rates. The said terms and conditions do not include any term or condition to the effect that the *Consultant* must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 2010 or the Third Parties (Rights Against Insurers) Act (Northern Ireland) 1930 as amended by the Insolvency (Northern Ireland) Order 1989.

Z25.2 The *Consultant* does not without the prior written approval of the *Employer* settle or compromise with the insurers any claim which the *Consultant* may have against the insurers and which relates to a claim by the *Employer* against the *Consultant*, nor by any act or omission lose or prejudice the *Consultant's* right to make or proceed with such a claim against the insurers.

Z25.3 The *Consultant* immediately informs the *Employer* if the professional indemnity insurance ceases to be available at rates and on terms that the *Consultant* considers to be commercially reasonable. Any increased or additional premium required by insurers by reason of the *Consultant's* own claims record or other acts, omissions, matters or things particular to the *Consultant* is deemed to be within commercially reasonable rates.

Z25.4 The *Consultant* co-operates fully with any measures reasonably required by the *Employer* including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above commercially reasonable rates if the *Employer* undertakes in writing to reimburse the *Consultant* in respect of the net cost of such insurance to the *Consultant* above commercially reasonable rates or, if the *Employer* effects such insurance at rates at

or above commercially reasonable rates, reimbursing the *Employer* in respect of what the net cost of such insurance to the *Employer* would have been at commercially reasonable rates.

Z25.5 The above obligation in respect of professional indemnity insurance continues notwithstanding termination of the *Consultant's* employment under this contract for any reason whatsoever, including (without limitation) breach by the *Employer*.

Clause Z26 • ~~Termination and omission of work OMIT DO NOT USE~~

~~Z26.1 If the *Employer* instructs a change to the Scope which involves the omission of part of the services, the *Employer* may engage other people to carry out the part omitted. The instruction is assessed as a compensation event, except that if the instruction is given for insolvency or a default by the *Consultant*, the assessment includes a deduction of the forecast additional cost to the *Employer* of completing the services.~~

~~Z26.2 The following is added at the end of the first bullet point in clause 91.1 of the conditions of contract:~~

~~“unless instructed otherwise by the *Employer*”.~~

~~Z26.3 The following are treated as a substantial failure by the *Consultant* to comply with his obligations~~

- ~~• a key resource needed by the *Consultant* to Provide the Services is no longer available and the *Consultant* does not propose an alternative resource acceptable to the *Employer*~~
- ~~• the *Consultant's* performance as measured in accordance with the current edition of the Collaborative Performance Framework is below the failure level~~
- ~~• the *Consultant* breaching the terms of its obligations in clause 22.1 of the conditions of contract or~~
- ~~• any conflict of interest under this contract cannot be resolved to the *Employer's* satisfaction.~~

~~Z26.4 The *Employer* may terminate the *Consultant's* obligation to Provide the Services by notifying the *Consultant* if in the *Employer's* opinion the known or anticipated cost of the project, which the services are performed (or to be performed) in connection with, has significantly increased.~~

Clause Z27 Termination – PCRs, Regulation 73

Z27.1 The occurrence of the following events are deemed to be a substantial failure of the *Consultant* to comply with his obligations:

- one or more of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applied to the *Consultant* at the Contract Date.

Z27.2 The *Employer* may terminate the *Consultant's* obligation to Provide the Services by notifying the *Consultant* if

- this contract has been subject to substantial modification which

would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015 or

- the Court of Justice of the European Union declares, in a procedure under Article 258 of the Treaty on the Functioning of the European Union, that a serious infringement of the obligations under the European Union Treaties and the Public Contracts Directive has occurred.

If the modification or infringement was due to a default by the *Consultant*, this is treated as a termination because of a substantial failure of the *Consultant* to comply with his obligations.

Clause Z28 Value Added Tax (VAT) Recovery and Invoicing

Z28.1 Where under this contract any amount is calculated by reference to any sum which has been or may be incurred by any person, the amount shall include any VAT in respect of that amount only to the extent that such VAT is not recoverable as input tax by that person (or a member of the same VAT group) whether by set off or repayment.

Z28.2 The *Employer* is an “end user” under section 8(1)(b)(i) of the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 and accordingly the “reverse charge” of VAT under section 55A of the Value Added Tax Act 1994 (“VATA”) does not apply to supplies made to the *Employer* under this contract. The *Consultant* shall comply with section 55A of VATA in respect of all supply arrangements with Sub-consultants to which it applies.

Z28.3 The *Consultant* shall ensure that each invoice contains a valid reference number. All appropriate references and a detailed breakdown of the services supplied and any other documentation reasonably required by the *Employer* to substantiate the invoice should be supplied in accordance with clauses Z28.8 and Z28.9.

Z28.4 The *Consultant* shall indemnify the *Employer* on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the *Employer* at any time in respect of the *Consultant*’s failure to account for or to pay any VAT relating to payments made to the *Consultant* under this contract. Any amounts due under this Z28.4 shall be paid by the *Consultant* to the *Employer* not less than five (5) Working Days before the date upon which the tax or other liability is payable by the *Employer*.

Z28.5 The *Employer* shall not be liable to the *Consultant* in any way whatsoever for any error or failure made by the *Consultant* (or the *Employer*) in relation to VAT, including without limit:-

- a) where the *Consultant* is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Contract;
- b) where the *Consultant* has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid; and/or
- c) where the *Consultant*’s treatment of VAT in respect of any claim

for payment made under this contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or

- d) where the *Consultant* has specified a rate of VAT, or a VAT classification, to the *Employer* (including, but not limited to, Out of Scope, Exempt, 0%, Standard Rate and Reduced Rate) but the *Consultant* subsequently regards such a rate, or such a classification, as being a mistake on its part. Further, in the scenario described in this clause Z28.5(d), the *Consultant* shall be obliged to repay any overpayment by the *Employer* on demand.

Z28.6 Where the *Consultant* does not include VAT on an invoice, the *Employer* will not be liable to pay any VAT for that invoice either when it falls due, or at any later date.

Z28.7 The *Consultant* acknowledges that the *Employer* has advised the *Consultant* that the *Consultant* should seek its own specialist VAT advice in relation to the Contract and, in the event of any uncertainty following specialist advice, the *Consultant* should seek clarification of this contract's VAT status with HMRC.

Z28.8 The *Employer* and the *Consultant* shall exchange all orders, invoices, claims and payments via electronic methods.

Z28.9 The following information is required independently from the *Consultant* in order to verify invoices and shall be provided before or at the same time that an invoice or other claim for payment is submitted by the *Consultant* to the *Employer*:

- a) records of any Time Charge or other charge determined by reference to *staff rates*, including in relation to any Task Order issued under Option E and/or where applicable in respect of compensation events. Such records shall be in the form of timesheets and/or such other evidence of time spent that the *Employer* shall reasonably require and shall be broken down according to each Task to which they relate (including details of the specific Task to which each time entry relates);
- b) the *Employer* reserves the right to request records to evidence completion of relevant activities for the appropriate procurement type and RIBA stage (as detailed within The *Employer's* Statement of Requirements and Scope) as requested in the Task Order issued under Option A,

and shall be sent to the person or such replacement person that the *Employer* shall notify

c)

Clause Z29 Tax Arrangements of Public Appointees

Z29.1 For the purposes of this clause

- **Associated Company** is any company, corporation, partnership, joint venture or other entity which directly or indirectly controls, is controlled by or is under common control with the *Consultant*. The

word “control” in this context means the ability or entitlement to exercise, directly or indirectly, at least 50 per cent of the voting rights attributable to the shares or other interest in the controlled company, corporation, partnership, joint venture or other entity.

- **Staff** are individuals (other than direct employees of the *Consultant*, an Associated Company or any Sub-consultant) made available by the *Consultant* to the *Employer* for the purpose of Providing the Services.

Z29.2 Where any Staff are liable to be taxed in the United Kingdom in respect of consideration received under this contract, the *Consultant* complies, and procures that the Staff comply, with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

Z29.3 Where any Staff are liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, the *Consultant* complies, and procures that the Staff comply, with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.

Z29.4 The *Employer* may, at any time during the term of this contract, request the *Consultant* to provide information to demonstrate either how any member of Staff is complying with clauses Z29.2 and Z29.3 or why those clauses do not apply to it.

Z29.5 If the *Consultant* fails to provide information in response to a request under clause Z29.4

- within the *period for reply* or
- which adequately demonstrates either how any member of Staff is complying with clauses Z29.2 and Z29.3 or why those clauses do not apply to it

the *Employer* may

- treat such failure as a substantial failure by the *Consultant* to comply with his obligations or
- instruct the *Consultant* to replace the relevant member of Staff

Z29.6 If the *Employer* receives or identifies information through any means which demonstrates that a member of Staff is not complying with clauses Z29.2 and Z29.3, the *Employer* may treat such non-compliance as a substantial failure by the *Consultant* to comply with his obligations.

Z29.7 The *Consultant* acknowledges that the *Employer* may

- supply any information which it receives under clauses Z29.4 or Z29.6 or
 - advise the non-supply of information
- to the Commissioners of Her Majesty's Revenue & Customs or Revenue Scotland for the purpose of the collection and management of

revenue for which they are responsible.

Clause Z30 Consortia

Z30.1 Where two or more Consortium Members comprise the *Consultant*, each Consortium Member is jointly and severally liable to the Employer for the performance of the *Consultant's* obligations under this contract.

Z30.2 If the joint venture arrangement between any Consortium Members which comprise the *Consultant* is terminated for any reason, the *Employer* may

- terminate this contract with immediate effect and
- treat the termination of this contract as a substantial failure by the *Consultant* to comply with his obligations.

Z30.3 Clause 90.1 of the *conditions of contract* is amended by inserting after “the other party” in each of the second, third and fourth places where it appears the words “(or, in the case of the *Consultant*, any Consortium Member)”.

Clause Z31 Subconsulting

Z31.1 Before:

- appointing a proposed Sub-consultant or
 - allowing a Sub-consultant to appoint a proposed subSub-consultant
- the *Consultant* submits to the *Employer* for acceptance
- a European Single Procurement Document (as described in regulation 59 of the Public Contracts Regulations 2015) in respect of the proposed Sub-consultant or subSub-consultant or
 - other means of proof that none of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applies to the proposed Sub-consultant or subSub-consultant.

Z31.2 The *Consultant* does not appoint the proposed Sub-consultant (or allow the Sub-consultant to appoint the proposed subSub-consultant) until the *Employer* has accepted the submission. A reason for not accepting the submission is that it shows that there are grounds for excluding the proposed Sub-consultant or subSub-consultant under regulation 57 of the Public Contracts Regulations 2015.

Z31.3 If requested by the *Employer*, the *Consultant* provides further information to support, update or clarify a submission under clause Z31.1.

Z31.4 If, following the acceptance of a submission under clause Z31.2, it is found that one of the grounds for excluding the Sub-consultant or subSub-consultant under regulation 57 of the Public Contracts Regulations 2015 applies, the *Employer* may instruct the *Consultant* to

- replace the Sub-consultant or

-
- require the Sub-consultant to replace the subSub-consultant.

Clause Z32 Energy Efficiency Directive

Z32.1 To the extent contained in the Scope, the *Consultant* includes in the *conditions of contract* for each Sub-consultant and subSub-consultant obligations substantially similar to those set out in the Scope for

- compliance with the Procurement Policy Note 7/14 entitled “Implementing Article 6 of the Energy Efficiency Directive” and
- demonstrating to the *Employer* how in Providing the Services how the Sub-consultant and subSub-consultant complies with the requirements of Procurement Policy Note 7/14 entitled “Implementing Article 6 of the Energy Efficiency Directive”.

Clause Z33 Compliance with statutory requirements

The *Consultant* Provides the Services in compliance with all relevant:

- acts of parliament and any instruments, rules, orders, regulations, notices, directions, bye-laws, permissions and plans for the time being made under or deriving validity from them;
- European Directives or Regulations legally enforceable in England and Wales;
- rules, regulations, building regulations, orders, bye-laws or codes of practice or similar of any local or other competent authority or of any statutory undertaker; and
- permissions, consents, approvals, licences, certificates and permits as may be necessary lawfully to commence, carry out, complete and maintain the *services*.

Clause Z34 Negotiation and mediation

Z34.1 Without prejudice to either party’s right to refer a dispute to the *Adjudicator* in accordance with clause W1 or W2 (as appropriate), any dispute or difference between the Parties arising out of or relating to this contract is referred by either party initially to representatives of the *Employer* and *Consultant* for negotiation and resolution.

Z34.2 If any dispute is not resolved within ten Working Days after it has been referred to the Parties’ representatives (or such longer period as the Parties may agree), it is referred to an authorised senior officer of the *Employer* and an authorised senior officer of the *Consultant* for negotiation and resolution.

Z34.3 If any dispute cannot be resolved within ten Working Days after it has been referred to the authorised senior officers of the *Employer* and *Consultant* (or such longer period as the Parties may agree) either party may decline to continue to participate in the negotiation but both

should give serious consideration to referring the dispute to mediation.

Clause Z35 Collateral Warranty Agreements

Z35.1 If Option X8 applies add the following sub-clauses to option X8:

X8.2 The *Consultant* procures that the Sub-consultants referred to in the Contract Data enter into the *Sub-consultant collateral warranties*.

X8.3 The *Consultant* shall provide the *Employer* with duly completed *collateral warranty agreements* and / or *Sub-consultant collateral warranties* in accordance with clauses X8.1 and X8.2 (as appropriate) no later than ten Working Days after the *Employer* has provided the *Consultant* with appropriate forms suitable for execution.

X8.4 If the *Consultant* fails to deliver the required *collateral warranty agreements* and / or *Sub-consultant collateral warranties* (or any one of them) in the manner and within the time stipulated by this contract, one quarter (1/4) of the Price for Services Provided to Date is retained in assessments of the amount due until the *Consultant* has remedied the failure.

Clause Z36 Access to MOD sites – Not Used

Clause Z37 MoD DEFCON Requirements – Not Used

Clause Z38 Intellectual Property Rights

Z38.1 In this clause Z38:

- “**Intellectual Property Rights**” means any and all patents, trademarks, service marks, copyright, moral rights, rights in a design, know-how, Confidential Information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto; and
- “**Material**” means all Material prepared by or on behalf of the *Consultant*.

Z38.2 The Intellectual Property Rights in all Material and the work executed from them remains the property of the *Consultant*. The *Consultant* hereby grants to the *Employer* and to the Authority an irrevocable, royalty free, non-exclusive licence to use and reproduce the Material for any and all purposes connected with the *services*. Such licence entitles the *Employer* and the Authority to grant sub-licences to third parties in the same terms as this licence.

Z38.3 The *Consultant* shall not be liable to any licensee for any use of the Material or the Intellectual Property Rights in the Material for purposes other than those for which the same were originally prepared by or on behalf of the *Consultant*.

Z38.4 In the event that the *Consultant* does not own the copyright or any Intellectual Property Rights in any Material the *Consultant* uses all reasonable endeavours to procure the right to grant such rights to the *Employer* to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the *Consultant* is unable to procure the right to grant to the *Employer* in accordance with the foregoing the *Consultant* procures that the third party grants a direct licence to the *Employer* on industry acceptable terms.

Z38.5 The *Consultant* waives any moral right to be identified as author of the Material in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the Material subjected to derogatory treatment in accordance with section 8 of that Act as against the *Employer* or any licensee or assignee of the *Employer*.

Z38.6 In the event that any act unauthorised by the *Employer* infringes a moral right of the *Consultant* in relation to the Material the *Consultant* undertakes, if the *Employer* so requests and at the *Employer's* expense, to institute proceedings for infringement

of the moral rights.

- Z38.7 The *Consultant* warrants to the *Employer* that he has not granted and shall not (unless authorised by the *Employer*) grant any rights to any third party to use or otherwise exploit the Material.
- Z38.8 The *Consultant* supplies copies of the Material to the *Employer* and to the *Employer's* other contractors and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related works.
- Z38.9 After the termination or conclusion of the *Consultant's* employment, the *Consultant* supplies the *Employer* with copies and/or computer discs of such of the Material as the *Employer* may from time to time request and the *Employer* pays the *Consultant's* reasonable costs for producing such copies or discs.
- Z38.10 In Providing the Service the *Consultant* does not infringe any Intellectual Property Rights of any third party. The *Consultant* indemnifies the *Employer* against claims, proceedings, compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party.

Clause Z39 Financial Distress

- Z39.1 In this clause Z39 Credit Rating is the *credit rating* or any revised long term *credit rating* issued by a rating agency accepted by the *Employer* in respect of the *Consultant*, a Consortium Member or any *Guarantor*.
- Z39.2 The *Consultant* notifies the *Employer* within one week if any of the following events occurs in relation to the *Consultant*, a Consortium Member or a *Guarantor*
- its Credit Rating falls below the relevant *credit rating*,
 - a further fall in its Credit Rating below the relevant credit rating,
 - it issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects,
 - it is subject to a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety,
 - it commits a material breach of its covenants to its lenders or
 - its financial position or prospects deteriorate to such an

extent that it would not meet the Credit Rating Threshold.

Z39.3 If any of the events listed in clause Z39.2 occurs, the *Employer* may require the *Consultant* to give to the *Employer* a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Consultant* and accepted by the *Employer* who (in either case) has a Credit Rating at least equal to the *credit rating* for the person to whom the event listed in clause Z39.2 has occurred.

Z39.4 The *Employer* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Consultant* who does not comply with clause Z39.3 if the *Consultant* gives to the *Employer* an assurance that the Controller or the alternative guarantor will so comply within 18 months of the *Employer's* acceptance. If so, the Parties agree a process for reviewing the financial standing of the Controller or the alternative guarantor during that period in order to demonstrate to the *Employer* that it will so comply by the end of that period.

Z39.5 If

- the *Consultant* fails to notify the *Employer* that an event listed in clause Z39.2 has occurred,
- neither the Controller nor any alternative guarantor proposed by the *Consultant* complies with clause Z39.3,
- the *Consultant* does not give to the *Employer* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Employer* within four weeks of a request from the *Employer* to do so or
- the *Consultant* fails to demonstrate to the *Employer* that the Controller or the alternative guarantor accepted by the *Employer* will comply with clause Z39.3 within 18 months of the *Employer's* acceptance

the *Employer* may treat such failure as a substantial failure by the *Consultant* to comply with his obligations.

Clause Z40 Change of Control – new guarantee

Z40.1 If a Change of Control occurs, the *Consultant* provides to the *Employer*

- certified copies of the audited consolidated accounts of the Controller for the last three financial years,
- a certified copy of the board minute of the Controller confirming that it will give to the *Employer* a Parent

Company Guarantee if so required by the *Employer* and any other information required by the *Employer* in order to determine whether the Controller has a credit rating at least equal to the *credit rating* for the original Guarantor (if there is one) or the *Consultant* (if there is not).

Z40.2 If the Controller does not comply with the tests in clause Z40.1 or (if applicable) does not provide the legal opinion required in clause Z40.6, the *Consultant* may propose an alternative guarantor to the *Employer* for acceptance. The *Consultant* provides to the *Employer* the details set out in clause Z40.1 and (if applicable) the legal opinion required in clause Z40.6 in relation to the proposed alternative guarantor. A reason for not accepting the proposed alternative guarantor is that he does not comply with the tests in clause Z40.1 or (if applicable) does not provide the legal opinion required in clause Z40.6.

Z40.3 If so required by the *Employer*, the *Consultant* within four weeks gives to the *Employer* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Employer*.

Z40.4 The *Employer* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Consultant* who does not comply with the tests in clause Z40.1 if the *Consultant* gives to the *Employer* an assurance that the Controller or the alternative guarantor will so comply within 18 months of the *Employer's* acceptance. If so, the Parties agree a process for reviewing the financial standing of the Controller or the alternative guarantor during that period in order to demonstrate to the *Employer* that it will so comply by the end of that period.

Z40.5 If

- neither the Controller nor any alternative guarantor proposed by the *Consultant* complies with the tests in clause Z40.1 or provides the legal opinion required by clause Z40.6,
- the *Consultant* does not give to the *Employer* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Employer* within four weeks of a request from the *Employer* to do so or
- the *Consultant* fails to demonstrate to the *Employer* that the Controller or the alternative guarantor accepted by the *Employer* will comply with the tests in clause Z40.1 within 18 months of the *Employer's* acceptance

the *Employer* may treat such failure as a substantial failure by the *Consultant* to comply with his obligations.

Z40.6 If the Controller, or any alternative guarantor proposed by the *Consultant*, is not a company incorporated in and subject to the laws of England and Wales, the *Consultant* provides a legal opinion from a lawyer or law firm which is

- qualified and registered to practise in the jurisdiction in which the Controller or guarantor is incorporated and
- accepted by the *Employer*.

The legal opinion is addressed to the *Employer* on a full reliance basis and the liability of the lawyer or law firm giving the opinion is not subject to any financial limitation unless otherwise agreed by the *Employer*.

The legal opinion confirms that the method of execution of the Parent Company Guarantee is valid and binding under applicable local law and in particular covers the matters listed in the Scope.

Clause Z41 Parent Company Guarantee – Not Used

Clause Z42 Offshoring of data

Z42.1 In this clause

Risk Assessment is a full risk assessment and security review carried out by the *Employer* in accordance with the document stated in the Contract Data

Z42.2 The Consultant does not store any of the *Employer's* data that is classified as Official or higher in accordance with "Government Security Classifications" dated April 2014 (or any later revision or replacement)

- offshore or
- in any way that it could be accessed from an offshore location

until the *Employer* has confirmed to the *Consultant* that either

- the *Employer* has gained approval for such storage in accordance with "*Offshoring information assets classified at OFFICIAL*" dated November 2015 (or any later revision or replacement) or
- such approval is not required.

Z42.3 The *Consultant* ensures that no premises are used to Provide the Services until

- such premises have passed a risk assessment or

-
- the *Employer* confirms to the *Consultant* that no risk assessment is required.
- Z42.4 The *Consultant* complies with a request from the *Employer* to provide any information required to allow the *Employer* to
- gain approval for storing data or allowing access to data from an offshore location in accordance with Z42.2 or
 - conduct a risk assessment for any premises for the purpose of Z42.3.
- Z42.5 The *Consultant* ensures that any subcontract (at any stage of remoteness from the *Employer*) contains provisions to the same effect as this clause.
- Z42.6 A failure to comply with this condition is treated as a substantial failure by the *Consultant* to comply with his obligations.

Clause Z43

Payment forecast

Z43.1 Prior to the submission of the *Consultant's* first invoice, the *Consultant* submits to the *Employer* a payment forecast based on the *Consultant's* estimate of the interim payments (including fees and expenses) which the *Consultant* anticipates will fall due at each assessment until Completion of the whole of the services.

Z43.2 Each subsequent invoice from the *Consultant* is accompanied by an updated payment forecast, amended to show the effects of any changes in the Scope and Accepted Programme.

Clause Z44

Responsibility for documents

Z44.1 The *Employer* may at any reasonable time examine schedules, calculations, surveys, reports, specifications, drawings and/or any other documents and information which are in the possession of the *Consultant* and which concern this contract, but no such examination relieves the *Consultant* of any responsibility to Provide the Services.

Clause Z45

Apprenticeships

Z45.1 The *Consultant* is required to take all reasonable steps to employ apprentices, and report to the *Employer* on a quarterly basis the numbers of apprentices employed and the wider skills training provided, in Providing the Services.

Z45.2 The *Consultant* is required to make available to its employees and Sub-consultants working on this contract, information about the Government's Apprenticeship programme and wider skills opportunities.

Z45.3 The *Consultant* is to provide any further skills training opportunities that are appropriate for its employees engaged in the services.

Z45.4 The *Consultant* is to provide an annual written report detailing the following measures and be prepared to discuss apprenticeships at its regular meetings with the *Employer*:

- the number of people during the reporting period employed on this contract, including support staff and Sub-consultants,
- the number of apprentices and number of new starts on apprenticeships directly initiated through the procurement process,
- the percentage of all employees taking part in an apprenticeship programme,
- if applicable, an explanation from the *Consultant* as to why it is not managing to meet the specified percentage target
- actions being taken to improve the take up of apprenticeships and
- other training/skills development being undertaken by employees in relation to this contract, including
 - work experience placements for 14 to 16 year olds,
 - work experience /work trial placements for other ages,
 - student sandwich/gap year placements,
 - graduate placements,
 - vocational training,
 - basic skills training and
 - on site training provision/ facilities.

Clause Z46

Termination following prolonged suspension

Z46.1 The *Consultant* may terminate his obligation to Provide the Services by notifying the Employer if

- the whole of the *services* has been stopped under clause 33 of the *conditions of contract* for a period in excess of six months;
- the *Consultant* has given the *Employer* a request for an instruction that the *services* be resumed; and
- the *Consultant* has not been given instructions to resume the *services* within a period of 30 days after the *Employer* receives from the *Consultant* a request for an instruction that the *services* be resumed.

Clause Z47

Employer's Property

Z47.1 If the *Consultant* is permitted to use equipment or other such property belonging to the *Employer* (the “Employer’s Property”) the following provisions apply.

- All Employer’s Property remains the property of the *Employer*.
- Any failure of the Employer’s Property shall not be a compensation event unless the *Consultant* demonstrates that the failure was caused by the *Employer*’s undue delay in its repair or replacement.

Clause Z48

Building Information Modelling

Where a BIM Protocol Applies

Z48.1 If the Contract Data states a BIM Protocol applies, then the Employer and the Consultant shall:

- comply with their respective obligations set out in the BIM Protocol;
- have the benefit of any rights granted to them in the BIM Protocol; and
- have the benefit of any limitations or exclusions of their liability contained in the BIM Protocol.

Where a BIM Protocol Does Not Apply

Z48.2 If the Contract Data states that a BIM Protocol does not apply then:

- if it is stated in the Contract Data that the Consultant is to act as the BIM Information Manager, the Consultant shall act as the BIM Information Manager for the Project as more fully set out in the BIM Documents;
- if it is not stated in the Contract Data that the Consultant is to act as the BIM Information Manager, the Consultant shall comply with the reasonable instructions of the BIM Information Manager in relation to the BIM Documents;
- The Employer grants to the Consultant, with immediate effect, an irrevocable, non-exclusive, non-terminable, royalty-free licence (or, as the case may be, sub-licence) including the right to grant sub-licences (or, as the case may be, sub-sub-licences), to copy and make full use of the Material produced in accordance with the BIM Documents by or on behalf of the Employer (including any produced by the Consultant or another member of the professional team) for the purpose of providing the services and complying with the BIM Documents;
- Clause Z38.3 shall have no effect and neither Party shall be liable to the other for:

-
- any use of Material created by (or on behalf of) it for any purpose other than that for which that Material was prepared and/or provided; or
 - any amendment or modification of the Material produced in accordance with the BIM Documents, except where such amendment or modification:
 - was made with the consent (not to be unreasonably withheld) of the party that produced it (or on whose behalf it was produced);
 - was permitted by the BIM Documents; or
 - was made for a Permitted Use following termination of the engagement of the party that produced it (or on whose behalf it was produced) in relation to this contract.

Clause Z49 Option X19: Task Order

Identified and defined terms

X19 X19.1

- (1) A **Task** is work within the *services* which the *Service Manager* may instruct the *Consultant* to carry out within a stated period of time.
- (2) A **Task Order** is the *Service Manager's* instruction to carry out a Task in the form set out in Contract Schedule 6.
- (3) **Task Completion** is when the *Consultant* has done all the work in the Task and corrected Defects which would have prevented the *Employer* or Others from using the Affected Property and Others from doing their work.
- (4) **Task Completion Date** is the date for completion stated in the Task Order unless later changed in accordance with this contract.

Providing the Service

X19.2

- A Task Order includes
- a detailed description of the work in the Task;
 - a priced list of items of work in the Task in which items taken from the Price List are identified;
 - the starting and completion dates for the Task;
 - the total of the Prices for the Task when Option A or C is used or the forecast total of the Prices for the Task if Option E is used.
- The *Service Manager* consults the *Consultant* about the contents of a Task Order before he issues it.
- When a Task Order is issued
- the priced list of items for the Task is inserted in the Price List; and
 - the work involved is added to the Activity Schedule.

		<p>An instruction to carry out a Task is not a compensation event.</p>
	X19.3	<p>The Prices for items in the Task price list which are not taken from the Price List are assessed in the same way as compensation events.</p>
Time	X19.4	<p>The <i>Consultant</i> does not start any work included in the Task until the <i>Service Manager</i> has instructed him to carry out the Task and does the work so that Task Completion is on or before the Task Completion Date. No Task Order is issued after the end of the <i>service period</i>.</p> <p>If Task Completion is after the end of the <i>service period</i>, the <i>service period</i> is extended until Task Completion. The <i>Service Manager</i> does not issue a Task Order during this extended period.</p> <p>The <i>Service Manager</i> may issue an instruction changing a Task Order.</p>
Task Order programme	X19.5	<p>The <i>Consultant</i> submits a Task Order programme to the <i>Service Manager</i> for acceptance within the period stated in the Contract Data. The Task Order programme shall identify appropriate programme milestones.</p>
	X19.6	<p>The <i>Consultant</i> shows on each Task Order programme which he submits for acceptance</p> <ul style="list-style-type: none"> • the Task starting date and the Task Completion Date, • planned Task Completion, • the order and timing of the operations which the <i>Consultant</i> plans to do in order to complete the Task, • provisions for <ul style="list-style-type: none"> • float, • time risk allowances, • health and safety requirements and • the procedures set out in this contract, • the dates when, in order to Provide the Service in accordance with his Task Order programme, the <i>Consultant</i> will need <ul style="list-style-type: none"> • access to the Affected Property, • acceptances, • Plant and Materials, equipment and other things to be provided by the <i>Employer</i> and • information from Others, • for each operation, a statement of how the <i>Consultant</i> plans to do the work identifying the principal Equipment and other resources which he plans to use and • other information which the Statement of Requirements and Scope requires the <i>Consultant</i> to show on a Task Order programme submitted for acceptance.
	X19.7	<p>Within one week of the <i>Consultant</i> submitting a Task Order programme to him for acceptance, the <i>Service Manager</i> either accepts the programme or notifies the <i>Consultant</i> of his reasons for not accepting it. A reason for not accepting the Task Order programme is that</p>

		<ul style="list-style-type: none"> • the <i>Consultant's</i> plans which it shows are not practicable, • it does not show the information which this contract requires or • it does not comply with the Statement of Requirements and Scope.
Revising the Task Order programme	X19.8	<p>The <i>Consultant</i> shows on each revised Task Order programme</p> <ul style="list-style-type: none"> • the actual progress achieved on each operation and its effect upon the timing of the remaining work, • the effects of implemented compensation events, • how the <i>Consultant</i> plans to deal with any delays and to correct notified Defects and • any other changes which the <i>Consultant</i> proposes to make to the Task Order programme.
	X19.9	<p>The <i>Consultant</i> submits a revised Task Order programme to the <i>Service Manager</i> for acceptance</p> <ul style="list-style-type: none"> • within the <i>period for reply</i> after the <i>Service Manager</i> has instructed him to and • when the <i>Consultant</i> chooses to. <p>The latest programme accepted by the <i>Service Manager</i> supersedes previous accepted programmes.</p>
Compensation events	X19.10	<p>The following are compensation events.</p> <p>(1) The <i>Service Manager</i> gives an instruction changing a Task Order. If the effect of a compensation event which is an instruction changing a Task Order is to reduce the total Time Charge, the Prices are reduced.</p> <p>(2) The <i>Consultant</i> receives the Task Order after the starting date stated in the Task Order.</p> <p>(3) The <i>Employer</i> does not provide the right of access to the Affected Property in accordance with the latest accepted Task Order programme.</p> <p>(4) The <i>Employer</i> does not provide something which he is to provide as stated in the Statement of Requirements and Scope in accordance with the latest accepted Task Order programme.</p> <p>(5) The <i>Employer</i> or Others do not work in accordance with the latest accepted Task Order programme or within the conditions stated in the Statement of Requirements and Scope.</p> <p>(6) An event which</p> <ul style="list-style-type: none"> • stops the <i>Consultant</i> completing a Task or • stops the <i>Consultant</i> completing a Task by the Task Completion Date, <p>and which</p> <ul style="list-style-type: none"> • neither party could prevent, • an experienced contractor would have judged at the date of issue of the Task Order to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and • is not one of the other compensation events stated in this contract.

(7) A Task Completion Date is later than the end of the *service period*.

X19.11 If, due to the compensation event, planned Task Completion is delayed, the delay to the Task Completion Date is stated in the *Consultant's* quotation for the event and a programme is submitted with details of the assessment of the delay. Assessments of delay include time risk allowances and are based on the assumption that the Task Order programme can be changed and that delays were or will be reasonably incurred. A delay to the Task Completion Date is assessed as the length of time that, due the compensation event, planned Task Completion is delayed. The *Service Manager* may assess the delay if, when the *Consultant* submits quotations for a compensation event, the *Consultant* has not submitted a Task Order programme required by this contract.

**Implementing
compensation
events**

X19.12 The changes to the Prices are assessed using the *staff rates* where applicable. The changes to the calculated total of the Prices for the Task Order and any delay to the Task Completion Date are included in the *Service Manager's* notification implementing a compensation event. Any compensation event under clause X19.10(7) does not give rise to any increase to the Prices and the *Consultant* is only entitled to an extension to the Task Completion Date and/or to a Key Date.

**Transfer of Tasks
on expiry of the
*service period***

X19.13 In the period of 3 months prior to the end of the *service period* and following expiry or termination of the *service period* or, if earlier, the termination of the contract, the *Consultant* shall, without additional charge, provide the *Employer* with all reasonable co-operation and assistance and copies of all information, records and documents that the *Employer* may reasonably request to facilitate any Task which has a Task Completion Date following expiry or termination of the *service period* or the contract (as applicable) which the *Employer* seeks to transfer in an orderly manner to the *Employer* or its replacement provider.

Clause Z50 Volumes and non-exclusivity

Z50.1 The *Consultant* acknowledges and agrees that no guarantee is given by the *Employer* in respect of levels or values of work and that the *Consultant* is appointed by the *Employer* on a non-exclusive basis. Any levels or values of work referred to in a Statement of Requirements and Scope given the *Employer* or the Contract Schedules are indicative only and shall not be binding on the *Employer*.

Clause Z51 Integrator

Z51.1 In this clause Z51 the following terms shall have the following meanings:

-
- a) “**Integrator**” means the *Employer’s Agent*, being the supplier under the Integrator Agreement, and such supplier(s) that the *Employer* appoints as its replacement or successor from time to time (whether or not under the Integrator Agreement); and
 - b) “**Integrator Agreement**” means the integrator agreement dated 13 June 2017 entered into by (1) the *Employer* and (2) the Integrator.

Z51.2 The *Consultant* acknowledges that the *Employer* has appointed the Integrator to manage this contract on behalf of the *Employer*.

Z51.3 Unless otherwise specified by the *Employer*, the *Consultant* will liaise and cooperate with, and accept instructions from, the Integrator as if it was the *Consultant*. For the avoidance of doubt, unless specifically set out in this contract, the *Consultant* shall not have any direct liability under this contract to the Integrator.

Z51.4 The *Employer* may, at any time, make direct contact with, and/or provide direct instructions to, the *Consultant* and the *Consultant* shall liaise directly with the *Employer* and comply with any such instructions (insofar as they are obliged to in accordance with this contract).

Z51.5 Where the *Consultant* receives any instruction from the:

Z51.5.1 Integrator that conflicts with any instruction received by the *Consultant* directly from the *Employer*; or

Z51.5.2 *Employer* that conflicts with any instruction received by the *Consultant* from the Integrator,

the *Consultant* shall immediately notify the *Employer* and the Integrator to seek clarification in relation to which instruction it should comply with. The *Employer* shall confirm which instruction (or any other instruction as may be relevant) the *Consultant* should comply with and the *Consultant* shall do so in accordance with its obligations under this contract.

Clause Z52 Price adjustment mechanism

Z52.1 At or around the time each Task Order is instructed and from time to time while the Task is being carried out the *Employer* shall provide and/or update (as appropriate) its estimated value of the construction cost for the project to which that Task Order relates (“**Anticipated Construction Cost**”).

Z52.2 Prior to the date of completion of, or an instruction to discontinue, the relevant Task Order the Prices for each Task Order shall be calculated and payable on the basis of the

pricing in the Price List applicable to the Anticipated Construction Cost at the relevant time (the “**Pricing Band**”).

Z52.3 Following the date of completion of each RIBA stage and the date of completion of, or an instruction to discontinue, the relevant Task Order (in each case being a “**Relevant Date**”) the Prices for all work carried out under that Task Order in respect of which an invoice has been raised (“**Relevant Work**”) shall be recalculated and adjusted according to the amount by which:

- a) the “**Actual Prices**”, being the Prices payable in respect of the Relevant Work, recalculated on the basis of the most recent Anticipated Construction Cost or (following completion of, or an instruction to discontinue, the relevant Task Order) the actual construction cost for the relevant project (“**Actual Construction Cost**”) (subject to clause Z52.4) and calculated on the basis of the Prices within the Price List within the Pricing Band applicable to the current Anticipated Construction Cost or Actual Construction Cost (as appropriate),

exceed or are less than

- b) the “**Paid Amounts**”, being the total amounts of the Prices invoiced in respect of the Relevant Work (as adjusted by any previous recalculation and adjustment under this clause Z53).

Z52.4 Any potential change to the Pricing Band shall be disregarded to the extent that it results from the *Employer* having terminated or suspended the relevant Task Order, the contract or the *Consultant’s* obligation to provide the *services* due to: (i) any failure by the *Consultant* to comply with his obligations; or (ii) any other breach by the *Consultant* of the contract or a Task Order.

Z52.5 Following each Relevant Date:

- a) the *Consultant* shall as soon as reasonably possible and in any event within 20 Working Days of the Relevant Date calculate the Actual Prices and if the Actual Prices are higher or lower than the Paid Amounts shall notify the *Employer* and provide the information and documents set out in clause Z52.8; and/or
- b) notwithstanding sub-paragraph (a) above, if the *Employer* considers that the Actual Prices are or may be higher or lower than the Paid Amounts it may

request the *Consultant* to provide the information and documents set out in clause Z52.8, which the *Consultant* shall provide within 20 Working Days of the *Employer's* request.

- Z52.6 If the Actual Prices are higher than the Paid Amounts the *Consultant* may raise an invoice in respect of the difference.
- Z52.7 In the event that the Actual Prices are lower than the Paid Amounts, the *Consultant* shall raise a credit note in respect of the difference. The *Consultant* shall repay any overpaid amount, together with a VAT refund (if applicable), to the *Employer* within 30 days of notifying the *Employer* under clause Z52.5 or, if earlier, the *Employer's* written notice requiring payment of the overpaid amount.
- Z52.8 The information and documentation required to be provided by the *Consultant* is, in respect of the Relevant Work:
- a) the most recent Anticipated Construction Cost or the Actual Construction Cost (as appropriate);
 - b) the Paid Amounts;
 - c) the amount and calculation of the Actual Prices, detailing any adjustment made pursuant to clause Z52.4;
 - d) the amount by which the aggregate Actual Prices exceed or are less than the aggregate Paid Amounts; and
 - e) such additional information and documentation that the *Employer* shall reasonably request.
- Z52.10 The *Consultant* shall promptly provide such co-operation, assistance, and additional information and documentation that the *Employer* shall reasonably request for assessing the Actual Prices and any invoice or credit note raised or to be raised by the *Consultant*.

Clause Z53 Delivery model change

- Z53.1 The *Employer* has recently undertaken a review of its 'Estates Target Operating Model' ("**ETOM**") and is exploring a variety of options for how the ETOM may be delivered in connection with the expiry of the Integrator Agreement.

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- Z53.2 In this clause Z53 a “**Delivery Model Change**” shall mean a change to this contract, including, where applicable, changes to existing Task Orders, resulting from the *Employer* choosing to change the way in which the ETOM is delivered in connection with expiry or termination of the Integrator Agreement (whether before or after such expiry or termination) and/or any change of the supplier performing the integrator function and may, for the avoidance of doubt, include changes, increases and/or reductions to the Statement of Requirements and Scope and consequent changes to the Price List and/or *activity schedule*.
- Z53.3 This clause Z53 shall apply only to Delivery Model Changes. A request for a Delivery Model Change under this clause Z53 (a **Change Request**) and conversations and negotiations in respect of a Change Request shall not constitute a *compensation event* for the purposes of the contract.
- Z53.4 Until such time as a Delivery Model Change is made in accordance with this clause Z53, the *Employer* and the *Consultant* shall, unless otherwise agreed in writing, continue to perform this contract in compliance with its terms before such Delivery Model Change.
- Z53.5 Any discussions which may take place between the *Employer* and the *Consultant* in connection with a Change Request before the authorisation of a resultant Delivery Model Change shall be without prejudice to the rights of either party.
- Z53.6 The costs of preparing each Change Request shall be borne by the *Employer* and the costs incurred by the *Consultant* in undertaking an assessment of a Change Request in accordance with clause Z53.9 (an **Impact Assessment**) shall be borne by the *Consultant*.
- Z53.7 The cost of any Delivery Model Change shall be calculated and charged in good faith and in accordance with the principles and day rates or day costs (as applicable) set out in the Price List (as adjusted as set out in clause Z23), to the extent such principles, rates and costs are applicable. The *Consultant* shall, subject always to paragraphs 2.1 and 7 of Framework Schedule 3, be entitled to increase the Prices only if it can demonstrate in the Impact Assessment that the proposed Delivery Model Change requires additional resources and, in any event, any change to the Prices resulting from a Delivery Model Change (whether the change will cause an increase or a decrease in the Prices) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Delivery Model Change.
- Z53.8 The *Employer* may issue a Change Request to the *Consultant* at any time. The *Consultant* shall provide for a completed
-

Impact Assessment to be received by the *Employer* within ten (10) Working Days of the issue of the Change Request, or within any longer time period agreed by the *Employer*.

Z53.9 Each Impact Assessment shall be completed in good faith and shall include:

- (i) details of the proposed Delivery Model Change;
- (ii) details of the impact of the proposed Delivery Model Change on the Services and the *Consultant's* ability to meet its other obligations under this contract;
- (iii) any variation to the terms of this contract and/or any Task Orders that will be required as a result of that impact, including changes to:
 - 1. the Statement of Requirements and Scope and/or the KPIs;
 - 2. the Price List and/or the *activity schedule*;
 - 3. any impacts on Task Orders and/or Task Completion Orders;
 - 4. any timetable(s) previously agreed by the Parties;
 - 5. other services provided by third party contractors to the *Employer* (to the extent the *Consultant* is aware of the same);
- (iv) details of the cost of implementing the proposed Delivery Model Change;
- (v) details of the ongoing costs required by the proposed Delivery Model Change when implemented, including any increase or decrease in the Prices, any alteration in the resources and/or expenditure required by either party and any alteration to the working practices of either party;
- (vi) a timetable for the implementation, together with any proposals for the testing of the Delivery Model Change; and
- (vii) such other information as the *Employer* may reasonably request in (or in response to) the Change Request.

Z53.10 Subject to the provisions of clause Z53.11, the *Employer* shall review the Impact Assessment and respond to the *Consultant* in accordance with clauses Z53.13 to Z53.15 within 15 Working Days of receiving the Impact Assessment.

Z53.11 If the *Employer* reasonably considers that it requires further information regarding the proposed Delivery Model Change

and/or Impact Assessment so that it may properly evaluate the Impact Assessment, then within 5 Working Days of receiving the Impact Assessment, it shall notify the *Consultant* of this fact and detail the further information that it requires. The *Consultant* shall then re-issue the relevant Impact Assessment to the *Employer* within 10 Working Days of receiving such notification. At the *Employer's* discretion, the parties may repeat the process described in this clause Z53.11 until the *Employer* is satisfied that it has sufficient information to properly evaluate the Impact Assessment.

Z53.12 The calculation of costs for the purposes of clauses Z53.9(iv) and (v) shall:

- (i) include estimated volumes of each type of resource to be employed and the applicable rates and costs;
- (ii) include full disclosure of any assumptions underlying such Impact Assessment;
- (iii) include evidence of the cost of any assets required for the Delivery Model Change; and
- (iv) include details of any new Sub-consultants necessary to accomplish the Delivery Model Change

Z53.13 Within 15 Working Days of receiving the Impact Assessment from the *Consultant* or within 10 Working Days of receiving the further information that it may request pursuant to clause Z53.11, the *Employer* shall evaluate the Change Request and the Impact Assessment and shall do one of the following:

- (i) approve the proposed Delivery Model Change, in which case the Parties shall follow the procedure set out in clause Z53.14;
- (ii) in its absolute discretion reject the Delivery Model Change, in which case it shall notify the *Consultant* of the rejection; or
- (iii) in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the *Consultant* to modify the relevant document accordingly, in which event the *Consultant* shall make such modifications within 5 Working Days of such request. Subject to clause Z53.11, on receiving the modified Change Request and/or Impact Assessment, the *Employer* shall approve or reject the proposed Delivery Model Change within 10 Working Days.

Z53.14 If the *Employer* approves the proposed Delivery Model Change pursuant to clause Z53.13 and it has not been rejected by the *Consultant* in accordance with clause Z53.16, then it shall inform the *Consultant* and the *Consultant* shall prepare two

copies of a form setting out an agreed Delivery Model Change (in such format that the *Employer* shall specify) (a **Change Authorisation Note**) which it shall sign and deliver to the *Employer* for its signature. Following receipt by the *Employer* of the Change Authorisation Note, it shall sign both copies and return one copy to the *Consultant*. On the *Employer's* signature the Change Authorisation Note shall constitute (or, where the *Employer* has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this contract.

Z53.15 If the *Employer* does not sign the Change Authorisation Note within 10 Working Days, then the *Consultant* shall have the right to notify the *Employer* and if the *Employer* does not sign the Change Authorisation Note within 5 Working Days of such notification, then the *Consultant* may refer the matter to be resolved in accordance with Clause Z34 and/or W2.

Z53.16 Following an Impact Assessment, if:

- (i) the *Consultant* reasonably believes that any proposed Delivery Model Change which is requested by the *Employer* would:
 - 1. materially and adversely affect the risks to the health and safety of any person; and/or
 - 2. require the *services* to be performed in a way that infringes any Law; and/or
- (ii) the *Consultant* demonstrates to the *Employer's* reasonable satisfaction that the proposed Delivery Model Change is technically impossible to implement and neither the Framework Agreement nor the Statement of Requirements and Scope state that the *Consultant* does have the technical capacity and flexibility required to implement the proposed Delivery Model Change,

then the *Consultant* shall be entitled to reject the proposed Delivery Model Change and shall notify the *Employer* of its reasons for doing so within 5 Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to clause Z53.8.

Contract Schedule 1 - Employer's Statement of Requirements and Scope

APPENDIX A - EMPLOYER'S STATEMENT OF REQUIREMENTS AND SCOPE

Provision of Project Management Professional Services to support DWP 'Batch 3' Capex Projects in FY21/22 and FY22/23.

Further Competition under

RM3741 Project Management and Full Design Team Services - Lot 2

1. Introduction

The Department for Work and Pensions (DWP) (the Employer) is seeking a number of professional services disciplines to assist with 44 capital works projects across its national estate portfolio. All projects require completion prior to March 2023.

All appointments for professional services will be taking place from the CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTS).

The Employer requires an appropriate Project Management Team (PMT) to work closely with its Supply Chain Integrator (Sodexo) in supporting these projects. Details of the 44 capital works projects can be found in Appendix C - Pricing Model.

This Statement of Requirements and Scope sets out the roles and responsibilities of the Consultant to deliver the *services*. Words and phrases used in this Statement of Requirements and Scope have the meaning given them in the Call Off Contract unless otherwise defined or the context otherwise requires.

This Statement of Requirements and Scope will be incorporated into the Call Off Contract in Appendix F following contract award.

2. Background

The Department for Work and Pensions (DWP) (the Employer) is responsible for welfare, pensions and child maintenance policy. As the UK's biggest public service department, it administers the State Pension and a range of working age, disability and ill health benefits to around 20 million claimants and customers.

The Employer delivers these services across England, Wales and Scotland (including the Orkney and Shetland Islands), across a diverse estate of c.850 buildings – the largest commercial estate within Government. This number is made up primarily of Jobcentre Plus offices, but also includes Health Assessment Centres and back offices. The back office sites consist of corporate centres, large processing centres and service centres very similar to call centre environments, which are not open to the public. The DWP estate is geographically dispersed due to the high street nature of the Jobcentre Plus and Health Assessment Centre portfolio - requiring local presence to serve customers.

As part of the Department's investment strategy, a total of 44 individual Capex projects have been identified for delivery prior to 31st March 2023. These projects are a mix of DWP's estates strategy to create purpose-built hubs through either the acquisition of new sites or refurbishment of existing buildings and the subsequent divestment of vacated sites. There will also be several relocation projects involving acquisition and fit out of new sites due to a lease event at the existing location. The divestment of the site being closed will typically fall under this service request.

The ultimate completion date for most of these projects is March 2023 to align with lease divestment dates of current buildings. The 44 sites have a total estimated construction spend of circa £100m.

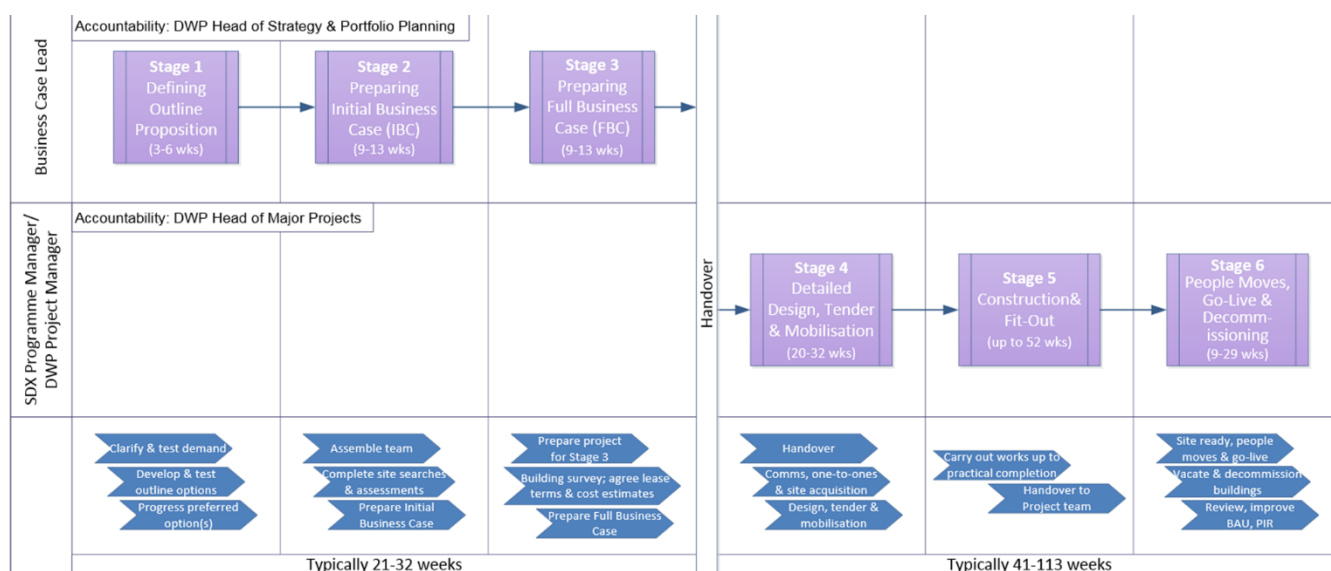
Projects will generally be initiated in FY21/22 Q1 and Q2 with the early planning and design stages progressing through FY21/22 Q1, Q2 and Q3. Subsequent detailed design, procurement and construction activity is likely to be contained through Q4 of FY21/22 and FY22/23.

DWP and Sodexo are currently preparing for delivery of projects around the UK, excluding Northern Ireland. There are sensitivities around these new property acquisitions and until further notice strict confidentiality is to be maintained by all concerned.

Capex project values can be found in Appendix C - Pricing Model, and are being delivered by Contractors on DWP's 'Estate Jobcentre & Office Fit Out Contractor Framework,' detailed in Table 1 and Figure 3. Contracts will either be let via a Traditional, Single Stage Design and Build or Two Stage Design and Build basis. The Potential Supplier is requested in Appendix C - Pricing Model to submit their pricing against each of these procurement routes. The procurement route to be used will be determined by the scope and complexity of each scheme, and confirmed throughout the life of the Call Off Contract through use of a task order approach, incorporated into the Call Off Contract through clause Z49 (which incorporates Option X19: Task Order from the NEC3 Professional Services Contract).

The key stages of the end to end process developed by Sodexo and DWP are summarised in Figure 1. The process is aligned to RIBA Stages 1-7.

Figure 1: Sodexo and DWP end to end process

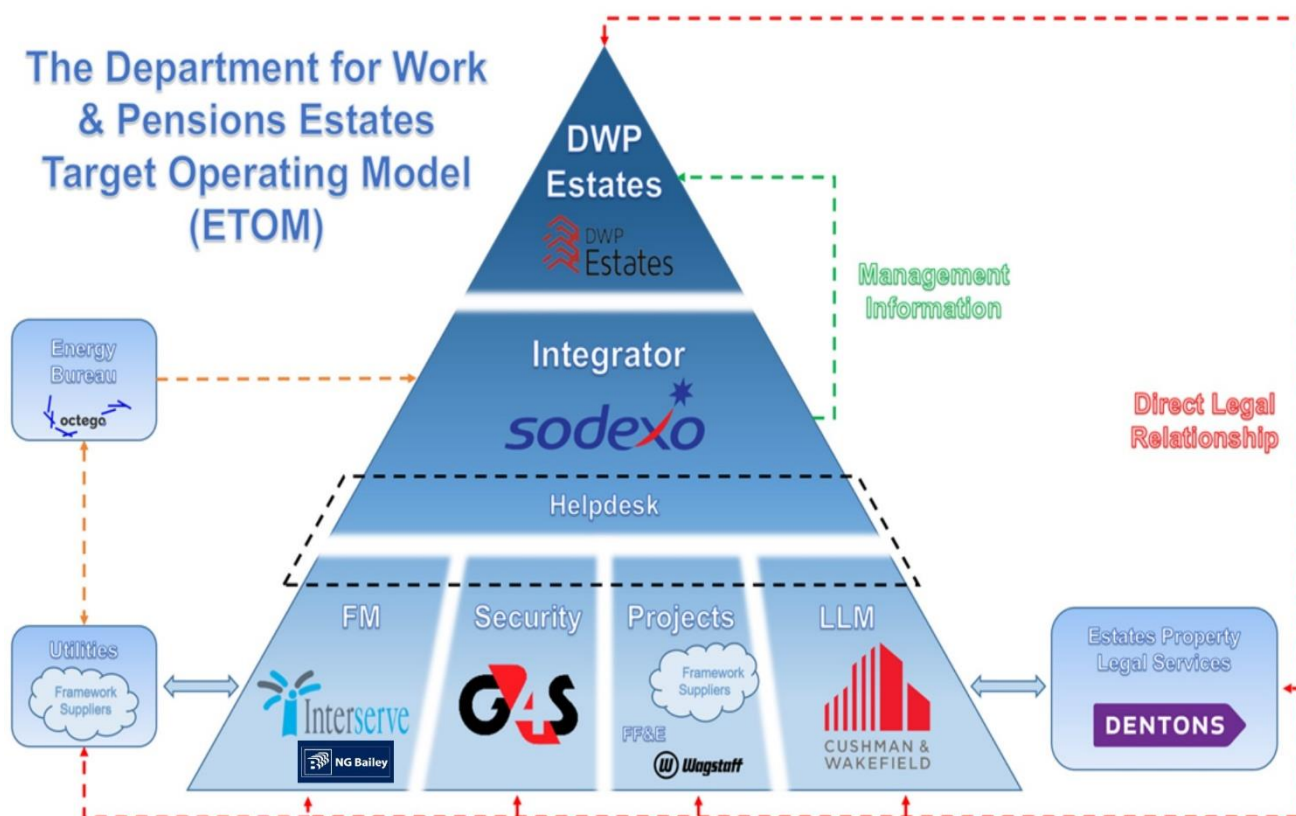


3. The Estates Target Operating Model

Within the Department, DWP Estates Directorate are accountable for the delivery of all aspects of real estate services, supported by the Estates Category Team within Commercial Directorate to undertake all commercial activity required within the complex estates portfolio.

DWP operates an 'Estates Target Operating Model' (ETOM), shown in Figure 2, whereby a large proportion of the estates management is out-sourced to an independent third party organisation ('the Supply Chain Integrator').

Figure 2: DWP's Estates Target Operating Model (ETOM)



Each of the following headings within Figure 2 are referred to by the Employer as 'towers:'

- FM (Facilities Management)
- Security
- Projects (This includes providers of professional services, all providers of construction, fit-out and LCW as well as suppliers of furniture, fittings and equipment (FFE).
- LLM (Landlord and Lease Management)

DWP has engaged and authorised Sodexo Ltd (Sodexo) under the role of the "Supply Chain Integrator" to perform certain estate related duties and obligations. In this capacity, Sodexo is charged with deploying the Department's programmes of Capex Projects, alongside LCW and BAU Projects (professional services for which will be tendered separately). To ensure successful programme delivery, Sodexo work closely with providers of professional services appointed from CCS Framework

RM3741 Project Management and Full Design Team Services (PMFDTS) and contractors on DWP's 'Estate Jobcentre & Office Fit Out Contractor Framework' (the Contractor(s)). Diagrams providing more information about the Estate Jobcentre & Office Fit Out Contractor Framework can be found in Table 1 and Figures 3 and 4.

The Employer has recently undertaken a review of the ETOM and is exploring a variety of options for how the ETOM may be delivered following expiry of the current Supply Chain Integrator agreement with Sodexo on 31st March 2022.

This will involve a newly appointed integrator to work with the Employer, the Consultant and other suppliers involved in the delivery of professional services to support Batch 3 Capex projects in FY21/22 and FY22/23. It is anticipated the newly appointed integrator will be performing the following tasks after March 2022:

- System provision and integration: across supply chain systems, the integrator shall support operational and strategic DWP Estates management by providing the required IT system, application hosting, implementation, training support and security for the management of the services.
- Helpdesk and work order management: The integrator shall provide a helpdesk facility, which shall be the single point of contact for all DWP end-users in relation to all workplace, property and FM related service requests. This shall include the end-to-end management of planned, condition based, reactive, statutory, periodic or billable ad hoc works, maintenance projects including scheduling and any other work orders relating to the occupation of property. To facilitate this, the Integrator shall be responsible for maintaining a master asset register and master PPM schedule (together the Asset Management Services). The Integrator shall manage the asset change request process providing a holistic view and intelligence across the DWP Estate and DWP Estates supply chain.
- Data, analytics and MI reporting: The integrator shall provide a comprehensive and flexible reporting solution to cover the functional, operational and strategic aspects of managing DWP's estate and its supply chain.
- Finance & cost management: The integrator shall provide the Employer with management information, including cost and financial reporting, through the integration, aggregation and verification (cost audit automation and cross sectional data checks) of the Employer supply chain data.
- Supply chain transition: The integrator shall support the Employer in the design, tender, mobilisation and exit of new supply chain members as required, specific to the systems interfaces and the integrator's services

The Consultant will be expected to work collaboratively with the Employer in transitioning to a new ETOM and provide any assistance required by the Employer to ensure continuous service delivery free of charge.

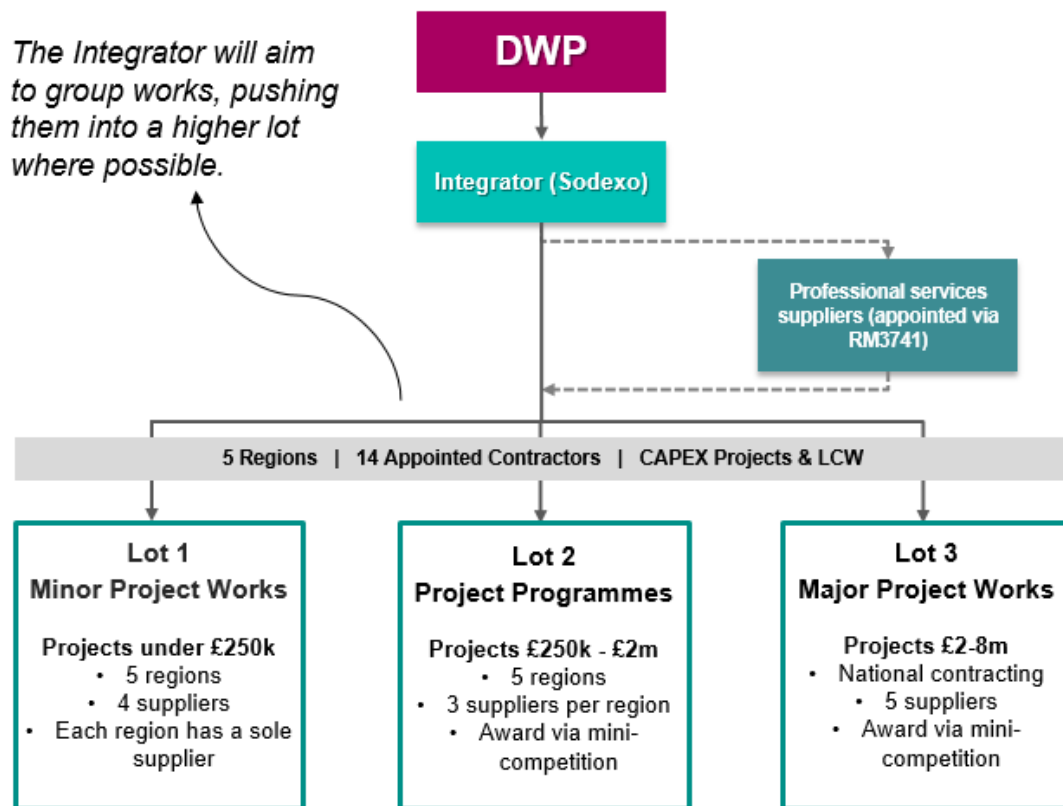
The scope of the Consultant's role is not expected to change, however the Employer will be reviewing the scope of all services within its ETOM in March 2022 to maximise efficiencies and ensure there is

no duplication. The Employer reserves the right to amend the Scope and revise the associated fee in line with clause Z53 within Appendix F.

Table 1: Estate Jobcentre & Office Fit Out Contractor Framework Contractors

	Lot 1 (£0-£250k)					Lot 2 (£250k - £2m)					Lot 3 (£2m-£8m)
Region	A	B	C	D	E	A	B	C	D	E	National
FES Support Services Ltd									X		
Interserve Construction Ltd							X	X			X
ISG Fit Out Ltd		X									X
John Graham Construction											X
Kier Construction Ltd											X
Midas Construction Ltd										X	
Mitie Property Services (UK) Ltd				X							
Morris & Spottiswood								X	X		
Overbury							X		X		
Resolution Interiors Ltd			X		X	X				X	
Seddon Construction Ltd						X		X			
Speller Metcalfe Malvern Ltd	X					X				X	
Wates Construction Ltd											X
Willmott Dixon Interiors							X				

Figure 3: DWP's Estate Job Centre & Office Fit Out Contractor Framework



Contractors have been appointed and allocated to geographic regions as shown in Figure 4. Following the expiry of the DWP Estate Jobcentre & Office Fit Out Contractor Framework on 31st March 2022, the Employer intends to use CCS Framework RM6088: Construction Works and Associated Services.

Figure 4: DWP's Estate Job Centre & Office Fit Out Contractor Framework Regions

Region A – East Anglia, East Midlands & West Midlands, Norfolk, Suffolk, Cambridgeshire, Bedfordshire, Buckinghamshire, Hertfordshire, Essex, Lincolnshire, Nottinghamshire, Staffordshire, Shropshire, Derbyshire, Hereford and Worcestershire, West Midlands, Warwickshire, Leicestershire, Northamptonshire

Region B – London & South East England, London, Kent, East Sussex, Surrey, Berkshire, Oxfordshire, Hampshire

Region C – North West England & North Wales, Cumbria, Lancashire, Manchester, Merseyside, Cheshire, Clwyd Gwynedd

Region D – Scotland and North East England, Northumberland, Newcastle Area, Durham, Teesside, Yorkshire, Humber area Grampian, Highland, Tayside, Central, Fife, Edinburgh, Borders, Dumfries & Galloway, Glasgow, Ayrshire and Lanark, Argyll and Bute

Region E – South Wales & South West England, Dorset, Somerset, Devon, Cornwall, Gloucestershire, Bristol, Wiltshire, Gwent, Mid Glamorgan, Dyfed, Powys



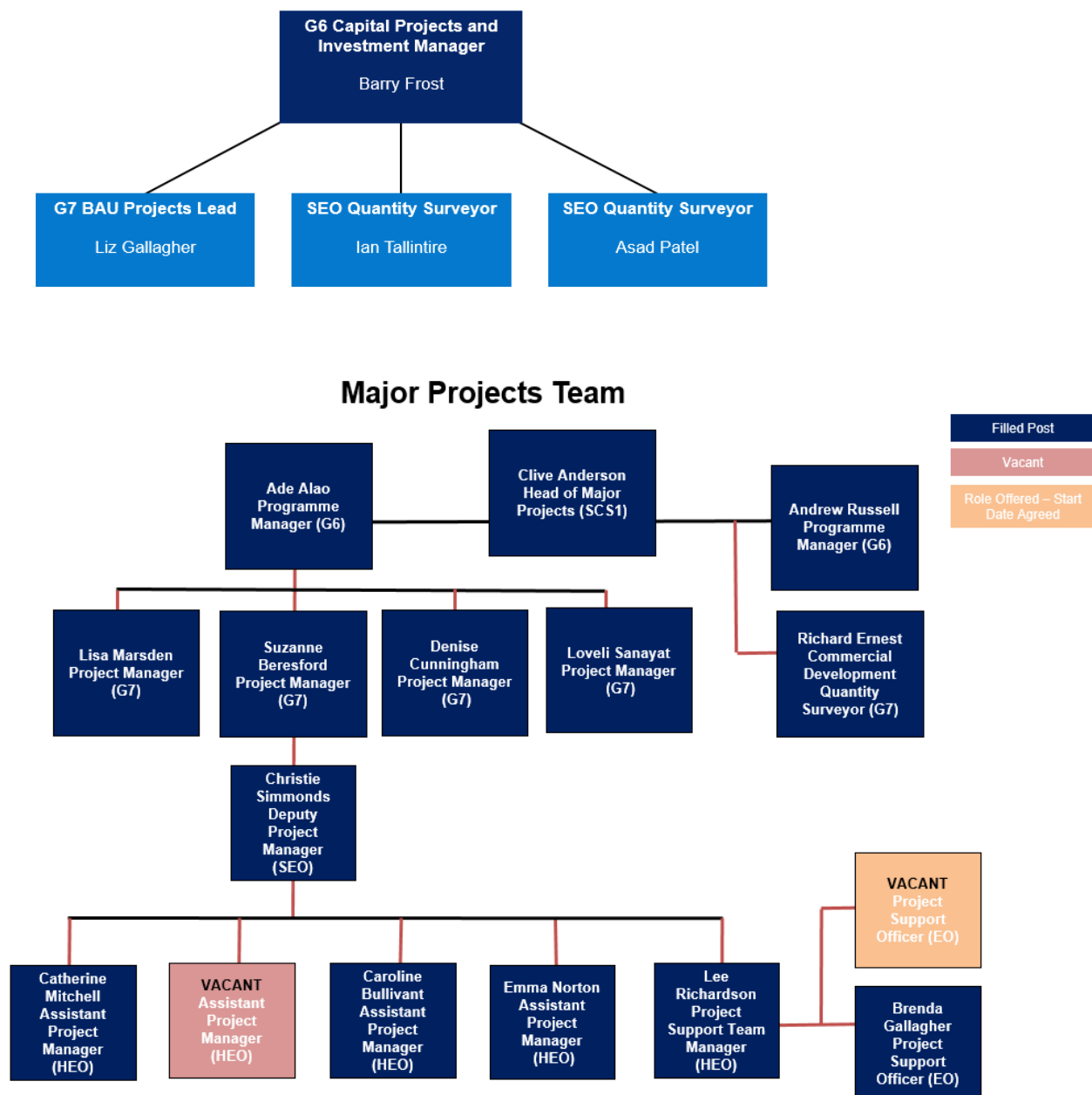
The role of the Employer

DWP Estates Directorate are responsible for:

- Defining business requirements for Capex and working with DWP business units to articulate and challenge their requirements for projects;
- Approving and allocating budgets, including approving any required additional spending;
- Reviewing Capex project costs and programmes;
- Defining DWP's future space strategy;
- Providing access to project and Contractor specific folders on DWP's Microsoft SharePoint for appropriate personnel, so data and information can be shared effectively.
- Various transactional activities, for example providing instructions to DWP finance colleagues to raise purchase orders, and reviewing and validating receipting action required to ensure invoices are paid.
- Working in conjunction with DWP Commercial Directorate and Sodexo to undertake contract management and performance management of the providers of professional services;

Key stakeholders within DWP Estates Directorate are shown in Figure 5. Key stakeholders within DWP Estates Directorate are shown in Figure 5. Generally, the Major Projects Team manage projects over the value of £5m, or otherwise defined as complex.

Figure 5: Key stakeholders within DWP Estates Directorate



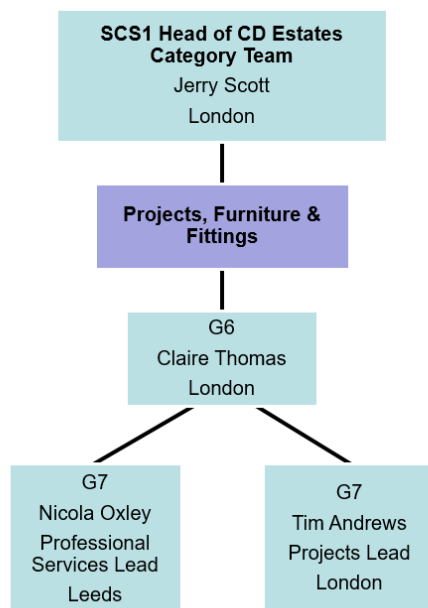
DWP Commercial Directorate Estates Category Team are responsible for:

- Development of sourcing strategies, oversight of tender process and ratifying commercial outcomes for both professional services and contractors;

- Procurement of FFE;
- Assuring compliance with The Public Contract Regulations 2015; and
- Ensuring value for money.

Key stakeholders within DWP Commercial Directorate Estates Category Team are shown in Figure 6.

Figure 6: Key stakeholders within DWP Commercial Directorate Estates Category Team



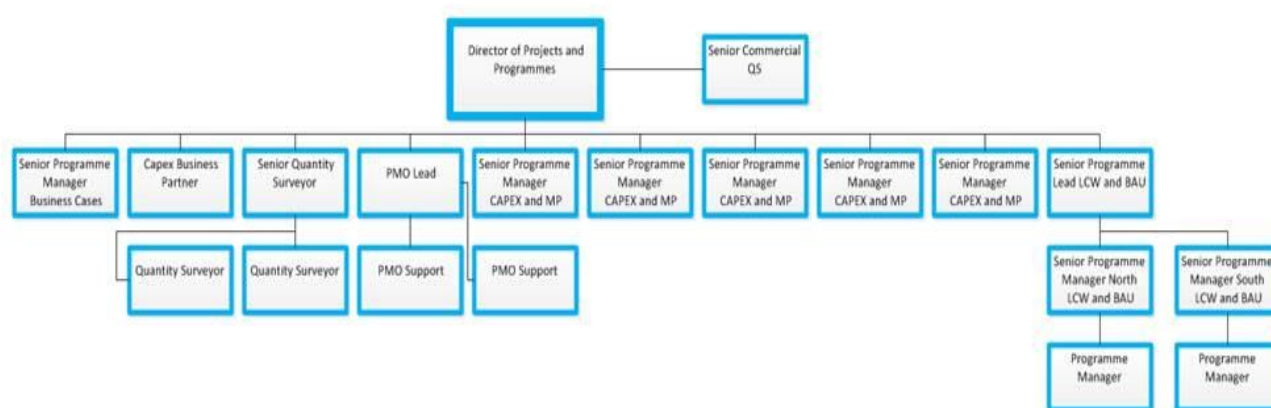
The role of Sodexo

Sodexo is responsible for:

- Validation of invoices for payment from providers of professional services;
- Strategic oversight of the project pipeline, to ensure projects are prioritised and resource demand spread evenly across the year;
- Input into investment decisions and the estate strategy to ensure that we do the right things at the right time;
- Delivery of business-driven projects in accordance with the Employer's capital projects investment delivery;
- Managing the supply chain members engaged for capital investment delivery to ensure a consistently high standard of delivery;
- Project planning, prioritising and aligning synergies in proposed and approved works to support the day to day operational businesses;
- The use of clash management techniques to minimise disruption to DWP operations;
- The identification and management of all programme assumptions and dependencies; and
- The coordination and impact assessment of change requests.

Delivering a consistent approach to project reviews, and the escalation of risks and issues through the appropriate channels.

Figure 7: Sodexo Projects and Programme Resource Model



4. The Employer's Requirements

The Employer requires an appropriate Project Management Team (PMT) to support the 44 Capex projects in FY21/22 and FY22/23.

It is intended that the successful bidder from this procurement exercise (the Consultant) will be appointed w/c 28th June 2021 to allow for a one-month mobilisation period before the expected go-live date on 26th July 2021.

Following expiry on 31st March 2023, the Employer reserves the right to exercise a 6-month extension period to the Call Off Contract, from 31/03/2023 to 30/09/2023.

Separate appointments will be taking place from the CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTS) for the following professional services:

- A Cost Management Team (CMT) via Lot 4.
- A Design Team North (DTN) via Lot 1.
- A Design Team South (DTS) via Lot 1.

These suppliers will work alongside the PMT in the same period to support the same 44 Capex projects. North and South are defined for the purposes of this Call Off Contract by the NUTS codes in Table 2.

Table 2: North and South Regions

Region	NUTS Codes
South	UKL (Wales), UKG (West Midlands), UKH (East of England), UKJ (South East), UKK (South West) and UKI (London).

North	UKM (Scotland), UKC (North-East England), UKD (North-West England), UKE (Yorkshire and the Humber) and UKF (East Midlands).
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Projects defined as North and South are outlined in Appendix C - Pricing Model.

The Consultant acknowledges and agrees that no guarantee is given by the Employer in respect of volumes of Capex projects for the duration of this Call Off Contract, which is non-exclusive. The maximum contract term is therefore 2 years and 3 months.

The Consultant will be expected to work with Sodexo and other DWP supply chain members as part of this Call Off Contract. Once the Consultant is appointed, the Call Off Contract mobilisation period will involve working closely with Sodexo and other DWP supply chain members to ensure roles and responsibilities are defined and understood. This mobilisation period will involve several workshops which are likely to be held virtually due to Covid-19 restrictions, using MS Teams etc. The DWP would expect the Consultant to attend these meetings or any which occur on site on an inclusive basis, free of charge, as these will define standard ways of working across all projects. The following workshops are anticipated:

- DWP design standards;
- Payment processes;
- Fee management;
- Roles and responsibilities;
- Agreement on reporting and communications; and
- Building Assessment Reports.

DWP and Sodexo's integrated objective is to deliver Capex projects which are initiated, managed and delivered to high standards of health & safety performance and overall works quality - always providing demonstrable value for money. In addition to these core objectives there is a specific need to achieve the following:

- accurate, timely and data led management information reporting
- effective and accurate management of the DWP payment processes;
- effective commercial administration of the NEC contracts; and
- effective management of project completion through to handover to colleagues in the Employer's operations and tower suppliers responsible for the ongoing management and maintenance of the buildings.

The Consultant must be fully attuned to the Employer's business environment and must be able to demonstrate functional empathy and understanding of diverse Employer staff needs, customer needs, building access provisions, and security requirements. Functional emphasis on accommodating the needs of the Employer's staff and customers is essential in the Employer's busy, sensitive and sometimes volatile environments.

To support this, there are numerous stakeholders associated with each site acquisition, site divestment and the associated moves. Across the Consultant's PMT, strong and effective communication skills - facing a wide and diverse stakeholder community - are considered critical to

team success. Resources for these important positions must be self-starting and forward thinking - allied with a determination to achieve results despite dealing with gaps and obstacles. Proactive identification, analysis and efficient management of project risks, assumptions, issues and dependencies is necessary. The ability to provide imaginative and positive solutions that avoid or mitigate adverse circumstances and impacts from project change is a prerequisite skill. The Consultant team must always be focussed on project protection or betterment for DWP's benefit.

The Consultant is required to demonstrate ownership, initiative and drive in developing and managing the delivery process to ensure projects are safely delivered, on time, to specified quality, and within budget. A diverse and united professional team – consisting of members from DWP, Sodexo and appointments from the CCS Framework RM3741 PMFDTS is envisaged - all acting in a spirit of mutual trust and co-operation. This is considered a founding principle.

All complimentary Consultant ways of working, day-to-day reporting and production of regular, clear and concise management information for DWP and Sodexo, must be supported by tried and trusted leading-edge technologies.

Core project deliverables are:

- Complete all property divestments in scope, within the required time, at the agreed costs and to meet all leasehold requirements;
- Complete all property acquisitions within the required time, at the agreed costs and to meet the business and DWP Estates requirements;
- Completion of all governance and reporting milestones;
- Delivery of all project completion documentation including validated H&SF, O&Ms, As-Built, Asset Change and other Handover documents; and
- Completion of a Feasibility Report and Building Assessment Report (BAR) (defined in Annex 2 and 3 respectively). These reports are a key element of project delivery and are used to secure project funding, used as the initial design and set out high level programme milestones. Separate to other project deliverables, each Potential Supplier is requested to provide day rates for the Feasibility Report and BAR in Appendix C - Pricing Model. These day rates will be used to calculate fixed price sums for these activities in relation to each project. This will be carried out during the life of the Call Off Contract when project scopes are confirmed and task orders are issued, based on the Potential Supplier's reasonable estimate for the amount of time required for the relevant activity, subject to the agreement of the Employer.

The Employer requires the Consultant to deliver social value throughout the Call Off Contract. The Consultant will be expected to run a workshop with the Employer and Sodexo during the first 6 months of the Call Off Contract to present innovative ideas and proposals in regards to delivering social value in line with the following themes from [The Social Value Model](#) published by the Government Commercial Function in December 2020:

- Tackling Economic Inequality
- Fighting Climate Change

Once proposals have been selected and agreed by the Employer to be implemented, the Consultant shall implement proposals against a timed project plan, in addition to setting up agreed monitoring, reporting and evaluation processes. Please note that we do not require organisations to be subscribed to the National TOMS Framework.

The Employer intends for the Consultant to support all projects on which they are instructed through to project completion including the relocation and divestment works associated to the vacated property.

However, towards the end of the initial service period, and towards the end of the 6 month extension period (if this option is exercised), the Consultant may be instructed to support projects until completion of RIBA Stage 2 when all queries have been resolved to the satisfaction of the Employer. The Consultant will be required to respond to any queries which may arise even where these follow the end of the initial service period or either 6-month extension period. In this scenario, the Consultant will be required to provide an effective handover of projects (which have yet to start on site) to a replacement supplier. The Consultant will provide any assistance required by the Employer to exit the contract and tender for any ongoing or future support or services free of charge.

For the purposes of Z22, the commencement of the provision of the service or a part of thereof is not expected to result in a Relevant Transfer. The Employer confirms that it currently does not consider that TUPE will apply to any staff and accordingly it has not identified any person to be a Transferring Former Consultant Employee or Transferring Employer Employee.

A process of continuous improvement will underpin all team activity – learning, developing and refining processes for the ultimate benefit of DWP. Regular forums are to be established with the Consultant, CMT, DTN and DTS in order to share knowledge, ideas and best practice.

5. Resource Requirements

The Employer is looking to appoint the PMT to supplement the Sodexo programme team. This will include the exact requirements for the Project Manager and Contract Administrator disciplines as set out in Annex 1: Schedule of Requirements. Please note that this is amended from the Schedule of Services provided by CCS to include the following optional Contract Administrator services within this Call Off Contract:

Ref	Scope of Services	Notes
7a.1	In collaboration with the other suppliers, assess any compensation events/ financial claims/ applications for extension of the completion date and the effects on the programme of any proposed variations, and monitor the cost and programme effects of any variations for which instructions are issued to the Contractor.	The Consultant is requested to provide a percentage fee for this service within the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on assessing and monitoring the cost of an average of 15 and 20 Compensation Events or financial claims per project, regardless of procurement route or value. Please note that this requirement is subject to

		change. This fee will only be used if required.
7a.2	Assist the Contract Administrator with all activities in connection with the adjudication of disputes between the Contracting Authority and the Contractor.	The Employer is not expecting to require adjudication of disputes, however the Potential Supplier is requested to provide a percentage fee for this service within the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on one dispute, across both RIBA Stages 5 and 6. Please note that this requirement is subject to change. This fee will only be used if required.
7a.3	In co-operation with the other members of the Project Team concerned, evaluate claims and make recommendations.	The Consultant is requested to provide a percentage fee for this service within the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on assessing and monitoring the cost of an average of 15 and 20 Compensation Events or financial claims per project, regardless of procurement route or value. Please note that this requirement is subject to change. This fee will only be used if required.

Please note that there may also be a requirement to support a small number of Capex projects from the start of RIBA Stage 3. The resources required for each project will be confirmed via the respective Task Order issued, alongside the Procurement Type and RIBA stages needed.

Two projects (additional to the 44 'Batch 3' Capex projects) have already been identified by the Employer as requiring professional services from the start of RIBA Stage 3 only. These projects are listed within the 'Core Services Percentage Fee' and 'Non-Core Serv. Percentage Fee' tab of Appendix C - Pricing Model:

- Skelmersdale (£500,000);
- Liverpool (£700,000).

Both projects will follow a two stage design and build procurement route.

Please note that Client Advisor services will not be required across any of the Capex projects listed in Appendix C - Pricing Model. The Potential Supplier is requested to provide a day rate for this service

to be used on a number of additional third party-led construction projects where the Employer is an interested party, but not directly leading or contracting for construction activity. The Employer is expecting five third party-led projects over the course of this Call Off Contract, however this is subject to change. These projects are as follows:

- Blackpool Hub
- Swansea Hub
- Manchester West Hub
- Manchester Central Hub
- Dundee Hub

The day rate submitted in Appendix C - Pricing Model will be used to calculate fixed price sums for these activities in relation to each additional third party-led project. This will be carried out during the life of the Call Off Contract when project scopes are confirmed and task orders are issued, based on the Potential Supplier's reasonable estimate for the amount of time required for the relevant activity, subject to the agreement of the Employer. The RIBA stages and exact Client Advisor services required for each of these five projects will be confirmed via the respective Task Order issued.

The Potential Supplier is requested to provide a day rate for the NEC Supervisor non-core service discipline set out in Annex 4. The day rate for this service submitted in Appendix C - Pricing Model will be used to calculate fixed price sums for this activity in relation to each project, if required. This will be carried out during the life of the Call Off Contract when project scopes are confirmed and task orders are issued, based on the Potential Supplier's reasonable estimate for the amount of time required for the relevant activity, subject to the agreement of the Employer.

The Employer requires a dedicated PMT for business continuity. Should there be any need for a member of the PMT to be replaced, the replacement should be at least of the equivalent experience and skill level. The Employer reserves the right to reject any proposed replacement.

All roles will be required to undertake site visits as required to ensure project delivery and compliance with the Employer's requirements for Contractors.

The percentage fee submitted by the Potential Supplier should include all services within The Employer's Statement of Requirements and Scope, and should be in line with the maximum rates submitted to CCS under the terms of the Framework.

The Consultant will work closely with the CMT, DTN and DTS appointed from the CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTS) to support the Employer in the following stages Capex Projects programme:

a) Defining the scope and design

Typically a Feasibility Report and/or Building Assessment Report (BAR) will be commissioned to define the scope of the project. The BAR is a key element of the project and is used to secure project funding, used as the initial design and set out high level programme milestones.

Projects will follow the RIBA stages identified in Annex 1.

Scoping activity will be required from the Consultant and CMT to define the extent of the site relocations and divestment work for the closing site – this will help determine the procurement strategy for this element of work.

Where a traditional procurement route is being followed:

- The DTN or DTS will develop the design to the completion of RIBA Stage 4;
- The CMT will develop the commercial model for the tender;
- The detailed design, specification and a pricing document will be issued to enable the Contractor to provide a fixed price in their tender;
- Based on the initial scope and specification, the CMT will produce a pre-tender estimate of cost for DWP sign-off prior to tenders being issued;
- In conjunction with the CMT and either the DTN or DTS, the Consultant will be responsible for reviewing the Contractor's proposals and costs to ensure compliance with the Employer's requirements.

Where a single stage design and build procurement route is being followed, the following process will apply:

- The DTN or DTS will develop the design to the completion of RIBA Stage 3;
- The CMT will develop the commercial model for the tender;
- The tender (the Employer's requirements) will consist of the RIBA Stage 3 design and performance specification and a pricing document to enable the Contractor to provide an indicative tender sum in their tender;
- Based on the initial scope and specification, the CMT will produce a pre-tender estimate of cost for DWP sign-off prior to tenders being issued;
- Design responsibility will be transferred to the Contractor from RIBA Stage 4 onwards; and
- In conjunction with the CMT and either the DTN or DTS, the Consultant will be responsible for reviewing the Contractor's proposals throughout the design and construction period to ensure compliance with the Employer's requirements.

Where a two stage design and build procurement route is being followed:

- The DTN or DTS will develop the design to the completion of RIBA Stage 2;
- The CMT will develop the commercial model for the tender;
- The first stage tender (the Employer's Requirements) will consist of the RIBA Stage 2 design and performance specification and a pricing document to enable the Contractor to provide an indicative tender sum in their tender;
- Based on the initial scope and specification, the CMT will produce a pre-tender estimate of cost for DWP sign-off prior to tenders being issued;
- Design responsibility will be transferred to the Contractor from RIBA Stage 3 onwards;
- In conjunction with the CMT and either the DTN or DTS, the Consultant will be responsible for reviewing the Contractor's proposals throughout the 2nd stage design and construction period to ensure compliance with the Employer's requirements.

b) Tender Process

It should be noted that for Contractors on Lot 1 of the Estate Jobcentre & Office Fit Out Contractor Framework, a direct award allocation is used based on region coverage and the tender process is not required.

For Lot 2 and Lot 3 Contractors, a competitive tender process is required by the Employer for projects valued above £250,000. The Consultant will work closely with Sodexo, the Employer and the Cost Management Team to tender the Capex projects via the Estate Job Centre & Office Fit Out Contractor Framework, considering bundling to maximize efficiencies and value for money. This will involve assisting the Employer in responding to clarification questions raised by Contractors.

In line with the agreed procurement strategy, the Consultant will review Contractor's proposed scopes and respond to technical queries to ensure that the proposals are robust and offer value for money. Contractors will submit their technical and commercial proposals for evaluation. Where possible, PSA Schedule of Rates will be utilised, or upon request, quotations sought from specialists.

In conjunction with the CMT and either the DTN and DTS, the Consultant will scrutinise the Contractor's proposals in regards to:

- the credentials of key personnel proposed, the processes and procedures to be adopted; and
- quantum accuracy and value for money compared with the initial brief and budget allocation.

Consultation with the Employer's site representatives, the Employer's regional operations managers and Sodexo project managers may be necessary before a recommendation for acceptance is given. Where the Contractor's proposals exceed budget, further scrutiny and justification may be necessary in order to obtain approval from the Employer's governance processes in order to proceed. The Employer's commercial governance processes are outlined in Figure 8.

Figure 8: The Employer's Commercial Governance Processes

Value of contract, contractual change or Compensation Event	DWP Commercial Directorate Estates Category Team Approval	Commercial Approval Board (CAB)	Cabinet Office Reporting Template <i>Reporting only</i>	DWP Ministerial Approval	Cabinet Office Approval
<£100k					

£100k+		
£1m+		
£5m+		
£10m+		

To ensure the procurement is approved by the Employer's commercial governance processes, details of the evaluation process will be recorded by the Consultant via a Tender Report. The Tender Report is a document intended to be the single, summary record of the procurement exercise. It is to provide how the recommendation(s) to award to a particular Contractor(s) was arrived at in line with The Public Contract Regulations 2015 and includes appendices with all necessary evidence and justification to support commentary and decisions made. It is the primary document relied upon in the Employer's commercial governance processes. The Tender Report should provide the following:

- Executive Summary: an overview of the project, covering the intent and nature of procurement, the type of tender and number of bids, supplier returns and issues, significant risks, recommendation and rationale behind this.
- Tender Details: Explanation of the tender process relied on, detailing the number of expressions of interests returned and listing the suppliers who did and did not return them, providing any reasons provided for the latter. Any market failure should be explained, as well as compliance.
- Evaluation Criteria: Referencing an annex with the criteria laid out in full, outline the % balance of price vs quality questions, any weightings and any special requirements like minimum thresholds and how the final score was calculated.
- Any Changes: Any changes should have been communicated to all, to maintain equality of opportunity maintained. This section should evidence what changes were made and how they were communicated.
- Compliance/Issues: Explain any excluded bids as a result of compliance issues, or why mitigation has been applied.

Gaps and unexplained statements in the Tender Report will delay the Employer's commercial assurance processes, required to award the contract to the Contractor(s).

The Consultant will need to produce a Tender Report meeting the required quality standard within procurement timescales communicated in writing (which may include email) by Sodexo to the Consultant, as long as the Consultant is not provided with less than 5 working days' notice to complete the Tender Report. This is a key condition defined in Appendix F.

The CMT and either the DTN or DTS will be expected to provide information and input requested by the Consultant within 2 working days of a request being made in writing (which may include email). This will be defined as a key condition in their respective contracts.

On approval of the Tender Report by the Employer, the Consultant will ensure timely completion of the NEC4 Contract with the Contractor and return completed documents to the DWP Commercial Directorate Estates Category Team.

c) Contractor appointment and management

Subject to the Employer's governance processes, the Consultant will work with the CMT, either the DTN or DTS and appointed Contractor to finalise the agreed programme and priced activity schedule as required under a formal NEC Contract Agreement. Mobilisation activity will take place with the appointed contractor prior to starting on site.

Once appointed, the Consultant will use CEMAR to manage and administer the Contractor's contract with the Employer. CEMAR is used to raise Early Warning Notices, propose and approve Compensation Events and submit applications for payment. The Consultant will notify the CMT, the Employer and Sodexo of Early Warning Notices and Compensation Events and ensure responses are provided in line with NEC timescales, whilst also ensuring compliance with the Employer's governance processes. The Consultant will ensure Compensation Event(s) are sent to the CMT, and where applicable either the DTN or DTS, for review within these timescales. Once the Compensation Event(s) has been sent to the CMT, DTN or DTS in writing (which may include email and CEMAR), the CMT, DTN or DTS will have 2 working days to review and provide a response. This will be defined as a key condition in their respective contracts.

The CMT will be responsible for developing a Compensation Event 'tracker' to measure Compensation Event spend against the initially approved contract value and PO, ensuring that the Employer's commercial governance processes (outlined in Figure 8) are also followed depending on the Compensation Event value.

The Consultant will attend and lead all relevant project meetings on all Capex projects. The Consultant will produce the minutes for these meetings and distribute them to all relevant stakeholders.

The Consultant is required to check quality and inspect sites, including when undertaking audits of selected tasks.

Contractors will be required to submit Applications for Payments (AFPs) to the CMT at agreed intervals. Each site will be assigned a unique site and project number. The Consultant will be expected to provide information and input requested by the CMT in writing (which may include email) to complete review of the AFP within 2 working days of the request being made. This is a key condition defined in Appendix F. Following review by the CMT, a recommendation to

elevate the AFP through the Employer's AFP process will be made by the CMT. The recommendation will be supported by an assurance document.

The Consultant is required to provide any assistance required by the CMT in forecasting the required PO and tracking the spend to give early warning of any requirement to increase the PO value.

d) Progress tracking and reporting

The Consultant shall provide regular reports relating to these services as required by the Employer, including an overarching project tracker.

The Consultant is required to produce and maintain a detailed overarching project tracker to report on each project, cost, milestones etc, with information provided for each site, contractor, region and purchase order.

The project tracker is reported fortnightly to the Sodexo Programme Director. Site scoping surveys, asbestos reports, Contractor's proposals, accepted proposals, start-up meetings, commencement of work on site and completion certifications are all tracked and recorded.

In addition to a Framework Execution Plan, the Consultant will be required to develop the Project Execution Plan for each project. The CMT is required to provide any assistance required by the Consultant in identifying the relevant cost/financial information.

A monthly report will be required for use at the project control group held for each project. The agreed template will be provided.

The CMT will be expected to prepare a monthly report to include financial status of the project against the business case and cash flow forecast/analysis of variations. This will include all costs lines for the project, not just the construction element. Monthly cost reporting will include a review, analysis and disaggregation of changes and variations to provide understanding of the root cause of the change. Provision of this information on a monthly basis per project is defined as a key condition in the CMT's contract. This will feed into the Consultant's monthly report.

The Consultant will need to liaise with the CMT to obtain up-to-date cost, purchase order and other information. Once the Consultant has made a request for information from the Cost Manager in writing (which may include email), the CMT will have 2 working days to respond. This is defined as a key condition in the CMT's contract.

Further reports may be required to:

- illustrate progress against agreed deliverables;
- demonstrate whether the approved budget and cash-flow is being maintained; and
- identify those matters which require a decision from the Employer and where necessary, provide assistance for the Employer to make an informed decision on all such matters.

The Consultant shall also provide regular management data relating to these services as required by the Employer. Management information required includes but is not limited to the following subject matter:

- a) the number of RIDDOR recordable incidents by Consultant staff (including Contract Supplied Workers, Agency Supplied Workers and all sub-consultants) who are working on delivering the services;
- b) information needed in order to publish Contractor contracts over £10,000 in value in line with Central Government guidance for publishing contracts (link [here](#) for information), including value, tender and contract documentation;
- c) the number of apprentices employed by the Consultant and the number of apprenticeship opportunities created or retained under the Call Off Contract;
- d) the number of full-time equivalent (FTE) employment opportunities created under the Call Off Contract, by UK region;
- e) the number of training opportunities (Level 2, 3, and 4+) created or retained under the Call Off Contract, other than apprentices, by UK region;
- f) the number of people-hours of learning interventions delivered under the contract, by UK region;
- g) the number of people-hours spent protecting and improving the environment under the contract, by UK region;
- h) the number of green spaces created under the contract, by UK region;
- i) annual reduction in emissions of greenhouse gases arising from the performance of the Call Off Contract, measured in metric tonnes carbon dioxide equivalents (MTCDE);
- j) reduction in water use arising from the performance of the contract, measured in litres; and
- k) reduction in waste to landfill arising from the performance of the contract, measured in metric tonnes. the total number of payments made by the Consultant to sub-contractors to this Call Off Contract contracts each month, and of this number, the percentage of invoices paid within each of the following categories:
 - a. Within 30 days
 - b. In 31 to 60 days
 - c. In 61 days or more
 - d. Due but not paid by the last date for payment under agreed contractual terms.

e) Meetings

- In addition to the meetings listed elsewhere in the Statement of Requirements and Scope, the Consultant will be required to attend the following meetings:
- Mobilisation meetings and workshops will be scheduled on contract appointment.

Table 3: Project Level Meetings

	Frequency	Detail
Capex Progress Review Meeting	Fortnightly	The Consultant is required to attend, along with the CMT, DTN and DTS.

		<ul style="list-style-type: none"> • Presentation of overall project tracker and cost tracker • 2 month look ahead <p>Key risks and issues</p>
Design Team Meeting	Weekly	Design Team Meetings will be held throughout RIBA stages 1 to 4. The Consultant is required to attend to provide project management against the developing design and agree timelines for the design phases with the DTN and DTS.
Project Control Group	Monthly	<p>Presentation of the project report to DWP/Sodexo stakeholders</p> <p>The Consultant to present the update for the project. The CMT to present the financial update for the project.</p>
Project Working Group	Weekly/fortnightly depending on project	Working Group brings includes Sodexo and key DWP stakeholders involved in the delivery of the project.
Handover	One meeting per Capex project on completion of the project	The Consultant will attend site inspect works, and ensure all handover documentation is completed. All documentation must be uploaded onto SharePoint.
Contractor Progress Meeting	Monthly	The Consultant to chair monthly review meeting with the appointed Contractor (report provided by the Contractor).

Please note that in the current climate in Covid-19, a significant number of meetings are taking place virtually using Microsoft Teams. Where physical attendance is required, the latest Government Coronavirus Guidelines will be followed, and key worker letters issued where required.

The Employer is yet to confirm working practices when the current climate in Covid-19 is no longer applicable and requirements for attending meetings in person are therefore subject to change.

Following Covid-19, the Consultant will participate at project level meetings through physical attendance, unless video conferencing is agreed by the Employer. Attendance through video conferencing is likely to only take place on projects which are low in both complexity and value.

f) Final Account and Close Out

The Consultant is required to coordinate handover activities in accordance with the requirements set out in Annex 1: Schedule of Requirements.

Where input is required from the CMT to ensure sign-off, the CMT will respond within 2 working days of a request being made in writing (which will include email) by the Consultant, unless otherwise agreed by the Employer. This is defined as a key condition in the CMT's contract.

The Consultant will participate in handover meetings through physical attendance unless video conferencing is agreed with the Employer. The Consultant will produce the minutes for these meetings and distribute them to all relevant stakeholders. The Consultant will ensure will ensure handover documentation requested by the Employer is correct and complete. The timeline to close out any minor outstanding actions and snags will be agreed and monitored. Contractors will submit their final accounts by task and site to the CMT for verification, approval and sign-off. The Consultant will ensure all handover documentation and supporting evidence is provided to the Employer in an electronic format specified by the Employer, where the Consultant will not require any software licenses.

g) Information Management

To assist Sodexo in adhering to ISO19650:2018, the Consultant will need to:

- Adopt the information management processes as defined by the Employer and Sodexo;
- Adopt the information security protocols defined by the Employer and Sodexo;
- Manage project information and documentation in a digital format using a Common Data Environment;
- Interface with appointed parties to receive, collate, verify, publish and issue information in accordance with the Exchange Information Requirements;

The Consultant, DTN and DTS will collate and verify information received from the Contractors (Operation & Maintenance Manuals, surveys, permits, designs, drawings, asset change forms etc.) and hold it within their document management system until the project is completed. Following project completion, this will be handed over to the Employer and Sodexo in an electronic format specified by the Employer, where the Consultant will not require any software licenses. As account valuations will be dependent on the timely submission of this information,

the Consultant will need to work closely with the CMT to ensure payments are not authorised for incomplete work.

The Consultant has an obligation under the RM3741 Framework to assist the Employer in adhering to its Building Information Modelling (BIM) Protocol, defined in Appendix F - Form of Call Off Contract. The Employer's BIM Protocol is designed to comply with the following parts of ISO19650:2018:

- **BS EN ISO 19650-1:** Organisation of information about construction works – Information management using building information modelling – Part 1: concepts and principles; and
- **BS EN ISO 19650-2:** Organisation of information about construction works – Information management using building information modelling – Part 2: Delivery phase of assets.

A BIM Information Manager and BIM Coordinator will be appointed in both the DTN and DTS to work to the BIM Protocol. The Consultant is required to cooperate with and assist Sodexo, the future integrator and the BIM Information Managers and BIM Coordinators in complying with BIM and ISO19650 parts 1 and 2.

Under the Supply Chain Integrator agreement, Sodexo is responsible for providing asset numbers. The BIM Information Manager and BIM Coordinator will consult with Sodexo to obtain asset numbers.

The Consultant is required to provide all relevant information required to complete BIM models and the asset taxonomy (included in the BIM Protocol, defined in Appendix F).

Figure 9: Information Management Process

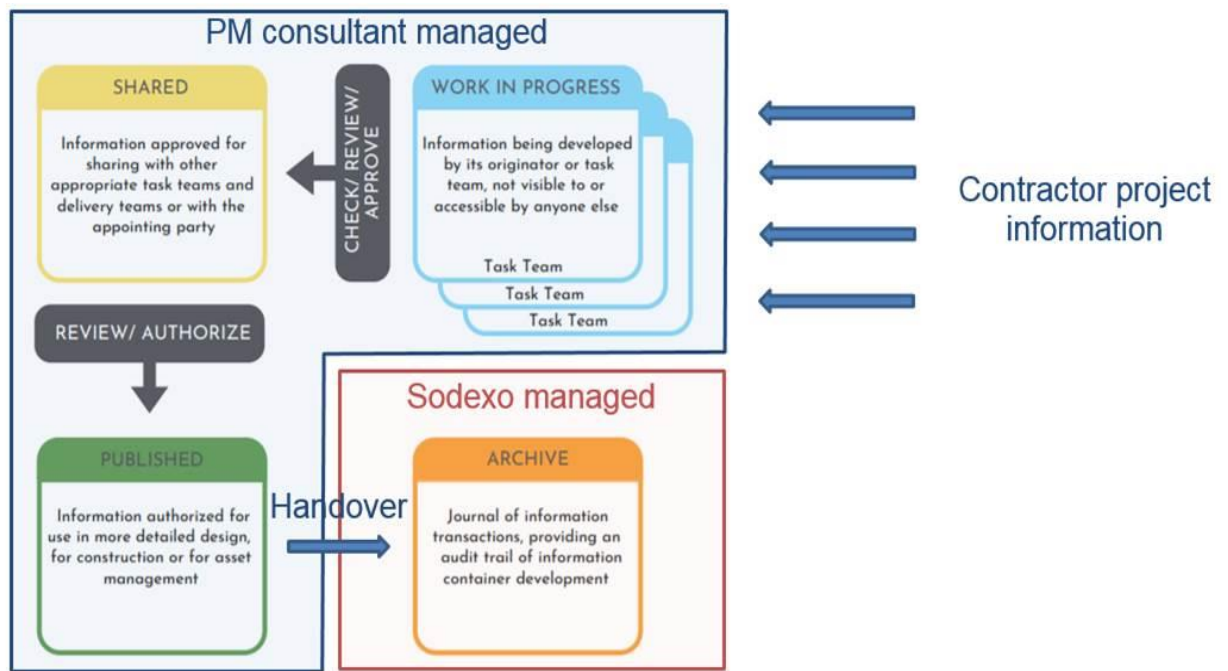


Figure 2: CDE concept as demonstrated in ISO 19650-1 Figure 10

6. Role Profiles / Core Competencies

All personnel for the above positions must be professionally qualified and highly competent - having substantive experience in successfully undertaking similar roles. A strong team ethic is essential, allied to an ability to communicate clearly and effectively with a wide and diverse stakeholder community.

The Employer requires that all Consultant staff employed, whether permanent or temporary, on the provision of the *services* are subject to the requirements of the HM Government Baseline Personnel Security Standard. Copies of the current HM Government Baseline Personnel Security Standard can be found via the following link [Government Baseline Personnel Security Standard](#). The Consultant is expected to arrange the BPSS checks at no additional charge.

All personnel will need to comply with the Employer's Security Policy, defined in Appendix F - Form of Contract. The Consultant will only be expected to comply with the policies or standards that fit in with their delivery model and technologies used.

The Consultant is responsible for its own compliance with all relevant VAT legislation and guidance. Please note that under section 6 para (e) the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019, the "reverse charge" of VAT under section 55A of the Value Added Tax Act 1994 ("VATA") does not cover the supply of "the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape" (except where part of the single supply of construction work).

7. Annexes

Annex 1: Schedule of Requirements



Annex 1 - Schedule
of Requirements PM

Annex 2: Feasibility Report

Feasibility studies, that is preliminary studies, may be required in the very early stage of determining the preferred strategic direction for a real estate development project. They will tend to be carried out when a project is large or complex, or where there might be a consideration of alternative sites and/or development options. The purpose of the feasibility study is to:

- Consider and evaluate viable project options.
- Identify feasible options.
- Establish the preferred option and whether the project is viable.
- Assist in the development of other project documentation such as the business case, project execution plan and strategic brief.

The scope of the feasibility study, together with the content and format of the Feasibility Report is to be as follows:

- **Executive Summary**
- **Project Brief and Objectives**
- **Feasibility Study Team**
- **Proposed Site/Building Options**
 - Site/Building Overviews and Site Histories
 - Site Factors and Issues
 - Town Planning and Use Class
 - Site Ownership and Leasehold Matters
- **Proposed Site/Building Appraisals – Options, Viability and Evaluation**
 - Building Condition (structure, fabric and building services installations. Provide condition rating comparison of buildings)
 - Environmental Issues and Deleterious Materials
 - Suitability of Building for Adaptation/Refurbishment

-
- Capacity and Adaptability of Mains Services and Utilities
 - Town Planning Considerations
 - Statutory Compliance Matters and Approvals
 - Leasehold and Commercial Obligations
 - Inclusive Design and Accessibility
 - Compliance with Project Brief (including occupancy demand and functional requirements. Provide a building suitability comparison assessment of buildings being considered)
 - DWP Design Guide Compliance (detail design derogations)
 - Sustainability and Energy Performance
 - Scope of Proposed Refurbishment and Fit Out Works (summarise for each option)
 - Programme considerations (include summary activities programme for each option)
 - Cost estimation, Appraisal and Comparison of Options (cost analysis to consider discounted cash flow assessment and consideration of whole life cycle costs)
-
- **Preferred Option**
-
- **Key Risks and Issues (include Risk Register)**
-
- **Dependencies**
-
- **Summary and Conclusion**

Annex 3: Building Assessment Report

The Building Assessment Report (BAR) consists of two key components: the technical due diligence assessment of the proposed property/building and the scope of the proposed capital investment works (effectively the CAT B works).

The BAR will follow an initial space planning assessment which determines if all key requirements can be accommodated within the proposed demise.

The BAR should use the outputs of the space planning exercise as the basis of the building assessment and its suitability for the proposed use.

Technical Due Diligence

Full technical due diligence is required for each property/building to include a full site inspection and condition survey of the existing fabric, structure, finishes, building services installations, external areas, fixtures and fittings etc. Condition surveys and reports to be in accordance with recognised industry standards and guidance including RICS Technical Due Diligence of Commercial Property January 2020 and CIBSE Maintenance Engineering and Management Guide M.

The process of technical due diligence must determine, in the context of the proposed intent for the property:

- whether significant defects exist with the property/building.
- whether there are legal implications of the defects or other deficiencies such that the property does not comply with statutory obligations or if there are any illegal works present.
- whether there are leasehold repairing obligations/liabilities.
- whether the property is suitable for the client's intended use, and
- whether there are any apparent life safety issues.

Where there are deficiencies with the building, estimates of the remaining life expectancy of key elements must be provided, along with information regarding the scope, risk rating, costs of repairs required, time frame and liability. Provide schedule of repairs and budget estimates to remedy the identified defects with the building structure, fabric and services. To include cyclical maintenance costs and recommended time period for repairs. Development and preparation of cost estimate to be on the basis of three point estimating and probability analysis. Cost estimate to include a fully costed risk register to accurately apportion cost to all potential risk items. Cost estimate to consider and include alternative repair/maintenance options where applicable.

The principal considerations for the technical due diligence will include the following:

- the nature of the property, the proposed development or the existing construction, age and design
- the adequacy of the structure and fabric
- the adequacy of building services
- conformity with current requirements, including statute, civil and lease obligations
- operational performance
- special client requirements (as defined at the briefing stage)
- a comparison of the standards and quality of the property with accepted/institutional benchmarks and the apparent suitability to meet the client's requirements
- main areas of concern, deficiency, defect or non-compliance
- any repairs, upgrades, replacements, further investigations or statutory inspections and

-
- estimated costs of remedial works or recommended actions.

The condition inspection is required to include all components of the property/building.

Areas not inspected should be clearly identified in the report, and a recommendation made for further investigation, should there be reasonable suspicion that notable defects or risks could exist. Existing records that are required to be reviewed and considered include:

- asbestos/hazardous materials register and management plan
- fire risk assessment, fire safety strategy and relevant permits
- accessibility audit
- statutory test certificates
- other relevant statutory reports and statutory compliance documentation
- PPM Schedules
- Health and Safety file
- Operating and Maintenance manuals
- Energy Performance Certificate
- Building services equipment and plant inspection records
- Manufacturers and contractor guarantees
- Leases, subleases, licences, rights of access, rights of way, etc.
- Party Wall Awards

The scope of the technical due diligence is to include enquiries with the on-site FM/Operations teams and occupiers to establish if they are aware of any issues with the building and engineering services. Relevant anecdotal information gained while on site must be corroborated.

Elemental condition survey and report required for building structure and fabric, building services installations and external areas. Develop and include a matrix identifying the current condition rating of all building elements, services elements and external areas.

The elements of the external and internal building structure and fabric that are to be inspected are to include, but not limited to, the following elements:

- roofs/balconies/canopies
- rainwater goods
- walls and cladding/facades
- windows, doors and joinery

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- structural frame
 - substructure/basement
 - floors
 - internal walls, ceilings, partitions and doors, including compartmentation for fire safety
 - internal and external finishes
 - fixtures and fittings
 - internal and external staircases and
 - sanitary and welfare facilities.

The structure is to be described in detail, including type of frame (reinforced concrete, steel or timber) as applicable, a description of main supporting members from roof to foundations and how the load is transferred through the building to ground. Comment should include the effect of alterations on the structure, any movement and future risks. Each element (e.g. floors, walls, doors, etc.) is to be separately discussed in the report, including a description, current condition, suitability for anticipated use and explanatory note of the cause of any defect. Detail the current structural loading capacities of all key elements of structure.

Building services elements to be inspected include all installations/systems comprising mechanical, electrical, fire and life safety, security, public health services, telecommunications and vertical transportation installations. Confirm the condition and capacity of all existing utility supplies to the property/building. Include to operate and witness test the working of all systems, installations, etc. Assess IT connectivity and capacity to ensure aligns with design brief requirements.

External areas are to be inspected comprising car parking, pavements, hardstanding, lighting, signage, outbuildings, boundaries, fences/walls, underground drainage, underground features, etc. External access covers, manholes, etc to be lifted and visual inspection undertaken of underground drainage, underground services, etc. Advise on the need for CCTV survey of accessible underground drainage.

A description of condition and extent of defects for relevant components may be supplemented with photographs and sketches.

A full measured survey of the internal of the building is to be undertaken.

The technical due diligence should highlight any further tests or inspections to be undertaken and enquiries to be made to statutory authorities, third parties, etc.

A description of the property is required and should include:

- property type
- general design

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- principal elements of construction
 - age
 - floor area
 - date of substantial modifications and
 - historical status and current use.
 - legal and title issues
 - repairing obligations/liabilities

The building inspection is to include a visual inspection of the building's external structure and fabric, internal structure and fabric and external areas and boundaries. Conduct a visual inspection within raised access floor voids, suspended ceilings, roof voids, risers, etc. to ascertain condition of key elements e.g. compartmentation and firestopping.

A statutory compliance review is required to ascertain whether the building complies with legislation relevant to the use of the building. This includes accessibility, fire safety, means of escape, town planning, building regulations, etc. Report on relevant planning, heritage and highways matters that could affect the building. Conduct a fire safety assessment of the building, to include review of available compliance documentation and identify compliance concerns.

Regarding environmental and site factors, review the extent to which the building might be exposed to environmental hazards such as flooding, exposure to electromagnetic radiation, etc. Undertake a desktop search to identify potentially land contamination issues and provide a contamination risk rating. Review and report on potential noise and acoustic issues. Identify adjacent land uses and report upon potential adverse impacts to the use of the building.

Conduct a sustainability audit of the building including review of the energy performance and potential to achieve BREEAM compliance.

Regarding deleterious materials, procure an asbestos report to inspect, take samples, test samples and report on the presence of asbestos. Advise and procure other surveys required and sample testing for existence of items such as structural engineering review, building cladding systems, high alumina cement, calcium chloride concrete additives, concrete carbonation, etc.

Questions for legal advisers must be highlighted, for example, clarification of demise, construction warranties available, etc.

Capital Investment Works

Detail the brief and scope of the proposed capital investment works. Include the proposed occupancy numbers, space modelling demand and resultant functional space requirements. Provide a matrix identifying the core project design requirements and an assessment of the suitability of the proposed building to meet such requirements.

Detail the proposed design solution including the required alterations/interventions to the building. Include existing and proposed floor layout plans. Detail the scope and cost of the proposed capital investment works on an elemental basis including all relevant sub elements of the external and internal structure/fabric, building services installations/systems and external areas. Detail the extent and cost of any structural enhancement works required, replacement of building services plant/equipment, upgrading of utility supplies, etc.

Review and report on relevant statutory compliance and consent requirements, leasehold compliance matters, etc. resulting from the proposed design solution. This includes building regulations, town planning, fire safety, welfare facilities, inclusive access to and use of buildings, etc.

Detail the project's sustainability objectives and the resultant scope and cost of the proposed sustainability improvements to achieve the required BREEAM rating and Energy Performance Certificate rating.

Detail all matters of derogation from relevant DWP design standards.

Detail the scope and cost of all direct subcontract works including security, furniture, etc. For the proposed capital investment works provide a detailed WBS programme of activities progressing through RIBA Stage 1 through Stage 7. Provide a risk register identifying all key risks and issues.

Provide a detailed elemental cost estimate of the proposed capital investment works to encompass all relevant cost items including building works, repairs, professional fees, direct subcontract works, FF&E, etc. Development and preparation of cost estimate to be on the basis of three point estimating and probability analysis. Cost estimate to include a fully costed risk register to accurately apportion cost to all potential risk items. Cost estimate to consider and include alternative options where applicable.

Building Assessment Report Structure

Executive Summary

- Description and Condition Overview
- Building Suitability
- Summary of Cost
- Programme Milestones
- Key Risks and Issues
- Limitations

Technical Due Diligence

- Building Description

-
- Building Condition Rating Matrix
 - External and Internal Building Structure and Fabric
 - Building Services Installations/Systems and Utilities
 - External Areas
 - Statutory Compliance
 - Environmental Matters
 - Sustainability
 - Deleterious Materials

Capital Investment Works

- Design Brief and Scope
- Occupancy and Space Requirements
- Suitability Assessment Matrix
- External and Internal Building Structure and Fabric
- Building Services Installations/Systems
- External Areas
- Statutory Compliance
- Sustainability
- Design Derogations

Appendices

- Internal and External Photographs
- Schedule of Repairs and Cost Estimate
- Cyclical Maintenance Schedule and Cost Estimate
- Lease Demise Plan
- Existing Floor Layout Plans
- Proposed Space Model
- Proposed General Arrangement Floor Plans
- Sustainability Assessment

-
- WBS Master Programme
 - Risk Register
 - Elemental Cost Estimate
 - Building and Building Services Condition Report

Annex 4: Non-core Service Disciplines

The non-core service disciplines required at what RIBA stages will be determined by the scope and complexity of each scheme, and confirmed throughout the life of the Call Off Contract through use of a task order approach, incorporated into the Call Off Contract through clause Z49 (which incorporates Option X19: Task Order from the NEC3 Professional Services Contract).

Non-core Service Discipline	Description
NEC Supervisor	<p>The NEC Supervisor:</p> <ul style="list-style-type: none"> • ensures that the Contractor works are carried out in line with the works information and the Employer's quality requirements; • will have a regular presence on site, providing independent scrutiny of the works, ensuring the correct materials are used and to the correct standards (witness testing etc.); • fulfils inspection tasks within specified timescales; • should produce and distribute a weekly report, and should also provide a monthly summary report; • will be required, on request by the Employer, to attend progress meetings; • will be able to issue instructions to the Contractor to search for defects, including opening up works and providing details of why the search was instructed; • will notify the Contractor of defects found before the defects date, and will be required to attend inspections at the end of defect liability period post-completion; and • will issue a defects certificate at the end of the defects correction period once all defects have been addressed, which have been agreed to and named in the contract.

Contract Schedule 2 - Consultant Proposal

REDACTED

Contract Schedule 3 - Price List

REDACTED

Contract Schedule 4 - TUPE Schedules (Annex G) and list of Notified Sub-consultants

STAFF TRANSFER

1. Definitions

1.1. In this Annex G, the following definitions shall apply:

“Consultant’s Final Personnel List”	means a list provided by the <i>Consultant</i> of all staff who will transfer under the Employment Regulations on the Relevant Transfer Date;
“Consultant’s Provisional Personnel List”	means a list prepared and updated by the <i>Consultant</i> of all staff who are engaged in or wholly or mainly assigned to the provision of the <i>service</i> or any relevant part of the <i>service</i> which it is envisaged as at the date of such list will no longer be provided by the <i>Consultant</i>
“Employee Liabilities”	<p>means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none">a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;b) unfair, wrongful or constructive dismissal compensation;c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;d) compensation for less favourable treatment of part-time workers or fixed term employees;e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the <i>Employer</i> or the Replacement Consultant to a Transferring Consultant Employee which would have been payable by the <i>Consultant</i> or the Sub-Consultant if such payment should have been made prior to the Service Transfer Date;f) claims whether in tort, contract or statute or otherwise;

	g) any investigation 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;
"New Fair Deal"	the revised Fair Deal position set out in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013;
"Notified Sub-Consultant"	means a Sub-Consultant identified in Annex 1 of this Contract Annex G to whom Transferring Employer's Employees and/or Transferring Former Consultant Employees will transfer on a Relevant Transfer Date;
"Principles of Good Employment Practice"	means the guidance published by the Cabinet Office and found at www.gov.uk/government/publications/principles-of-good-employment-practice ;
"Replacement Consultant"	means any third party provider of Replacement Services appointed by or at the direction of the <i>Employer</i> from time to time or where the <i>Employer</i> is providing Replacement Services for its own account, shall also include the <i>Employer</i>
"Replacement Services"	means any services which are substantially similar to any of the <i>service</i> and which the <i>Employer</i> receives in substitution for any of the <i>service</i> following the end of the <i>service period</i> or earlier termination, whether those services are provided by the <i>Employer</i> internally and/or by any third party;
"Replacement Sub-Consultant"	means a Sub-consultant of the Replacement Consultant to whom Transferring Consultant Employees will transfer on a Service Transfer Date (or any sub-Consultant of any such sub-Consultant);
"Service Transfer"	any transfer of the <i>service</i> (or any part of the <i>service</i>), for whatever reason, from the <i>Consultant</i> or any Sub-consultant to a Replacement Consultant or a Replacement Sub-Consultant
"Service Transfer Date"	means the date of a Service Transfer;
"Staffing Information"	means, in relation to all persons identified on the Consultant's Provisional Personnel List or Consultant's Final Personnel List, as the case may be, such information as the <i>Employer</i> may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format: <ul style="list-style-type: none"> the numbers of employees engaged in providing the Services; the percentage of time spent by each employee engaged in provided the Services; a description of the nature of the work undertaken by each employee by location;

their ages, dates of commencement of employment or engagement and gender;
 details of whether they are employed, self employed Consultants or consultants, agency workers or otherwise;
 details of contracted working hours;
 the identity of the employer or relevant contracting party;
 their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
 their wages, salaries and profit sharing arrangements as applicable;
 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;
 any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
 details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
 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
 any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

"Transferring Consultant Employees"

means those employees of the *Consultant* and/or the Sub-Consultants to whom the Employment Regulations will apply on the Service Transfer Date

"Transferring Employer Employees"

means those employees of the *Employer* to whom the Employment Regulations will apply on the Relevant Transfer Date;

Interpretation

Where a provision in this Annex imposes an obligation on the *Consultant* to provide an indemnity, undertaking or warranty, the *Consultant* shall procure that each of its Sub-Consultants shall comply with such obligation and provide such indemnity, undertaking or warranty to the *Employer*, Former Consultant, Replacement Consultant or Replacement Sub-Consultant, as the case may be.

PART A

TRANSFERRING EMPLOYER EMPLOYEES AT COMMENCEMENT OF THE PROVISION OF SERVICES

1. Relevant Transfers

1.1. The *Employer* and the *Consultant* agree that:

- 1.1.1. the commencement of the provision of the *service* or of each relevant part of the *service* will be a Relevant Transfer in relation to the Transferring Employer Employees; and
- 1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between the *Employer* and the Transferring Employer 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 *Consultant* and/or any Notified Sub-Consultant and each such Transferring Employer Employee.

- 1.2. The *Employer* shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Employer 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 *Employer*; and (ii) the *Consultant* and/or any Notified Sub-Consultant (as appropriate).

2. *Employer* Indemnities

- 2.1. Subject to paragraph 2.2 of Part A of this Annex G, the *Employer* shall indemnify the *Consultant* and any Notified Sub-Consultant against any Employee Liabilities in respect of any Transferring Employer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- 2.1.1. any act or omission by the *Employer* occurring before the Relevant Transfer Date;
- 2.1.2. the breach or non-observance by the *Employer* before the Relevant Transfer Date of:
 - a) any collective agreement applicable to the Transferring Employer Employees; and/or
 - b) any custom or practice in respect of any Transferring Employer Employees which the *Employer* is contractually bound to honour.
- 2.1.3. any claim by any trade union or other body or person representing the Transferring Employer Employees arising from or connected with any failure by the *Employer* to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
- 2.1.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Employer 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 Employer 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 *Employer* to the *Consultant* and/or any Notified Sub-Consultant as appropriate, to the extent that the proceeding, claim or

demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.

- 2.1.5. a failure of the *Employer* 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 Employer Employees arising before the Relevant Transfer Date;
 - 2.1.6. any claim made by or in respect of any person employed or formerly employed by the *Employer* other than a Transferring Employer Employee for whom it is alleged the *Consultant* and/or any Notified Sub-Consultant as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.1.7. any claim made by or in respect of a Transferring Employer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Employer Employee relating to any act or omission of the *Employer* 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 *Consultant* or any Sub-Consultant to comply with regulation 13(4) of the Employment Regulations.
- 2.2. The indemnities in paragraph 2.1 of Part A of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the *Consultant* or any Sub-Consultant (whether or not a Notified Sub-Consultant) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 2.2.1. arising out of the resignation of any Transferring Employer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the *Consultant* and/or any Sub-Consultant to occur in the period from (and including) the Relevant Transfer Date); or
 - 2.2.2. arising from the failure by the *Consultant* or any Sub-Consultant to comply with its obligations under the Employment Regulations.
- 2.3. If any person who is not identified by the *Employer* as a Transferring Employer Employee claims, or it is determined in relation to any person who is not identified by the *Employer* as a Transferring Employer Employee, that his/her contract of employment has been transferred from the *Employer* to the *Consultant* and/or any Notified Sub-Consultant pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1. the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the *Employer*; and
 - 2.3.2. the *Employer* may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of receipt of the notification by the *Consultant* and/or any Notified Sub-Consultant, or take such other reasonable steps as the *Employer* considers appropriate to deal with the matter provided always that such steps are in compliance with *law of the contract*.
- 2.4. If an offer referred to in paragraph 2.3.2 of Part A of this Annex G is accepted, or if the situation has otherwise been resolved by the *Employer*, the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, immediately release the person from his/her employment or alleged employment.
- 2.5. If by the end of the fifteen (15) Working Day period specified in paragraph 2.3.2 of Part A of this Annex G:
- 2.5.1. no such offer of employment has been made;
 - 2.5.2. such offer has been made but not accepted; or

2.5.3. the situation has not otherwise been resolved,

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

2.6. Subject to the *Consultant* and/or any Notified Sub-Consultant acting in accordance with the provisions of paragraphs 2.3 to 2.5 of Part A of this Annex G and in accordance with all applicable proper employment procedures set out in the *law of the contract*, the *Employer* shall indemnify the *Consultant* and/or any Notified Sub-Consultant (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 2.5 of Part A of this Annex G provided that the *Consultant* takes, or procures that the Notified Sub-Consultant takes, all reasonable steps to minimise any such Employee Liabilities.

2.7. The indemnity in paragraph 2.6 of Part A of this Annex G

2.7.1. shall not apply to:

a) any claim for

a) 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

b) 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 *Consultant* and/or any Sub-Consultant;

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

2.7.2. shall apply only where the notification referred to in paragraph 2.3.1 of Part A of this Annex G is made by the *Consultant* and/or any Notified Sub-Consultant (as appropriate) to the *Employer* within six (6) months of the Contract Date.

2.8. If any such person as is referred to in paragraph 2.3 of Part A of this Annex G is neither re-employed by the *Employer* nor dismissed by the *Consultant* and/or any Notified Sub-Consultant within the time scales set out in paragraph 2.5 of Part A of this Annex G such person shall be treated as having transferred to the *Consultant* and/or any Notified Sub-Consultant and the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, comply with such obligations as may be imposed upon it under the *law of the contract*.

3. *Consultant* Indemnities and Obligations

3.1. Subject to paragraph 3.2 of Part A of this Annex G, the *Consultant* shall indemnify the *Employer* against any Employee Liabilities in respect of any Transferring Employer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

3.1.1. any act or omission by the *Consultant* or any Sub-Consultant whether occurring before, on or after the Relevant Transfer Date;

3.1.2. the breach or non-observance by the *Consultant* or any Sub-Consultant on or after the Relevant Transfer Date of:

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

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- b) any custom or practice in respect of any Transferring Employer Employees which the *Consultant* or any Sub-Consultant is contractually bound to honour;
- 3.1.3. any claim by any trade union or other body or person representing any Transferring Employer Employees arising from or connected with any failure by the *Consultant* or any Sub-Consultant to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4. any proposal by the *Consultant* or a Sub-Consultant made before the Relevant Transfer Date to change the terms and conditions of employment or working conditions of any Transferring Employer Employees on or after their transfer to the *Consultant* or the relevant Sub-Consultant (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 Employer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5. any statement communicated to or action undertaken by the *Consultant* or any Sub-Consultant to, or in respect of, any Transferring Employer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the *Employer* in writing;
- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- a) in relation to any Transferring Employer 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 Employer 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 *Employer* to the *Consultant* or a Sub-Consultant, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the *Consultant* or any Sub-Consultant 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 Employer Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8. any claim made by or in respect of a Transferring Employer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Employer Employee relating to any act or omission of the *Consultant* or any Sub-Consultant in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the *Employer's* failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 3.2. The indemnities in paragraph 3.1 of Part A of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the *Employer* whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the *Employer's* failure to comply with its obligations under the Employment Regulations.
- 3.3. The *Consultant* shall comply, and shall procure that each Sub-Consultant 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-Consultant shall perform and discharge, all its obligations in respect of the
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Transferring Employer 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 *Employer* and the *Consultant*.

4. Information

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

5. Principles of Good Employment Practice

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

- 5.2. The *Consultant* shall, and shall procure that each Sub-Consultant shall, comply with any requirement notified to it by the *Employer* relating to pensions in respect of any Transferring Employer Employee as set down in:

- 5.2.1. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- 5.2.2. HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
- 5.2.3. HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
- 5.2.4. The New Fair Deal.

6. Pensions

- 6.1. The *Consultant* shall, and shall procure that each of its Sub-Consultants shall, comply with the pensions provisions set out in the following Annex.

ANNEX TO PART A: PENSIONS

1. Participation

1.1. The *Consultant* undertakes to enter into the Admission Agreement.

1.2. The *Consultant* and the *Employer*:

- 1.2.1. undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the *Consultant* to participate in the Schemes in respect of the Fair Deal Employees;
- 1.2.2. agree that the *Employer* is entitled to make arrangements with the body responsible for the Schemes for the *Employer* to be notified if the *Consultant* breaches the Admission Agreement;
- 1.2.3. notwithstanding Paragraph 1.2.2 of this Annex, the *Consultant* shall notify the *Employer* in the event that it breaches the Admission Agreement; and
- 1.2.4. agree that the *Employer* may terminate this Call Off Contract for default in the event that the *Consultant* breaches the Admission Agreement.

1.3. The *Consultant* shall bear its own costs and all costs that the *Employer* reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the *Consultant* participating in the Schemes.

2. Future Service Benefits

2.1. The *Consultant* 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 *Consultant* shall procure that the Fair Deal Employees shall 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.

2.2. The *Consultant* 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 *Employer*, 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 *Employer* 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.

2.3. 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.

3. Funding

3.1. The *Consultant* undertakes to pay to the Schemes 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.

3.2. The *Consultant* shall indemnify and keep indemnified the *Employer* 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 non-payment or the late payment of any sum payable by the *Consultant* to or in respect of the Schemes.

4. Provision of Information

4.1. The *Consultant* and the *Employer* respectively undertake to each other:

4.1.1. to provide all information which the other party may reasonably request concerning matters:

- a) referred to in this Annex; and
- b) set out in the Admission Agreement

and shall supply such information as expeditiously as possible; and

4.1.2. 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).

5. Indemnities

5.1. The *Consultant* undertakes to the *Employer* to indemnify and keep indemnified the *Employer* 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.

6. Employer Obligation

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

7. Subsequent Transfers

7.1. The *Consultant* shall:

7.1.1. not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer; and

7.1.2. provide all such co-operation and assistance as the Replacement Consultant and/or the *Employer* may reasonably require to enable the Replacement Consultant 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.

7.1.3. for the period either:

- a) after notice (for whatever reason) is given, in accordance with the other provisions of this contract, to terminate the contract or any part of the service; or
- b) 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 Contract or the *Employer*, 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 prior approval of the *Employer* (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 CONSULTANT EMPLOYEES AT COMMENCEMENT OF THE PROVISION OF SERVICES

1. Relevant Transfers

1.1. The Parties agree that:

- 1.1.1. the commencement of the provision of the *service* or of any relevant part of the *service* will be a Relevant Transfer in relation to the Transferring Former Consultant Employees; and
 - 1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between each Former Consultant and the Transferring Former Consultant 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 *Consultant* and/or Notified Sub-Consultant and each such Transferring Former Consultant Employee.
- 1.2. The *Employer* shall procure that each Former Consultant 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 Consultant 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 *Consultant* shall make, and the *Employer* shall procure that each Former Consultant makes, any necessary apportionments in respect of any periodic payments.

2. Former Consultant Indemnities

- 2.1. Subject to paragraph 2.2 of Part B of this Annex G, the *Employer* shall procure that each Former Consultant shall indemnify the *Consultant* and any Notified Sub-Consultant against any Employee Liabilities in respect of any Transferring Former Consultant Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 2.1.1. any act or omission by the Former Consultant arising before the Relevant Transfer Date;
 - 2.1.2. the breach or non-observance by the Former Consultant arising before the Relevant Transfer Date of:
 - a) any collective agreement applicable to the Transferring Former Consultant Employees; and/or
 - b) any custom or practice in respect of any Transferring Former Consultant Employees which the Former Consultant is contractually bound to honour.
 - 2.1.3. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Former Consultant 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 Consultant 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 Consultant to the *Consultant* and/or any Notified Sub-Consultant as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

- 2.1.4. a failure of the Former Consultant 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 Consultant Employees in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.5. any claim made by or in respect of any person employed or formerly employed by the Former Consultant other than a Transferring Former Consultant Employee for whom it is alleged the *Consultant* and/or any Notified Sub-Consultant as appropriate may be liable by virtue of this contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.1.6. any claim made by or in respect of a Transferring Former Consultant Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Consultant Employee relating to any act or omission of the Former Consultant 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 *Consultant* or any Sub-Consultant to comply with regulation 13(4) of the Employment Regulations.
- 2.2. The indemnities in paragraph 2.1 of Part B of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the *Consultant* or any Sub-Consultant whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1. arising out of the resignation of any Transferring Former Consultant Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the *Consultant* or any Sub-Consultant to occur in the period from (and including) the Relevant Transfer Date); or
 - 2.2.2. arising from the failure by the *Consultant* and/or any Sub-Consultant to comply with its obligations under the Employment Regulations).
- 2.3. If any person who is not identified by the *Employer* as a Transferring Former Consultant Employee claims, or it is determined in relation to any person who is not identified by the *Employer* as a Transferring Former Consultant Employee, that his/her contract of employment has been transferred from a Former Consultant to the *Consultant* and/or any Notified Sub-Consultant pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1. the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the *Employer* and, where required by the *Employer*, to the Former Consultant; and
 - 2.3.2. the Former Consultant 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 *Consultant* and/or the Notified Sub-Consultant or take such other reasonable steps as the Former Consultant considers appropriate to deal with the matter provided always that such steps are in compliance with the *law of the contract*.
- 2.4. If an offer referred to in paragraph 2.3.2 of Part B of this Annex G is accepted, or if the situation has otherwise been resolved by the Former Consultant and/or the *Employer*, the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, immediately release the person from his/her employment or alleged employment.
- 2.5. If by the end of the 15 Working Day period specified in paragraph 2.3.2 of Part B of this Annex G:

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

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

2.6. Subject to the *Consultant* and/or any Notified Sub-Consultant acting in accordance with the provisions of paragraphs 2.3 to 2.5 of Part B of this Annex G and in accordance with all applicable proper employment procedures set out in the *law of the contract*, the *Employer* shall procure that the Former Consultant indemnifies the *Consultant* and/or any Notified Sub-Consultant (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 2.5 of Part B of this Annex G provided that the *Consultant* takes, or shall procure that the Notified Sub-Consultant takes, all reasonable steps to minimise any such Employee Liabilities.

2.7. The indemnity in paragraph 2.6 of Part B of this Annex G

2.7.1. shall not apply to:

a) any claim for

- a) 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
- b) 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 *Consultant* and/or any Sub-Consultant; or

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

2.7.2. shall apply only where the notification referred to in paragraph 2.3.2 of Part B of this Annex G is made by the *Consultant* and/or any Notified Sub-Consultant (as appropriate) to the *Employer* and, if applicable, the Former Consultant, within six (6) months of the Contract Date.

2.8. If any such person as is described in paragraph 2.3 of Part B of this Annex G is neither re-employed by the Former Consultant nor dismissed by the *Consultant* and/or any Notified Sub-Consultant within the time scales set out in paragraph 2.5 of Part B of this Annex G, such person shall be treated as having transferred to the *Consultant* or Notified Sub-Consultant and the *Consultant* shall, or shall procure that the Notified Sub-Consultant shall, comply with such obligations as may be imposed upon it under the *law of the contract*.

3. Consultant Indemnities and Obligations

3.1. Subject to paragraph 3.2 of Part B of this Annex G, the *Consultant* shall indemnify the *Employer* and/or the Former Consultant against any Employee Liabilities in respect of any Transferring Former Consultant Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

3.1.1. any act or omission by the *Consultant* or any Sub-Consultant whether occurring before, on or after the Relevant Transfer Date;

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- 3.1.2. the breach or non-observance by the *Consultant* or any Sub-Consultant on or after the Relevant Transfer Date of:
- a) any collective agreement applicable to the Transferring Former Consultant Employee; and/or
 - b) any custom or practice in respect of any Transferring Former Consultant Employees which the *Consultant* or any Sub-Consultant is contractually bound to honour;
- 3.1.3. any claim by any trade union or other body or person representing any Transferring Former Consultant Employees arising from or connected with any failure by the *Consultant* or a Sub-Consultant to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4. any proposal by the *Consultant* or a Sub-Consultant prior to the Relevant Transfer Date to change the terms and conditions of employment or working conditions of any Transferring Former Consultant Employees on or after their transfer to the *Consultant* or a Sub-Consultant (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 Consultant Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5. any statement communicated to or action undertaken by the *Consultant* or a Sub-Consultant to, or in respect of, any Transferring Former Consultant Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the *Employer* and/or the Former Consultant in writing;
- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- a) in relation to any Transferring Former Consultant 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 Consultant 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 Consultant to the *Consultant* or a Sub-Consultant, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the *Consultant* or any Sub-Consultant 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 Consultant Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8. any claim made by or in respect of a Transferring Former Consultant Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Consultant Employee relating to any act or omission of the *Consultant* or any Sub-Consultant in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Consultant's failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 3.2. The indemnities in paragraph 3.1 of Part B of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Consultant whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee
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Liabilities arising from the Former Consultant's failure to comply with its obligations under the Employment Regulations.

- 3.3. The *Consultant* shall comply, and shall procure that each Sub-Consultant 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-Consultant shall perform and discharge, all its obligations in respect of all the Transferring Former Consultant 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 *Consultant* and the Former Consultant.

4. Information

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

5. Principles of Good Employment Practice

- 5.1. The *Consultant* shall, and shall procure that each Sub-Consultant shall, comply with any requirement notified to it by the *Employer* relating to pensions in respect of any Transferring Former Consultant Employee as set down in:
- 5.2. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- 5.3. HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
- 5.4. HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
- 5.5. the New Fair Deal.

6. Procurement Obligations

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

7. Pensions

- 7.1. The *Consultant* shall, and shall procure that each Sub-Consultant shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART B: PENSIONS

1. Participation

1.1. The *Consultant* undertakes to enter into the Admission Agreement.

1.2. The *Consultant* and the *Employer*:

1.2.1. undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the *Consultant* to participate in the Schemes in respect of the Fair Deal Employees;

1.2.2. agree that the *Employer* is entitled to make arrangements with the body responsible for the Schemes for the *Employer* to be notified if the *Consultant* breaches the Admission Agreement;

1.2.3. notwithstanding Paragraph 1.2.2 of this Annex, the *Consultant* shall notify the *Employer* in the event that it breaches the Admission Agreement; and

1.2.4. agree that the *Employer* may terminate this Call Off Contract for default in the event that the *Consultant* breaches the Admission Agreement.

1.3. The *Consultant* shall bear its own costs and all costs that the *Employer* reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the *Consultant* participating in the Schemes.

2. Future Service Benefits

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2.1. If the *Consultant* is rejoining the Schemes for the first time, the *Consultant* 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.

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2.2. If staff have already been readmitted to the Schemes, the *Consultant* 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 *Consultant* shall procure that the Fair Deal Employees shall 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.

2.3. The *Consultant* 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 *Employer*, 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 *Employer* 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.

2.4. 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.

3. Funding

3.1. The *Consultant* undertakes to pay to the Schemes 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.

3.2. The *Consultant* shall indemnify and keep indemnified the *Employer* 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 non-payment or the late payment of any sum payable by the *Consultant* to or in respect of the Schemes.

4. Provision of Information

4.1. The *Consultant* and the *Employer* respectively undertake to each other:

4.1.1. to provide all information which the other party may reasonably request concerning matters:

- a) referred to in this Annex; and
- b) set out in the Admission Agreement

and shall supply such information as expeditiously as possible; and

4.1.2. 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).

5. Indemnities

5.1. The *Consultant* undertakes to the *Employer* to indemnify and keep indemnified the *Employer* 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.

6. Employer Obligation

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

7. Subsequent Transfers

7.1. The *Consultant* shall:

7.1.1. not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer; and

7.1.2. provide all such co-operation and assistance as the Replacement Consultant and/or the *Employer* may reasonably require to enable the Replacement Consultant 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.

7.1.3. for the period either:

- a) after notice (for whatever reason) is given, in accordance with the other provisions of this contract, to terminate the contract or any part of the service; or
- b) 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 Contract or the *Employer*, 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 prior approval of the *Employer* (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 THE PROVISION OF SERVICES

1. Procedure in the Event of Transfer

- 1.1. The *Employer* and the *Consultant* agree that the commencement of the provision of the *service* or of any part of the *service* will not be a Relevant Transfer in relation to any employees of the *Employer* and/or any Former Consultant.
- 1.2. If any employee of the *Employer* and/or a Former Consultant claims, or it is determined in relation to any employee of the *Employer* and/or a Former Consultant, that his/her contract of employment has been transferred from the *Employer* and/or the Former Consultant to the *Consultant* and/or any Sub-Consultant pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1. the *Consultant* shall, and shall procure that the relevant Sub-Consultant shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the *Employer* and, where required by the *Employer*, give notice to the Former Consultant; and
 - 1.2.2. the *Employer* and/or the Former Consultant 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 *Consultant* or the Sub-Consultant (as appropriate) or take such other reasonable steps as the *Employer* or Former Consultant (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with the *law of the contract*.
- 1.3. If an offer referred to in paragraph 1.2.2 of Part C of this Annex G is accepted (or if the situation has otherwise been resolved by the *Employer* and/or the Former Consultant), the *Consultant* shall, or shall procure that the Sub-Consultant shall, immediately release the person from his/her employment or alleged employment.
- 1.4. If by the end of the fifteen (15) Working Day period specified in paragraph 1.2.2
 - 1.4.1. no such offer of employment has been made;
 - 1.4.2. such offer has been made but not accepted; or
 - 1.4.3. the situation has not otherwise been resolved,the *Consultant* and/or the Sub-Consultant may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. Indemnities

- 2.1. Subject to the *Consultant* and/or the relevant Notified Sub-Consultant acting in accordance with the provisions of paragraphs 1.2 to 1.4 of Part C of this Annex G and in accordance with all applicable employment procedures set out in the *law of the contract* and subject also to paragraph 1.4 of Part C of this Annex G, the *Employer* shall:
 - 2.1.1. indemnify the *Consultant* and/or the relevant Notified Sub-Consultant against all Employee Liabilities arising out of the termination of the employment of any employees of the *Employer* referred to in paragraph 1.2 of Part C of this Annex G made pursuant to the provisions of paragraph 1.4 of Part C of this Annex G provided that the *Consultant* takes, or shall procure that the Notified Sub-Consultant takes, all reasonable steps to minimise any such Employee Liabilities; and
 - 2.1.2. procure that the Former Consultant indemnifies the *Consultant* and/or any Notified Sub-Consultant against all Employee Liabilities arising out of termination of the employment of the

employees of the Former Consultant made pursuant to the provisions of paragraph 1.2 of Part C of this Annex G provided that the *Consultant* takes, or shall procure that the relevant Sub-Consultant takes, all reasonable steps to minimise any such Employee Liabilities.

2.2. If any such person as is described in paragraph 1.2 of Part C of this Annex G is neither re employed by the *Employer* and/or the Former Consultant as appropriate nor dismissed by the *Consultant* and/or any Sub-Consultant within the fifteen (15) Working Day period referred to in paragraph 1.4 of Part C of this Annex G such person shall be treated as having transferred to the *Consultant* and/or the Sub-Consultant (as appropriate) and the *Consultant* shall, or shall procure that the Sub-Consultant shall, comply with such obligations as may be imposed upon it under the *law of the contract*.

2.3. Where any person remains employed by the *Consultant* and/or any Sub-Consultant pursuant to paragraph 1.2 of Part C of this Annex G, all Employee Liabilities in relation to such employee shall remain with the *Consultant* and/or the Sub-Consultant and the *Consultant* shall indemnify the *Employer* and any Former Consultant, and shall procure that the Sub-Consultant shall indemnify the *Employer* and any Former Consultant, against any Employee Liabilities that either of them may incur in respect of any such employees of the *Consultant* and/or employees of the Sub-Consultant.

2.4. The indemnities in paragraph 2.1 of Part C of this Annex G

2.4.1. shall not apply to:

a) any claim for

a) 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

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

in any case in relation to any alleged act or omission of the *Consultant* and/or any Sub-Consultant; or

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

2.4.2. shall apply only where the notification referred to in paragraph 1.2.1 of Part C of this Annex G is made by the *Consultant* and/or any Sub-Consultant to the *Employer* and, if applicable, Former Consultant within six (6) months of the Contract Date.

3. Procurement Obligations

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

PART D

EMPLOYMENT EXIT PROVISIONS

1. Pre-service Transfer Obligations

1.1. The *Consultant* agrees that within twenty (20) Working Days of the earliest of:

- 1.1.1. receipt of a notification from the *Employer* of a Service Transfer or intended Service Transfer;
- 1.1.2. receipt of the giving of notice of early termination or any partial termination of this contract;
- 1.1.3. the date which is twelve (12) months before the end of the *service period*; and
- 1.1.4. receipt of a written request of the *Employer* at any time (provided that the *Employer* 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 Data Protection Legislation, the *Consultant's* Provisional Personnel List, together with the Staffing Information in relation to the *Consultant's* Provisional Personnel List and it shall provide an updated *Consultant's* Provisional Personnel List at such intervals as are reasonably requested by the *Employer*.

1.2. At least twenty (20) Working Days prior to the Service Transfer Date, the *Consultant* shall provide to the *Employer* or at the direction of the *Employer* to any Replacement *Consultant* and/or any Replacement Sub-*Consultant*:

- 1.2.1. the *Consultant's* Final Personnel List, which shall identify which of the Staff are Transferring *Consultant* Employees; and
- 1.2.2. the Staffing Information in relation to the *Consultant's* Final Personnel List (insofar as such information has not previously been provided).

1.3. The *Employer* shall be permitted to use and disclose information provided by the *Consultant* under paragraphs 1.1 and 1.2 of Part D of this Annex G for the purpose of informing any prospective Replacement *Consultant* and/or Replacement Sub-*Consultant*.

1.4. The *Consultant* warrants, for the benefit of the *Employer*, any Replacement *Consultant*, and any Replacement Sub-*Consultant* that all information provided pursuant to paragraphs 1.1 and 1.2 of Part D of this Annex G shall be true and accurate in all material respects.

1.5. From the date of the earliest event referred to in paragraphs 1.1.1 to 1.1.3 of Part D of this Annex G, the *Consultant* agrees, that it shall not, and agrees to procure that each Sub-*Consultant* shall not, assign any person to the provision of the Services who is not listed on the *Consultant's* Provisional Personnel List and shall not without the approval of the *Employer* (not to be unreasonably withheld or delayed):

- 1.5.1. replace or re-deploy any Staff listed on the *Consultant's* Provisional Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- 1.5.2. make, promise, propose or permit any material changes to the terms and conditions of employment of the Staff (including any payments connected with the termination of employment);

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

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

- 1.6. During the *service period*, the *Consultant* shall provide to the *Employer* any information the *Employer* may reasonably require relating to any individual employed, assigned or engaged in providing the Services including without limitation the Staffing Information and, upon reasonable request by the *Employer*, the *Consultant* shall provide, and shall procure that each Sub-Consultant shall provide, the *Employer* or, at the direction of the *Employer* to a Replacement Consultant and/or any Replacement Sub-Consultant with access (on reasonable notice and during normal working hours) to such employment records as the *Employer* reasonably requests and shall allow the *Employer* or at the *Employer's* direction, the Replacement Consultant and/or any Replacement Sub-Consultant to have copies of any such documents.
- 1.7. The *Consultant* shall provide, and shall procure that each Sub-Consultant shall provide, all reasonable cooperation and assistance to the *Employer*, any Replacement Consultant and/or any Replacement Sub-Consultant to ensure the smooth transfer of the Transferring Consultant 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 Consultant 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 *Consultant* shall provide, and shall procure that each Sub-Consultant shall provide, the *Employer* or, at the direction of the *Employer*, to any Replacement Consultant and/or any Replacement Sub-Consultant (as appropriate), in respect of each person on the Consultant's Final Personnel List who is a Transferring Consultant Employee:
 - 1.7.1. the most recent month's copy pay slip data;
 - 1.7.2. details of cumulative pay for tax and pension purposes;
 - 1.7.3. details of cumulative tax paid;
 - 1.7.4. tax code;
 - 1.7.5. details of any voluntary deductions from pay; and
 - 1.7.6. bank/building society account details for payroll purposes.

2. Employment Regulations Exit Provisions

- 2.1. The *Employer* and the *Consultant* acknowledge that subsequent to the *starting date*, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or

partial termination of this contract or otherwise) resulting in the Services being undertaken by a Replacement Consultant and/or a Replacement Sub-Consultant. Such change in the identity of the *Consultant* of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The *Employer* and the *Consultant* further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the *Consultant* and the Transferring Consultant 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 Consultant and/or a Replacement Sub-Consultant (as the case may be) and each such Transferring Consultant Employee.

- 2.2. The *Consultant* shall, and shall procure that each Sub-Consultant shall, comply with all its obligations in respect of the Transferring Consultant Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Consultant shall perform and discharge, all its obligations in respect of all the Transferring Consultant 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 *Consultant* and/or the Sub-Consultant (as appropriate); and (ii) the Replacement Consultant and/or Replacement Sub-Consultant.
- 2.3. Subject to paragraph 2.4 of Part D of this Annex G, the *Consultant* shall indemnify the *Employer* and/or the Replacement Consultant and/or any Replacement Sub-Consultant against any Employee Liabilities in respect of any Transferring Consultant Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 2.3.1. any act or omission of the *Consultant* or any Sub-Consultant whether occurring before, on or after the Service Transfer Date;
 - 2.3.2. the breach or non-observance by the *Consultant* or any Sub-Consultant occurring on or before the Service Transfer Date of:
 - a) any collective agreement applicable to the Transferring Consultant Employees; and/or
 - b) any other custom or practice with a trade union or staff association in respect of any Transferring Consultant Employees which the *Consultant* or any Sub-Consultant is contractually bound to honour;
 - 2.3.3. any claim by any trade union or other body or person representing any Transferring Consultant Employees arising from or connected with any failure by the *Consultant* or a Sub-Consultant to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - 2.3.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - a) in relation to any Transferring Consultant 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 Consultant 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 *Consultant* to the *Employer* and/or Replacement Consultant and/or any Replacement Sub-Consultant, to the extent that

the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

- 2.3.5. a failure of the *Consultant* or any Sub-Consultant 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 Consultant Employees in respect of the period up to (and including) the Service Transfer Date);
 - 2.3.6. any claim made by or in respect of any person employed or formerly employed by the *Consultant* or any Sub-Consultant other than a Transferring Consultant Employee for whom it is alleged the *Employer* and/or the Replacement Consultant and/or any Replacement Sub-Consultant may be liable by virtue of this contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.3.7. any claim made by or in respect of a Transferring Consultant Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Consultant Employee relating to any act or omission of the *Consultant* or any Sub-Consultant 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 *Employer* and/or Replacement Consultant to comply with regulation 13(4) of the Employment Regulations.
- 2.4. The indemnities in paragraph 2.3 of Part D of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Consultant and/or any Replacement Sub-Consultant whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1. arising out of the resignation of any Transferring Consultant Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Consultant and/or any Replacement Sub-Consultant to occur in the period on or after the Service Transfer Date); or
 - 2.4.2. arising from the Replacement Consultant's failure, and/or Replacement Sub-Consultant's failure, to comply with its obligations under the Employment Regulations.
- 2.5. If any person who is not identified in the Consultant's Final Personnel List claims, or it is determined in relation to any person who is not identified in the Consultant's Final Personnel List, that his/her contract of employment has been transferred from the *Consultant* or any Sub-Consultant to the Replacement Consultant and/or Replacement Sub-Consultant pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1. the *Employer* shall procure that the Replacement Consultant shall, or any Replacement Sub-Consultant shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the *Consultant*; and
 - 2.5.2. the *Consultant* may offer (or may procure that a Sub-Consultant may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Consultant and/or any and/or Replacement Sub-Consultant or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with the *law of the contract*.
- 2.6. If such offer is accepted, or if the situation has otherwise been resolved by the *Consultant* or a Sub-Consultant, the *Employer* shall procure that the Replacement Consultant shall, or procure that the Replacement Sub-Consultant shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7. If after the fifteen (15) Working Day period specified in paragraph 2.5.2 of Part D of this Annex G has elapsed:

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- 2.7.1. no such offer of employment has been made;
 - 2.7.2. such offer has been made but not accepted; or
 - 2.7.3. the situation has not otherwise been resolved;

the *Employer* shall advise the Replacement Consultant and/or Replacement Sub-Consultant, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2.8. Subject to the Replacement Consultant and/or Replacement Sub-Consultant acting in accordance with the provisions of paragraphs 2.5 to 2.7 of Part D of this Annex G and in accordance with all applicable proper employment procedures set out in the *law of the contract*, the *Consultant* shall indemnify the Replacement Consultant and/or Replacement Sub-Consultant against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 1.7 of Part D of this Annex G provided that the Replacement Consultant takes, or shall procure that the Replacement Sub-Consultant takes, all reasonable steps to minimise any such Employee Liabilities.

2.9. The indemnity in paragraph 2.8 of Part D of this Annex G

2.9.1. shall not apply to:

a) any claim for

- a) 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
- b) 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 Consultant and/or Replacement Sub-Consultant; or

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

2.9.2. shall apply only where the notification referred to in paragraph 2.5.1 of Part D of this Annex G is made by the Replacement Consultant and/or Replacement Sub-Consultant to the *Consultant* within six (6) months of the Service Transfer Date.

2.10. If any such person as is described in paragraph 2.5 of Part D of this Annex G is neither re-employed by the *Consultant* or any Sub-Consultant nor dismissed by the Replacement Consultant and/or Replacement Sub-Consultant within the time scales set out in paragraphs 2.5 to 2.7 of Part D of this Annex G, such person shall be treated as a Transferring Consultant Employee and the Replacement Consultant and/or Replacement Sub-Consultant shall comply with such obligations as may be imposed upon it under the *law of the contract*.

2.11. The *Consultant* shall comply, and shall procure that each Sub-Consultant shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Consultant shall perform and discharge, all its obligations in respect of the Transferring Consultant Employees up to (but not 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 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:

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- 2.11.1. the *Consultant* and/or any Sub-Consultant; and
- 2.11.2. the Replacement Consultant and/or the Replacement Sub-Consultant.
- 2.12. The *Consultant* shall, and shall procure that each Sub-Consultant shall, promptly provide to the *Employer* and any Replacement Consultant and/or Replacement Sub-Consultant, in writing such information as is necessary to enable the *Employer*, the Replacement Consultant and/or Replacement Sub-Consultant to carry out their respective duties under regulation 13 of the Employment Regulations. The *Employer* shall procure that the Replacement Consultant and/or Replacement Sub-Consultant shall promptly provide to the *Consultant* and each Sub-Consultant in writing such information as is necessary to enable the *Consultant* and each Sub-Consultant to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13. Subject to paragraph 2.14 of Part D of this Annex G, the *Employer* shall procure that the Replacement Consultant indemnifies the *Consultant* on its own behalf and on behalf of any Replacement Sub-Consultant and its sub-Consultants against any Employee Liabilities in respect of each Transferring Consultant Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Consultant Employee) arising from or as a result of:
- 2.13.1. any act or omission of the Replacement Consultant and/or Replacement Sub-Consultant;
- 2.13.2. the breach or non-observance by the Replacement Consultant and/or Replacement Sub-Consultant on or after the Service Transfer Date of:
- a) any collective agreement applicable to the Transferring Consultant Employees; and/or
- b) any custom or practice in respect of any Transferring Consultant Employees which the Replacement Consultant and/or Replacement Sub-Consultant is contractually bound to honour;
- 2.13.3. any claim by any trade union or other body or person representing any Transferring Consultant Employees arising from or connected with any failure by the Replacement Consultant and/or Replacement Sub-Consultant to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 2.13.4. any proposal by the Replacement Consultant and/or Replacement Sub-Consultant to change the terms and conditions of employment or working conditions of any Transferring Consultant Employees on or after their transfer to the Replacement Consultant or Replacement Sub-Consultant (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 Consultant 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;
- 2.13.5. any statement communicated to or action undertaken by the Replacement Consultant or Replacement Sub-Consultant to, or in respect of, any Transferring Consultant Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the *Consultant* in writing;
- 2.13.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- a) in relation to any Transferring Consultant 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
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- b) in relation to any employee who is not a Transferring Consultant 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 *Consultant* or Sub-Consultant, to the Replacement Consultant or Replacement Sub-Consultant to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7. a failure of the Replacement Consultant or Replacement Sub-Consultant 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 Consultant Employees in respect of the period from (and including) the Service Transfer Date; and
- 2.13.8. any claim made by or in respect of a Transferring Consultant Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Consultant Employee relating to any act or omission of the Replacement Consultant or Replacement Sub-Consultant in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14. The indemnities in paragraph 2.13 of Part D of this Annex G shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the *Consultant* and/or any Sub-Consultant (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 *Consultant* and/or any Sub-Consultant (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX 1: LIST OF NOTIFIED SUB-CONSULTANTS

REDACTED

Contract Schedule 5 - Personal Data and Data Subjects

1. The Data Processor shall comply with any further written instructions with respect to processing by the Data Controller
2. Any such further instructions shall be incorporated into this Contract Schedule 5 – Personal Data and Data Subjects.
3. This Contract Schedule 5 – Personal Data and Data Subjects shall be completed by the Data Controller, who may take account of the view of the Data Processor, however, the final decision as to the content of this Contract Schedule 5 – Personal Data and Data Subjects shall be with the Data Controller at its absolute discretion.
4. The contact details of the Data Processor's Data Protection Officer are REDACTED. Email: REDACTED. Telephone: REDACTED.

Description	Details
Identity of Data Controller and Data Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Employer</i> is the Data Controller and the <i>Consultant</i> is the Data Processor in accordance with clause Z15.
Subject matter of the processing	The processing is needed in order to ensure that the Data Processor can effectively deliver the Call Off Contract to provide the <i>services</i> to the <i>Employer</i> .
Duration of the processing	Personal Data is processed for the duration of the <i>service period</i> to allow <i>services</i> to be performed.
Nature and purposes of the processing	The nature of the processing will include the storage and use of names and business contact details of staff of both the <i>Employer</i> and the <i>Consultant</i> as necessary to deliver the services and to undertake contract management. The Call Off Contract itself will include the names and business contact details of staff of both the <i>Employer</i> and the <i>Consultant</i> involved in delivery or management of the Call Off Contract.
Type of Personal Data	Names, business telephone details and email addresses, office location and position of staff of both the <i>Employer</i> and the <i>Consultant</i> .

Categories of Data Subject	Staff of both the <i>Employer</i> and the <i>Consultant</i> , including where those staff are named within the Call Off Contract itself or involved in contract management.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under European Union or European member state law to preserve that type of data	Following the <i>completion date</i> , the <i>Consultant</i> will delete the Personal Data from any computers, storage devices and storage media that are to be retained by the Consultant after the expiry of the Call Off Contract. The <i>Consultant</i> will certify to the <i>Employer</i> that it has completed such deletion.

Contract Schedule 6 - Form of Task Order

TASK ORDER														
Task Order No: <i>[insert reference]</i>														
Date: <i>[insert date]</i>														
From: Secretary of State for Work and Pensions (Employer)														
To: <i>[insert Consultant details]</i> (Consultant)														
Agreement: agreement dated [DATE] between (1) the Employer and (2) the Consultant for the provision of Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23.														
The Service Manager instructs the Consultant to carry out the following Task on the following basis:														
1.	Task Description & Affected Property	<i>[insert description of Task/service to be provided and address]</i>												
2.	Conditions of Contract	NEC3 Professional Services Contract April 2013 core clauses and the clauses for main [Option A] [Option E]												
3.	Task Starting date	<i>[insert date]</i>												
4.	Task Completion Date	<i>[insert date]</i>												
5.	Handovers	To be uploaded and closed out within [10] working days of project completion.												
6.	The period within which the <i>Consultant</i> is to submit a Task Order programme for acceptance is	Within 5 Working Days of receipt of this Task Order												
	The priced list of items of work in the Task in which items taken from the Price List are identified at:	Contract Schedule 3 - Price List.												
7.	<p><i>[[Delete as appropriate - use this section instead of the below where Contract Option A is used] - Total of the Prices for this Task Order: £[insert total], broken down as follows:</i></p> <table> <thead> <tr> <th>Item</th> <th>Price</th> </tr> </thead> <tbody> <tr> <td>•</td> <td>£</td> </tr> <tr> <td>•</td> <td>£</td> </tr> <tr> <td>•</td> <td>£]</td> </tr> </tbody> </table> <p><i>[[Delete as appropriate – use this section instead of the above where Contract Option E is used] Forecast Total of the Prices for this Task Order: £[insert total], broken down as follows:</i></p> <table> <thead> <tr> <th>Item</th> <th>Price</th> </tr> </thead> <tbody> <tr> <td>•</td> <td>£</td> </tr> </tbody> </table>		Item	Price	•	£	•	£	•	£]	Item	Price	•	£
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	<ul style="list-style-type: none"> £ £]
	<p>The <i>Consultant</i> provides <i>collateral warranty agreements</i> in favour of:</p> <ul style="list-style-type: none">
8.	<p>The <i>Consultant</i> procures <i>collateral warranty agreements</i> from the following <i>Sub-consultants</i>:</p> <ul style="list-style-type: none"> <p>In favour of:</p> <ul style="list-style-type: none">
9.	<p>The <i>Employer</i> provides access to the following persons, places and things:</p> <p>c) access to DWP premises as necessary; and</p> <p>d) such additional access required, as set out below:</p> <p>a.</p> <p>b.</p> <p>c.</p>
10	<p>The <i>Employer</i> accepts the above price and the <i>Service Manager</i> instructs the <i>Consultant</i> to carry out the Task</p>
<p>This Task Order is issued under the Agreement. Terms defined in the Agreement shall have the same meaning in this Task Order. The Priced List of Items attached to this Task Order (if any) shall be deemed to form part of this Task Order.</p>	

Signed by **THE SECRETARY OF STATE**
FOR WORK AND PENSIONS

.....
 Authorised Signatory

We accept the terms of this Task Order and agree to proceed accordingly.

Signed by **GLEEDS ADVISORY LTD** acting
by a Director

.....
Director

Contract Schedule 7 - Security Policy

1. GENERAL

The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with the Employer's security requirements as set out in the Call Off Contract which include the requirements set out in this Schedule 7 to the Call Off Contract (the "**Security Policy**"). The Security Policy includes, but is not limited to, requirements regarding the confidentiality, integrity and availability of Employer Assets, the Employer's Systems Environment and the Consultant's Systems Environment. Terms used in this Schedule 7 which are not defined below shall have the meanings given to them in the Contract Data and/or clause Z1 (Interpretation and the law) of this Call Off Contract.

"Availability Test"	shall mean the activities performed by the Consultant to confirm the availability of any or all components of any relevant ICT system as specified by the Employer.
"Breach of Security"	means the occurrence of: (I) any unauthorised access to or use of Employer Data, the Employer's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof); (II) the loss and/or unauthorised disclosure of any Employer Data, the Employer's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof); (III) any unauthorised event resulting in loss of availability of any Employer Data, the Employer's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof); (IV) any unauthorised changes or modification to any Employer Data, the Employer's Systems Environment (or any part thereof) or the Consultant's Systems

	Environment (or any part thereof).
“CHECK”	shall mean the scheme for authorised penetration tests which scheme is managed by the NCSC.
“Cloud”	shall mean an off-premise network of remote ICT servers on the Internet to store, process, manage and transmit data.
“Consultant’s Systems Environment”	means any ICT systems provided by the Consultant (and any Sub-consultant) which are or may be used for the provision of the <i>services</i> .
“Cyber Essentials Plus”	shall mean the Government-backed, industry-supported scheme managed by the NCSC with higher level of security requirements to help organisations to protect themselves against online threats or the relevant successor or replacement scheme which is published and/or formally recommended by the NCSC.
“Cyber Security Information Sharing Partnership” or “CiSP”	shall mean the cyber security information sharing partnership established by the NCSC or the relevant successor or replacement scheme which is published and/or formally recommended by the NCSC.
“Employer Assets”	mean any <i>Employer Devices</i> and <i>Employer Data</i> .
“Employer Data”	<p>means the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:-</p> <ul style="list-style-type: none"> (i) supplied to the <i>Consultant</i> by or on behalf of the Employer; or (ii) which the <i>Consultant</i> is required to generate, process, store or transmit pursuant to this Call Off Contract.

“Employer’s Systems Environment”	means all of the Employer’s ICT systems which are or may be used for the provision of the <i>services</i> .
“Good Security Practice”	<p>shall mean:</p> <ul style="list-style-type: none"> a) the technical and organisational measures and practices that are required by, or recommended in, nationally or internationally accepted management standards and codes of practice relating to Information Security (such as published by the International Organization for Standardization or the National Institute of Standards and Technology); b) security standards and guidelines relating to Information Security (including generally accepted principles regarding the segregation of the duties of governance, implementation and control) provided to the general public or Information Security practitioners and stakeholders by generally recognised authorities and organisations; and c) the Government’s security policies, frameworks, standards and guidelines relating to Information Security.
“Information Security”	<p>shall mean:</p> <ul style="list-style-type: none"> a) the protection and preservation of: <ul style="list-style-type: none"> i) the confidentiality, integrity and availability of any Employer Assets, the Employer’s Systems Environment (or any part thereof) and the Consultant’s Systems Environment (or any part thereof); ii) related properties of information including, but not limited to, authenticity,

	<p>accountability, and non-repudiation; and</p> <p>b) compliance with all Law applicable to the processing, transmission, storage and disposal of Employer Assets.</p>
“Information Security Manager”	shall mean the person appointed by the Consultant with the appropriate experience, authority and expertise to ensure that the Consultant complies with the Security Policy.
“Information Security Management System (“ISMS”)”	shall mean the set of policies, processes and systems designed, implemented and maintained by the Consultant to manage Information Security Risk as specified by ISO/IEC 27001.
“Information Security Questionnaire”	shall mean the Employer’s set of questions used to audit and on an ongoing basis assure the Consultant’s compliance with the Security Policy. The Information Security Questionnaire is the Security Management Plan.
“Information Security Risk”	shall mean any risk that might adversely affect Information Security including, but not limited to, a Breach of Security.
“ISO/IEC 27001, ISO/IEC 27002 and ISO 22301	<p>shall mean</p> <p>a) ISO/IEC 27001;</p> <p>b) ISO/IEC 27002/IEC; and</p> <p>c) ISO 22301</p> <p>in each case as most recently published by the International Organization for Standardization or its successor entity (the “ISO”) or the relevant successor or replacement information security standard which is formally recommended by the ISO.</p>
“NCSC”	shall mean the National Cyber Security Centre or its successor entity (where applicable).
“Penetration Test”	shall mean a simulated attack on any Employer Assets, the Employer’s Systems Environment (or any part thereof) or the

	Consultant's Systems Environment (or any part thereof).
"PCI DSS"	shall mean the Payment Card Industry Data Security Standard as most recently published by the PCI Security Standards Council, LLC or its successor entity (the "PCI").
"Risk Profile"	shall mean a description of any set of risk. The set of risks can contain those that relate to a whole organisation, part of an organisation or as otherwise applicable.
"Security Test"	shall include, but not be limited to, Penetration Test, Vulnerability Scan, Availability Test and any other security related test and audit.
"Security Policies"	mean the Employer's Security Policies published by the Employer from time to time and shall include any successor, replacement or additional Security Policies. The Security Policies are set out in Annex A.
"Security Policies and Standards"	mean the Security Policies and the Security Standards
"Security Standards"	mean the Employer's Security Standards published by the Employer from time to time and shall include any successor, replacement or additional Security Standards. The Security Standards are set out in Annex B.
"Tigerscheme"	shall mean a scheme for authorised penetration tests which scheme is managed by USW Commercial Services Ltd.
"Vulnerability Scan"	shall mean an ongoing activity to identify any potential vulnerability in any Employer Assets, the Employer's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof).

- 1.1 Reference to any notice to be provided by the Consultant to the Employer shall be construed as a notice to be provided by the Consultant to the Employer's Agent.

2. PRINCIPLES OF SECURITY

- 2.1 The Consultant shall at all times comply with the Security Policy and provide a level of security which is in accordance with the Security Policies and Standards, Good Security Practice and Law.

3. ISO/IEC 27001 COMPLIANCE AND AUDIT

- 3.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with ISO/IEC 27001 in relation to the *services* during the Call Off Contract.
- 3.2 The Consultant shall appoint an Information Security Manager and shall notify the Employer of the identity of the Information Security Manager on the *starting date* and, where applicable, within 5 Working Days following any change in the identity of the Information Security Manager.
- 3.3 The Consultant shall ensure that it operates and maintains the Information Security Management System during the *service period* and that the Information Security Management System meets the Security Policies and Standards, Good Security Practice and Law and includes:
- a) a scope statement (which covers all of the Services provided under this Call Off Contract);
 - b) a risk assessment (which shall include any risks specific to the Services);
 - c) a statement of applicability;
 - d) a risk treatment plan; and
 - e) an incident management plan

in each case as specified by ISO/IEC 27001.

The Consultant shall provide the Information Security Management System to the Employer upon request within 10 Working Days from such request.

- 3.3A If the Consultant reasonably considers that it is not reasonably commercially possible for it to comply with paragraphs 3.1 and 3.3 of this Schedule by the start of the *service period*, the Consultant shall:
- a) give written notice to the Employer to inform it of the same and complete, in cooperation with the Employer, the Information Security Questionnaire within 5 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract in accordance with paragraph 6.1 of this Schedule;
 - b) provide to the Employer, for its consideration, within 10 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract:
 - i. a proposed action plan (including a timetable) indicating how the Consultant will become compliant with paragraphs 3.1 and 3.3 of this Schedule and the dates by which they can reasonably become compliant (assuming the Consultant uses all reasonable endeavours to do so) ("**Proposed ISO27001 Action Plan**"); and
 - ii. its proposed Information Security Management System that mitigates the failure to comply with paragraphs 3.1 and 3.3 of this Schedule as far as reasonably commercially possible and which is otherwise compliant with the requirements of this Schedule ("**Proposed ISMS**"),

and the Consultant shall make such amendments to the Proposed ISO27001 Action Plan and the Proposed ISMS that the Employer shall consider necessary in the interests of complying with this Schedule and managing Information Security Risk. Upon the Employer being satisfied with the Proposed ISO27001 Action Plan and Proposed ISMS (following implementation of such amendments it considers necessary) it shall notify the Consultant, upon which they shall become the “**ISO27001 Action Plan**” and “**Interim ISMS**” respectively;

- c) use all reasonable endeavours to become compliant with paragraphs 3.1 and 3.3 of this Schedule as soon as possible and in any event shall become compliant by no later than the dates set out in the ISO27001 Action Plan; and
- d) operate and maintain the Proposed ISMS until such time as the Interim ISMS is approved, upon which it will operate and maintain the Interim ISMS, as modified from time to time pursuant to the implementation of the ISO27001 Action Plan.

Any breach of this paragraph 3.3A constitutes a substantial failure to comply with the Consultant’s obligations under the Call Off Contract.

- 3.4 The Consultant shall carry out regular Security Tests in compliance with ISO/IEC 27001 and shall within 10 Working Days after completion of the relevant audit provide any associated security audit reports to the Employer.
- 3.5 Notwithstanding the provisions of paragraph **Error! Reference source not found.** to paragraph **Error! Reference source not found.**, the Employer may, in its absolute discretion, notify the Consultant that it is not in compliance with the Security Policy and provide details of such non-compliance. The Consultant shall, at its own expense, undertake those actions required in order to comply with the Security Policy within one calendar month following such notification or on a date as agreed by the Parties. For the avoidance of doubt, any failure to comply with the Security Policy within the required timeframe (regardless of whether such failure is capable of remedy) shall constitute a substantial failure by the Consultant to comply with his obligations.

4. CYBER ESSENTIALS PLUS SCHEME

- 4.1 The Consultant shall, and shall procure that any Sub-Consultant (as applicable) shall, obtain and maintain certification to Cyber Essentials Plus (the “Cyber Essentials Plus Certificate”) in relation to the Services during the *service period*. The Cyber Essentials Plus Certificate shall be provided by the Consultant to the Employer annually on the dates as agreed by the Parties.
- 4.2 The Consultant shall notify the Employer of any failure to obtain, or the revocation of, a Cyber Essentials Plus Certificate within 2 Working Days of confirmation of such failure or revocation. The Consultant shall, at its own expense, undertake those actions required in order to obtain a Cyber Essentials Plus Certificate following such failure or revocation. For the avoidance of doubt, any failure to obtain and/or maintain a Cyber Essentials Plus Certificate during the *service period* after the first date on which the Consultant was required to provide a Cyber Essentials Plus Certificate in accordance with paragraph **Error! Reference source not found.** (regardless of whether such failure is capable of remedy) shall constitute a substantial failure by the Consultant to comply with his obligations.

4.3 If the Consultant reasonably considers that it is not reasonably commercially possible for it to obtain certification to Cyber Essentials Plus by the start of the *service period*, the Consultant shall:

- a) give written notice to the Employer to inform it of the same and complete, in cooperation with the Employer, the Information Security Questionnaire within 5 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract in accordance with paragraph 6.1 of this Schedule;
- b) provide to the Employer, for its consideration, within 10 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract, a proposed action plan (including a timetable) indicating how certification to Cyber Essentials Plus will be obtained and the date by which it will be obtained (assuming the Consultant uses all reasonable endeavours to do so) ("**Proposed CEP Action Plan**") and the Consultant shall make such amendments to the Proposed CEP Action Plan that the Employer shall consider necessary in the interests of complying with this Schedule and managing Information Security Risk. Upon the Employer being satisfied with the Proposed CEP Action Plan (following implementation of such amendments it considers necessary) it shall notify the Consultant, upon which it shall become the "**CEP Action Plan**"; and
- c) use all reasonable endeavours to obtain certification to Cyber Essentials Plus soon as possible and in any event shall become compliant by no later than the dates set out in the CEP Action Plan.

Any breach of this paragraph 4.3 constitutes a substantial failure to comply with the Consultant's obligations under the Call Off Contract.

5. RISK MANAGEMENT

- 5.1 The Consultant shall operate and maintain policies and processes for risk management (the **Risk Management Policy**) during the *service period* which includes standards and processes for the assessment of any potential risks in relation to the *services* and processes to ensure that the Security Policy is met (the **Risk Assessment**). The Consultant shall provide the Risk Management Policy to the Employer upon request within 10 Working Days of such request. The Employer may, at its absolute discretion, require changes to the Risk Management Policy to comply with the Security Policy. The Consultant shall, at its own expense, undertake those actions required in order to implement the changes required by the Employer within one calendar month of such request or on a date as agreed by the Parties.
- 5.2 The Consultant shall carry out a Risk Assessment (i) at least annually, (ii) in the event of a material change in the Consultant's Systems Environment or in the threat landscape or (iii) at the request of the Employer. The Consultant shall provide the report of the Risk Assessment to the Employer, in the case of at least annual Risk Assessments, within 5 Working Days of completion of the Risk Assessment or, in the case of all other Risk Assessments, within one calendar month after completion of the Risk Assessment or on a date as agreed by the Parties. The Consultant shall notify the Employer within 5 Working Days if the Risk Profile in relation to the Services has changed materially, for example, but not limited to, from one risk rating to another risk rating.

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- 5.3 If the Employer decides, at its absolute discretion, that any Risk Assessment does not meet the Security Policy, the Consultant shall repeat the Risk Assessment within one calendar month of such request or as agreed by the Parties.
- 5.4 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, co-operate with the Employer in relation to the Employer's own risk management processes regarding the *services*.
- 5.5 For the avoidance of doubt, the Consultant shall pay all costs in relation to undertaking any action required to meet the requirements stipulated in this paragraph **Error! Reference source not found..** Any failure by the Consultant to comply with any requirement of this paragraph **Error! Reference source not found.** (regardless of whether such failure is capable of remedy), shall constitute a substantial failure by the Consultant to comply with his obligations.

6. SECURITY AUDIT AND ASSURANCE

- 6.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, complete the information security questionnaire in the format stipulated by the Employer (the **"Information Security Questionnaire"**) within 5 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract and at least annually or at the request by the Employer. The Consultant shall provide the completed Information Security Questionnaire to the Employer within one calendar month from the date of request.
- 6.2 The Consultant shall conduct Security Tests to assess the Information Security of the Consultant's Systems Environment and, if requested, the Employer's Systems Environment. In relation to such Security Tests, the Consultant shall appoint a third party which i) in respect of any Penetration Test, is duly accredited by CHECK, CREST (International), or Tigerscheme and, ii) in respect of any Security Test to which PCI DSS apply, is an approved scanning vendor duly accredited by the PCI. Such Security Test shall be carried out (i) at least annually, (ii) in the event of a material change in the Consultant's Systems Environment or in the Employer's System Environment or (iii) at the request of the Employer which request may include, but is not limited to, a repeat of a previous Security Test. The content, and format of any report of such Security Tests shall be approved in advance of the Security Test by the Employer. The Consultant shall provide any report of such Security Tests within one calendar month following the completion of such Security Test or on a date agreed by the Parties. The Consultant shall, at its own expense, undertake those actions required to rectify any risks identified by any Security Test in the manner and within the timeframe required by the Employer in its absolute discretion.
- 6.3 The Employer shall be entitled to send the Employer's Agent or such other person it shall reasonably require to witness the conduct of any Security Test. The Consultant shall provide to the Employer notice of any Security Test at least one month prior to the relevant Security Test.
- 6.4 Where the Consultant provides code development services to the Employer, the Consultant shall comply with the Security Policy in respect of code development within the Consultant's Systems Environment and the Employer's Systems Environment.
- 6.5 Where the Consultant provides software development services, the Consultant shall comply with the code development practices specified in the Statement of Requirements and Scope or in the Security Policy.

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- 6.6 The Employer, or an agent appointed by it, may undertake Security Tests in respect of the Consultant's Systems Environment after providing advance notice to the Consultant. If any Security Test identifies any non-compliance with the Security Policy, the Consultant shall, at its own expense, undertake those actions required in order to rectify such identified non-compliance in the manner and timeframe as stipulated by the Employer at its absolute discretion. The Consultant shall provide all such co-operation and assistance in relation to any Security Test conducted by the Employer as the Employer may reasonably require.
- 6.7 The Employer shall schedule regular security governance review meetings which the Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, attend.

7. PCI DSS COMPLIANCE AND CERTIFICATION

- 7.1 Where the Consultant obtains, stores, processes or transmits payment card data, the Consultant shall comply with the PCI DSS.
- 7.2 The Consultant shall obtain and maintain up-to-date attestation of compliance certificates ("AoC") provided by a qualified security assessor accredited by the PCI and up-to-date self-assessment questionnaires ("SAQ") completed by a qualified security assessor or an internal security assessor, in each case accredited by the PCI (each with the content and format as stipulated by the PCI and such reports the "PCI Reports"), during the *service period*. The Consultant shall provide the respective PCI Reports to the Employer upon request within 10 Working Days of such request.
- 7.3 The Consultant shall notify the Employer of any failure to obtain a PCI Report or a revocation of a PCI Report within 2 Working Days of confirmation of such failure or revocation. The Consultant shall, at its own expense, undertake those actions required in order to obtain a PCI Report following such failure or revocation within one calendar month of such failure or revocation.

8. SECURITY POLICIES AND STANDARDS

- 8.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with the Security Policies and Standards set out Annex A and B.
- 8.2 Notwithstanding the foregoing, the Security Policy applicable to the services may be subject to change following certain events including, but not limited to, any relevant change in the delivery of the Services. The Employer may issue instructions to the Consultant to comply with any amended Security Policy as required by the Employer, provided that where such amended Security Policy increases the burden on the Consultant pursuant to this contract, the novation shall be a compensation event. Accordingly a new clause 60.1(14) shall be added that reads "An amendment to a Security Policy pursuant to paragraph 8.2 of Contract Schedule 7 occurs which increases the burden on the Consultant pursuant to this Call Off Contract".
- 8.3 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, maintain appropriate records and is otherwise able to demonstrate compliance with the Security Policies and Standards.

9. CYBER SECURITY INFORMATION SHARING PARTNERSHIP

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- 9.1 The Consultant may become a member of the Cyber Security Information Sharing Partnership in accordance with the recommendations by the NCSC during the *service period*. The Consultant may participate in the Cyber Security Information Sharing Partnership for the exchange of cyber threat information.
- 9.2 Where the Consultant becomes a member of the Cyber Security Information Sharing Partnership, it shall review the NCSC weekly threat reports on a weekly basis and implement recommendations in line with the Consultant's Risk Management Policy.

ANNEX A – EMPLOYER SECURITY POLICIES AND STANDARDS

The Security Policies are published on:

<https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards> unless specified otherwise:

- a) Acceptable Use Policy
- b) Information Security Policy
- c) Physical Security Policy
- d) Information Management Policy
- e) Email Policy
- f) Technical Vulnerability Management Policy
- g) Remote Working Policy
- h) Social Media Policy
- i) Forensic Readiness Policy
- j) SMS Text Policy
- k) Privileged Users Security Policy
- l) User Access Control Policy
- m) Security Classification Policy
- n) Cryptographic Key Management Policy
- o) HMG Personnel Security Controls – May 2018
(published on <https://www.gov.uk/government/publications/hmg-personnel-security-controls>)
- p) NCSC Secure Sanitisation of Storage Media
(published on <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>)

ANNEX B – SECURITY STANDARDS

The Security Standards are published on:

<https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards>:

- a) SS-001 - Part 1 - Access & Authentication Controls
- b) SS-001 - Part 2 - Privileged User Access Controls
- c) SS-002 - PKI & Key Management
- d) SS-003 - Software Development
- e) SS-005 - Database Management System Security Standard
- f) SS-006 - Security Boundaries
- g) SS-007 - Use of Cryptography
- h) SS-008 - Server Operating System
- i) SS-009 - Hypervisor
- j) SS-010 - Desktop Operating System
- k) SS-011 - Containerisation
- l) SS-012 - Protective Monitoring Standard for External Use
- m) SS-013 - Firewall Security
- n) SS-014 - Security Incident Management
- o) SS-015 - Malware Protection
- p) SS-016 - Remote Access
- q) SS-017 - Mobile Devices
- r) SS-018 - Network Security Design
- s) SS-019 - Wireless Network
- t) SS-022 - Voice & Video Communications
- u) SS-023 - Cloud Computing
- v) SS-025 - Virtualisation
- w) SS-027 - Application Security Testing
- x) SS-028 - Microservices Architecture
- y) SS-029 - Securely Serving Web Content
- z) SS-030 - Oracle Database
- aa) SS-031 - Domain Management
- bb) SS-033 - Patching

Contract Schedule 8 - Employer's Code of Conduct

You can find the latest version of the Employer's Code of Conduct published on:

<https://www.gov.uk/government/publications/supplier-code-of-conduct> unless specified otherwise.

Contract Schedule 9 - Key Performance Indicators

REDACTED

Contract Schedule 10 - BIM Protocol

REDACTED

Contract Schedule 11 - Other documents comprised within Invitation to Tender for Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23 dated 5th May 2021, as amended

INVITATION TO TENDER

SCHEDULE 1: INSTRUCTIONS TO POTENTIAL SUPPLIERS

**Provision of Project Management Professional Services to
support DWP Batch 3 Capex Projects in FY21/22 and FY22/23**

Further Competition under

RM3741 Project Management and Full Design Team Services - Lot 2

Mini Competition

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1. Introduction

- 1.1 On 17th September 2016 a notice was published in the Official Journal of the European Union, reference number 2016/S 180-323830, in respect of the Crown Commercial Service - RM3741 (the "Framework Agreement") for "Project Management and Full Design Team Services (the "Contract Notice").
- 1.2 This Mini-Competition is being conducted by way of a further competition for RM3741 Project Management and Full Design Team Services - Lot 2 under the terms of the Framework Agreement and in accordance with the Public Contracts Regulations 2015 (the "2015 Regulations").

- 1.3 It is being conducted to procure a Call Off Contract pursuant to that Framework Agreement by the Department for Work and Pensions (DWP) for the provision of Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23. The Call Off Contract will be entered into between the Successful Supplier and DWP; for the purposes of that Call Off Contract the Successful Supplier will be the "Consultant" and the "Employer" shall be DWP.
- 1.4 The Potential Supplier who is awarded the Framework Agreement has been considered for the Provision of Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23.
- 1.5 The purpose of this ITT is to set out the basis on which a Tender is being invited by the Employer and to provide further information about the procurement process. Unless the context otherwise requires, capitalised expressions used in this document, Appendix A, Appendix B, Appendix C, Appendix D and Appendix E have the meanings set out in the "Glossary" at the end of this ITT.
- 1.6 This ITT consists of the following documents:

<u>Document Reference</u>	<u>Title</u>	<u>Supplier Action Required</u>
Schedule 1	Instructions to the Potential Supplier	The Potential Supplier is required to submit their tender in accordance with the Instructions to Potential Suppliers. Potential Suppliers are required to compete and submit documentation as directed.
Appendix A	Employer's Statement of Requirements and Scope	<p>The Potential Supplier is required to read and understand the Statement of Requirements and take this into consideration when completing their tender.</p> <p>Appendix A includes a requirement to deliver social value throughout the Call Off Contract in line with the following themes from The Social Value Model published by the Government Commercial Function in December 2020:</p> <ul style="list-style-type: none"> • Tackling Economic Inequality • Fighting Climate Change <p>Potential Suppliers are encouraged to read the PPN and The Social Value Model published here: https://www.gov.uk/government/publications/procurement-policy-note-0620-taking-account-of-social-value-in-the-award-of-central-government-contracts</p>

Appendix B	Tender Questions	The Potential Supplier is required to read and understand the Tender Questions and take this into consideration when completing their tender.
Appendix C	Pricing Model	<p>The Potential Supplier is required to provide full pricing details by completing Appendix C - Pricing and this must be submitted. All prices must be in GBP and must be exclusive of VAT.</p> <p>The percentage fees for both core and non-core disciplines submitted by the Potential Supplier should include all services within The Employer's Statement of Requirements and Scope (with the exception of the specific requirements where it has been specified day rates will be used). Both percentage fees and day rates submitted for core disciplines should be in line with maximum rates submitted to CCS under the terms of the Framework.</p> <p>Potential Suppliers who have a place on either or both of Lot 1 and Lot 4 of the CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTS), in addition to Lot 2, must also complete the table within the Pricing Model in line with paragraph 2.3.</p>
Appendix D	Evaluation Methodology & Selection Criteria	The Potential Supplier and take this into consideration when completing their tender. The Potential Supplier is also required to complete and submit Annex 1 to the Evaluation Methodology & Selection Criteria.
Appendix E	Tender Certificate	An un-amended copy must be signed by an appropriate person with the Employer to commit the Potential Supplier to the Tender offer. This document is in PDF format and should be signed with a wet signature where possible (although in the current climate electronic signatures will be accepted) witnessed and dated. This document should then be submitted.
Appendix F	Form of Call of Contract	Read and confirm commitment to enter into the Form of Call Off Contract (including DWP specific amendments) by completing and submitting Annex 1 to the Evaluation Methodology & Selection Criteria.

2. Requirement

- 2.1 This requirement is for the provision of Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23.
- 2.2 The requirements are described in further detail in the Employer's Statement of Requirements and Scope in Appendix A. The Employer's Statement of Requirements and Scope includes Annex 1: Schedule of Requirements. With the exception of the non-core services, Annex 1 mirrors Schedule 2 of the CCS Framework, which sets out the services that each Potential Supplier is required to provide under each core discipline. The main body of text within The Employer's Statement of Requirements and Scope is intended to provide context and detail to Annex 1 regarding how The Department for Work and Pensions operates. Services may be detailed in Annex 1 which are not expanded upon within the main body of text within The Employer's Statement of Requirements and Scope. The two documents are not mutually exclusive and should be read as a whole. With the exception of the requirements where it has been expressly specified in The Employer's Statement of Requirements and Scope that day rates will be used, the main body of text within The Employer's Statement of Requirements and Scope does not introduce additional tasks to the core disciplines beyond what is envisaged by Schedule 2 of the CCS Framework.
- 2.3 Please note that the DWP (the Employer) will be appointing one supplier for each of the following service provisions to support its Batch 3 Capex Projects in FY21/22 and FY22/23:
 - 2.3.1 Cost Management Professional Services to support Batch 3 Capex Projects in FY21/22 and FY22/23;
 - 2.3.2 Project Management Professional Services Batch to support Batch 3 Capex Projects in FY21/22 and FY22/23;
 - 2.3.3 Design Team North Professional Services to support Batch 3 Capex Projects in FY21/22 and FY22/23; and
 - 2.3.4 Design Team South Professional Services to support Batch 3 Capex Projects in FY21/22 and FY22/23.

The same Supplier will not be appointed for more than one of these Call Off Contracts, even where the Potential Supplier has the highest scoring Tender across more than one procurement. Potential Suppliers who have a place on on Lot 1 and/or Lot 4 of the CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTs), in addition to Lot 2, can submit a Tender for all four opportunities, but must indicate the order of preference by numbering the contracts in the indicated table within Appendix C from (1) for your preferred opportunity, and up to (4) if you have a place in all relevant Lots. Please state 'n/a' next to any contract where you are not

eligible to bid on account of not having a place in the correct CCS Framework RM3741 Project Management and Full Design Team Services (PMFDTS) Lot. The Employer will use this schedule as part of the award process but cannot guarantee a Potential Supplier will be awarded their preferred contracts.

- 2.4 It is anticipated that the Call Off Contract will expire on 31/03/2023. However, the Employer reserves the right to exercise an extension period to the Call Off Contract of six (6) months. The maximum contract term is therefore 2 years and 3 months (27 months).
- 2.5 It is anticipated that the Call Off Contract will commence no later than 21st June 2021.

3. Tender Questions

- 3.1 Please refer to Appendix B providing the questions to be answered. The questions cover the following categories:
- Approach to service delivery;
 - Availability and management of personnel in the timescales required;
 - Continuous improvement.

4. Procurement Process

Overview

- 4.1 The Employer anticipates that, following the issue of this ITT, the remainder of the Call Off Contract will be conducted on the basis set out below.
- 4.2 Potential Suppliers are invited to submit a Tender to the Employer, subject to and in accordance with the requirements of this ITT using the DWP eProcurement Solution (Bravo), the “Portal”, supplied by Jaggaer.

Administration of the Procurement Process

- 4.3 The Employer will be administering this Call Off Contract electronically via the Portal. No hard copy documents will be issued and all communications with the Employer must be conducted via the Portal.
- 4.4 To ensure all communications relating to the Call Off Contract are received, the Potential Supplier must ensure that the point of contact it nominates on the Portal is kept up to date and is accurate at all times. Access to the Portal is available 24 hours a day, 7 days a week, and 365 days a year anywhere in the world via the internet unless notified otherwise by the Portal.
- 4.5 Support is available to help the Potential Supplier to understand and use the system or query any issues with the system as follows:

-
- Freephone helpdesk (0800 069 8630), available Monday-Friday 8am to 6pm (UK time in English language only); or
 - By emailing: help@bravosolution.co.uk; and
 - Help guides available within the Portal.

- 4.6 Potential Suppliers must ensure that their registration on the Portal directly relates to the part of the Potential Supplier's organisation that submits the Tender (some larger suppliers may have several subsidiaries so registration needs to apply to that part of organisation responsible for the Tender). The entity tendering for the Call Off Contract must be the party that will enter into the Call Off Contract if appointed as the Successful Supplier.

Inputting information on the Portal

- 4.7 Potential Suppliers may use the online 'Help for Suppliers' function on the Portal. The content is designed to explain the Portal in business terms, allowing Potential Suppliers to quickly understand the features and benefits of the software. The 'Help for Suppliers' function content is presented by software module, and divided into process activities, for example, ITTs and e-Auctions.
- 4.8 If Potential Suppliers have any software queries refer to the 'Help for Suppliers' function in the first instance. If there is still an issue, Potential Suppliers should email or telephone the Portal helpdesk using the details in paragraph 4.5 of these Instructions to Potential Suppliers with a Tender reference, a clear description of the problem and contact details (ensure that plenty of time is allowed for issues to be resolved prior to any deadlines including the Submission Deadline).
- 4.9 Potential Suppliers should save progress regularly when using the Portal. For security reasons access to the Portal will 'time out' if inactive (i.e. if you do not click 'save') for fifteen (15) minutes or more. Failure to save regularly risks losing your work. This is part of strict government requirements to maintain security and Tender integrity and cannot be changed. Note that typing does not mean you are active on the Portal.
- 4.10 Please ensure that 'pop ups' are not blocked on your browser. Should you be inactive for fifteen (15) minutes, the Portal will notify you through a 'pop up'. It is vital that that you are able to see this pop up in order to click the 'Refresh' link in this 'pop up' so you are not disconnected from the Portal and lose any unsaved information.
- 4.11 Do not leave your response until the last minutes/hours before the Submission Deadline. If you experience connection problems, you may miss the Submission Deadline. Late Tenders will not be accepted. It will not be possible to upload any further information after the Submission Deadline. IT problems within Potential Suppliers' systems will not be considered reasonable grounds for late submission of Tenders or issues within the Tender documents.

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- 4.12 Please ensure that you submit your response when completed using the 'submit response' button on the Portal. Failure to do this will result in your Tender not being visible to the Employer.
 - 4.13 If the Employer makes any changes to the settings and questions area of a live/running Tender, Potential Suppliers must re-publish their response on the Portal. This is to ensure that changes are brought to the attention of Potential Suppliers. You may receive a message prompt from the Employer. Generally, this will not mean re-entering information but you should not rely on this as it is each Potential Supplier's responsibility to ensure that responses to each question are uploaded correctly.
 - 4.14 Do not use the 'Back' or 'Forward' buttons on your browser, you could potentially lose your work. Please use the links on the Portal to navigate through the Tender.
 - 4.15 To understand icons, use your mouse to 'hover' over the icon and view the 'ToolTip'. Note that Numeric fields will not accept text, spaces, symbols etc. The red asterisk indicates a mandatory field. This must be completed in order for Potential Suppliers to submit their response to the Employer.
 - 4.16 Potential Suppliers that are delegating their response for colleagues to complete should ensure that their colleagues are aware of this information and also the Instructions to Potential Suppliers and should be IT literate.
 - 4.17 Potential Suppliers should treat Portal logins securely. If you believe that you have lost your password, please log onto the website and click onto "Forgotten your password?" and follow the instructions.
 - 4.18 The Qualification Envelope will show some information provided when the Potential Suppliers registered on the Portal. The answers provided in that profile will automatically be used to pre-populate some parts of the Qualification Envelope. Potential Suppliers should check this information and have the opportunity to update these answers (as appropriate) and the new information will be saved against the organisation profile.

Formalities for submission of Tenders

- 4.19 The Instructions to Potential Suppliers have been specifically designed to be compatible with the Employer's e-tendering and e-evaluation requirements and must not, under any circumstances, be altered by Potential Suppliers.
- 4.20 Potential Suppliers must adhere to the following requirements and all other instructions specified in these Instructions to Potential Suppliers when submitting their Tenders:
 - 4.20.1 Do not embed documents within other documents. Instead provide separate electronic copies of the documents, clearly labelled and referenced, if necessary;
 - 4.20.2 The Tender must be in English;
 - 4.20.3 The Tender must include a list of all supporting material;

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- 4.20.4 Electronic copies of the Tender shall be in PDF or MS Excel 1997–2003 format. Files submitted in Microsoft Project format will not be accepted;
- 4.20.5 Potential Suppliers should use Arial 12 font type and size and text must be in black typeface;
- 4.20.6 Potential Suppliers must answer all questions/provide all other responses using the relevant templates provided, presenting them in the same sequence and using the same references. All answers must be self-contained with no cross-referencing. Responses to individual parts of the Technical Envelope are likely to be evaluated by different teams of evaluators and so each of these responses must be capable of evaluation on a stand-alone basis rather than cross referring to other responses;
- 4.20.7 The Tender must be clear, concise and complete. The Employer reserves the right to award a lower mark to a Potential Supplier or exclude the Potential Supplier from the Procurement Process (as appropriate) if their Tender is not clear, concise and complete. Potential Suppliers should submit only such information as is necessary to respond effectively to these Instructions to Potential Suppliers. Unless specifically requested, do not include extraneous presentation materials;
- 4.20.8 Tenders will be evaluated on the basis of information submitted by the Submission Deadline specified. Where information or documentation submitted appears to be incomplete or erroneous or specific documents are missing, the Employer reserves the right to request the Potential Supplier to submit, supplement, clarify or complete the information or documentation. This right to request clarification is without prejudice to the Employer's rights to reject a Tender under paragraph 16 or otherwise in these Instructions to Potential Suppliers.
- 4.20.9 The Tender must be submitted by a duly authorised representative of the Potential Supplier;
- 4.20.10 All acronyms and abbreviations, if used, must be fully explained;
- 4.20.11 While the Portal allows for large individual attachment sizes (max 50mb at a time), we recommend that you keep Attachments to a manageable size to ensure ease and speed of access. Please note that the Employer does not guarantee that you will be able to upload files up to the maximum size, particularly at busy times. For this reason, it is recommended that Potential Suppliers should ensure files are well below the maximum stated and allow plenty of time to upload, so they have enough time to resolve any technical difficulties before the Submission Deadline. Only attach documents that the Employer has permitted and make sure that you attach them in the correct area;

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- 4.20.12 Where a YES, NO or Not Applicable response is required, please click the appropriate YES, NO or Not Applicable statement on the drop down options bar;
- 4.20.13 Where any questionnaire or template response documents are in the form of an Excel or similar spreadsheet, Potential Suppliers should note that certain text (e.g. giving instructions or guidance on completion) within cells may not be visible without opening up the relevant cells. Potential Suppliers are responsible for ensuring they have checked each cell as necessary to identify the full text contained in that cell; and
- 4.20.14 Potential Suppliers must not insert or otherwise seek to apply any qualifications or assumptions around any of the matters on which responses are required.

Clarification Questions

- 4.21 The Potential Supplier is permitted to seek clarification from the Employer in relation to the Tender submission requirements, the Services or any other matters relating to this Call Off Contract. Clarification questions may be submitted during the period at any time using the Portal messaging service prior to the deadline for clarification requests.
- 4.22 Potential Suppliers will have the opportunity to raise clarification questions about this document and Call Off Contract generally. All questions raised must be submitted via the Portal messaging service.
- 4.23 A "Question and Answer" (Q&A) Log will be published on Portal and updated regularly. It will be the responsibility of the Potential Supplier to monitor the Portal for the latest activity.
- 4.24 Subject always to the Employer's obligations under the Freedom of Information Act 2000 (FOIA) and any other applicable legislation, if a question is deemed by the Potential Supplier to be commercially confidential, then the Potential Supplier should clearly indicate as part of its question that it believes this is the case. The Employer will consider this and may exercise its discretion to keep such information confidential when handling the question.
- 4.25 Questions not deemed to be commercially confidential will be considered by DWP to be of significance to all other Potential Suppliers. If DWP intends to follow this course of action in respect of a question which the Potential Supplier has indicated contains commercially confidential information it will inform the Potential Supplier who raised the question before sharing the question with all other Potential Suppliers to provide an opportunity for the question to be withdrawn by that Potential Supplier. Subject to this, all questions and answers will be made anonymous and made available to all Potential Suppliers via the Q&A Log.
- 4.26 The final date for the submission of clarification questions along with the date of the publication of the final Tender Query Schedule is shown in the procurement timetable set out in paragraph 4.31. Where clarification questions have been received, the

Employer will endeavor to publish an updated Tender Query Schedule every 2 working days. The Potential Supplier should note that, subject to any changes notified by the Employer, the deadline for submitting clarification requests is **17/05/2021 at 4pm**.

Clarifications by the Employer

- 4.27 The Employer may need to clarify details of a Tender and in those instances the Employer will send any questions using the Portal to the named representative of the Potential Supplier (by email) that is registered on the Portal, who should arrange for a reply to be provided by the stipulated clarification response deadline.
- 4.28 The Employer may seek independent financial and market advice to validate information declared, or to assist in the evaluation.

Tender Submission Deadline

- 4.29 Subject to any changes notified by the Employer after the date of issuing this ITT, the **deadline for the submission of Tenders is 24/05/2021 at 10:00 (10am) (the "Submission Deadline")**. Further information on other requirements applicable to the submission of the Tender, including the form and contents of each submission, is set out in paragraph 7 of this Instructions to Potential Suppliers.
- 4.30 The Tender received by the Employer by the Submission Deadline referred to above in paragraph 4.29 will be checked for compliance against the requirements of this ITT. The Tender will then be evaluated in accordance with Appendix D - Evaluation Methodology and Selection Criteria. It is anticipated that the Employer will award a Call Off Contract to the Potential Supplier with the highest scoring Tender following this evaluation process.

Timetable

- 4.31 The Employer anticipates that the timetable for this Call Off Contract will be as set out in the table below. Potential Suppliers should note, however, that this timetable provides indicative timescales only and is subject to change.

Activity	Date
Publication of the ITT to Potential Suppliers	05/05/2021
Briefing Session	w/c 10/05/2021
Deadline for Submissions of Tender Questions (Q&A)	17/05/2021 at 4pm

Deadline for Receipt of Tenders	24/05/2021 at 10am
Qualitative and Financial Compliance Checks	24/05/2021 to 25/05/2021
Evaluation	26/05/2021 to 08/06/2021
Moderation	09/06/2021 and 10/06/2021
CAB	23/06/2021
Suppliers Notified	24/06/2021
Sign Contract	w/c 28/06/2021
Mobilisation Period	w/c 28/06/2021 to 26/07/2021

Contract Award

- 4.32 Once the Employer has reached a decision in respect of a Contract award for all four requirements outlined in 2.3, it will notify all Potential Suppliers for each respective Tender of that decision.
- 4.33 Contract award is subject to the formal approval process of the Employer. Until all necessary approvals are obtained, no Contract(s) will be entered into.

5. Tie Break Situation & Methodology

- 5.1 In the event that there is a “Tie-Break” between two or more Potential Suppliers, the Employer will apply the following methodology.
- 5.2 The Employer’s policy is that a tie-break will only be applied where two or more winning bidders have achieved the same score in the evaluation of the bids.
- 5.3 In these circumstances, the tie-breaker will involve additional weighting being awarded. Where a tie-breaker is required; it will be applied to the scores of all bidders with winning equal scores.
- 5.4 Note that the use of one tie-breaker may not be sufficient to clearly identify the winner and so, in the event that the first tie-breaker does not produce a result which differentiates the bidders who have the same score, a second tie-breaker will be used.

If at any step this produces a clear result, which differentiates the bidders who have the same score, the process will be terminated. If a winner is identified at any step, they will be appointed as a Successful Supplier.

5.5 The application of the tie-breaker will be as follows.

5.5.1 **Step 1** – 10% of the total weighted score for question 2.2 of the ITT response (Approach to service delivery) will be added to the final score.

5.5.2 **Step 2** – 10% of the total weighted score for question 2.1 of the ITT response (Approach to service delivery) will be added to the score from step 1.

5.5.3 **Step 3** – 10% of the total weighted score for question 3.1 of the ITT response (Availability and management of personnel in the timescales required), will be added to the score from step.

5.5.4 **Step 4** – 10% of the total weighted score for question 4.1 of the ITT response, (Continuous Improvement), will be added to the score from step 3.

5.6 In the event that the tie-breaker is not conclusive, the supplier with the highest scoring core percentage fee will be appointed as the Successful Supplier.

6. Financial Viability Risk Assessment

6.1 The aim of the Financial Viability Risk Assessment is to ensure Successful Supplier has sufficient resources to successfully deliver the contract with a minimal risk of failure. The assessment will consist of an analysis of the Successful Supplier's audited accounts from the last two years. These will be sourced directly from Companies House using the Successful Supplier information submitted in Annex 1 to the Evaluation & Selection Criteria.

6.2 The analysis of the accounts and supporting information requested will utilise appropriate financial ratio analysis and sound financial judgement. Suitably qualified and experienced staff will conduct the analysis to ensure an accurate, consistent and professional approach.

6.3 Individual Potential Supplier responses will be assessed on the following two areas:

- Organisational Stability; and
- Financial Stability.

6.4 An organisation that has a negative balance sheet (technically insolvent) will be given a RAG rating of **RED**. Further investigation and clarification will be required by the Employer to fully understand the issues causing the red rating.

6.5 As part of such investigation and clarification the Employer may require the Potential Supplier to provide supplementary information relating to the matters specified. If,

following such clarification, the Employer is satisfied that there are clear and robust mitigating circumstances, which provide satisfactory assurance that there is minimal risk of contract failure as demonstrated by the clarification and/or supplementary information provided, the Employer reserves the right to amend the RAG rating from **RED** to **AMBER**.

- 6.6 If you identify that your organisation will be rated **RED**, but believe there to be mitigating circumstances, then you should submit an explanation and supporting evidence of the mitigating circumstances with your annual accounts.
- 6.7 If any Potential Suppliers score a mixture of **AMBER** and **GREEN**, the **AMBER** score takes priority.
- 6.8 For an organisation which achieves an **AMBER** rating it may be necessary for the Successful Supplier to supply additional evidence that the Potential Supplier can manage the level of growth, from an organisational, financial and delivery perspective. Table 1 provides the RAG criteria and related action across all areas of the assessment.
- 6.9 The Employer reserves the right to include or exclude Clause Z41 (Appendix F) post-tender. Please note that this option will only be exercised following a Red or Amber Financial Viability Risk Assessment, where the Employer is seeking supplementary information and assurances from the Potential Supplier in regards to their organisational and financial stability.

Organisational Stability

- 6.10 This section focuses on the overall stability of the organisation. Using the data supplied in the financial statements, an assessment will be completed to determine the stability of the organisation.
- 6.11 If the assessment raises major concerns about the organisation this will result in the organisation being given a **RED** rating. Organisations who do not fall into the above rating category will receive a **GREEN** rating.

Financial Stability

- 6.12 This section involves completing a ratio analysis of the financial information contained in the Potential Supplier's financial statements and will inform the outcome of this part of the assessment.
- 6.13 Two ratios will be analysed: the Acid Test ratio and the Debt ratio. Please see Table 2 for details of the scoring and weighting criteria that will be attributed to this assessment. When analysing a Potential Supplier's Liabilities, the Employer will exclude any amounts in relation to Provisions for Pensions Liabilities.

Financial Stability Scoring Methodology

- 6.14 The financial tests performed during the evaluation process are set out in Table 1: Financial Tests during Evaluation

6.14.1 The Successful Supplier will be given an **AMBER** or **GREEN** risk rating based on this assessment. **GREEN** ratings will be deemed as having passed the analysis.

6.14.2 If achieving an **AMBER** rating, the Commercial Finance Business Partner Team may seek further clarification and reassurance that any potential risks can be fully mitigated.

6.14.3 Acid Test Ratio = (Current Assets – Inventory) / Current Liabilities

6.14.4 Debt Ratio = (Total Debt – Pensions Liability) / Total Assets

Table 1: Financial Tests during Evaluation

Criteria	Score
Acid Test Ratio	>1.1 = Green <1.1 = Amber
Debt Ratio	<0.5 = Green >0.5 = Amber

7. Tender Submission Requirements

Overview

7.1 Each Potential Supplier will be required by way of its Tender submission to the Employer to submit the following three "Envelopes" via the Portal:

- (i) **A "Qualification" Envelope**; which must be fully completed and all questions responded to as directed. It is a mandatory requirement for the Potential Supplier to fully complete the Qualification Envelope. The Potential Supplier should upload the following documents to the Qualification Envelope: their completed Annex 1 to the Evaluation Methodology & Selection Criteria, in addition to other attachments specifically requested in Annex 1 e.g. a signed and dated PDF copy of the signed Tender Certificate, a statement of how Conflicts of Interest will be addressed (covering all points in paragraph 1.4 of Appendix B) and a copy of Cyber Essentials Plus or equivalent certificate.
- (ii) **A "Technical" Envelope**; which must be fully completed and all questions responded to as directed, which will be used for the purposes of identifying an overall "Quality" score in relation to a compliant Tender. This is set out at Appendix D; and

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- (iii) **A "Commercial" Envelope**; to which a completed Appendix C must be uploaded and which will be used for the purposes of identifying the Potential Supplier's prices in relation to a compliant Tender.

7.2 If the Potential Supplier fails to complete and submit its Tender, comprising the three "Envelopes" as referred to above, strictly in accordance with the requirements of this document, it risks having its Tender rejected by the Employer.

Technical Envelope

7.3 The Potential Supplier is required to respond to a number of technical questions which can be found in the Technical Envelope. The Potential Supplier will be required to attach their response in PDF to each Technical Question.

7.4 All documents which are provided (attached) in response to the technical questions should be clearly titled at the point of uploading via the Portal. The Potential Supplier should name each document in their submission as the title of the document, followed by the company name, unless a response to a specific question in Appendix B - Tender Questions. For example:

Document Required	How the document should be titled
Appendix D - Evaluation Methodology & Selection Criteria (Annex 1)	Appendix D - Evaluation Methodology & Selection Criteria (Annex 1) - ABC Ltd
Responses to Appendix B - Tender Questions	Appendix B - Question 1.1 - ABC Ltd

Tender Completion

7.5 All answers must be self-contained with no cross-referencing. Responses to individual parts of the Technical Envelope may be evaluated by different teams of evaluators and so each of these responses must be capable of evaluation on a stand-alone basis.

7.6 Where the Employer has put a page limit on the response to some or all questions the Potential Supplier must adhere to this and submit their answer accordingly. It is the responsibility of the Potential Supplier to recognise any page limits within the Technical Envelope. The page limit will be set out in the relevant question and any response in excess of these limits will be disregarded and will not be evaluated. One page is defined as 1 page in PDF (Arial font, size 12) or 1 tab in MS Excel. For example, for a page count limit of 4, the Potential Supplier may submit one PDF doc (2 sides) and one MS Excel (2 tabs).

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- 7.7 Tables, graphs and charts in support of responses are all permitted, provided the total response including these is within the specified page limits.
- 7.8 Responses must be presented using Arial, font size 12 (English language and black typeface) - this includes instances where information may be tabulated as part of the response. The only exception permitted is for illustrative screen shots, graphs and charts, which should be presented within the allocated page limit for the question they are relevant to and must not be embedded separately as this information will be disregarded.
- 7.9 The Tender must be completed using PDF and MS Excel 2003 - 2020 format.
- 7.10 All acronyms and abbreviations, if used, must be fully explained. You should submit clear, concise and unambiguous statements that provide sufficient evidence of your ability to deliver the requirements of the Employer's Statement of Requirements and Scope.
- 7.11 The Tender must be clear, concise and complete. The Employer reserves the right to award a lower mark to a Potential Supplier or exclude the Potential Supplier from the Procurement Process (as appropriate) if their Tender is not clear, concise and complete. Potential Suppliers should submit only such information as is necessary to respond effectively to these Instructions to Potential Supplier. Unless specifically requested, do not include extraneous presentation materials.
- 7.12 Where a YES, NO or Not Applicable response is required, please click the appropriate YES, NO or Not Applicable statement on the drop-down options bar.
- 7.13 The Potential Supplier should note that certain text within MS Excel documents (e.g. giving instructions or guidance on completion) within cells may not be visible without opening up the relevant cells. Potential Suppliers are responsible for ensuring they have checked each cell as necessary to identify the full text contained in that cell.
- 7.14 Tenders will be evaluated on the basis of information submitted by the Submission Deadline specified. Where information or documentation submitted appears to be incomplete or erroneous or specific documents are missing, the Employer reserves the right to request the Potential Supplier to submit, supplement, clarify or complete the information or documentation. This right to request clarification is without prejudice to the Employer's rights to reject a Tender under paragraph 16 or otherwise in these Instructions to Potential Suppliers.

Submissions Relating to Technical Envelope

- 7.15 It is assumed for the purposes of producing the Tender that the Potential Supplier will have reviewed all documents and be satisfied that they have a full understanding of the Employer's requirement as described in The Employer's Statement of Requirements and Scope. Potential Suppliers can query their understanding of The Employer's Statement of Requirements and Scope during the period for clarifications referred to in paragraphs 4.21 to 4.26 above.

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- 7.16 References to sections of The Employer's Statement of Requirements and Scope within the questions in the Technical Envelope are as a guide only. Other requirements elsewhere within The Employer's Statement of Requirements and Scope that are incidental or connected to the specific requirement in question may also be taken into account when the Employer assesses whether the Potential Supplier fully addresses the requirement that relates to a particular question within the Technical Envelope.

Commercial Envelope

- 7.17 Please see Appendix C - Pricing Schedule and Appendix D - Evaluation Methodology & Selection Criteria for the Employer's pricing evaluation requirements and the method by which those requirements are incorporated into the overall evaluation methodology.

Tender Submission Procedure

- 7.18 This ITT has been specifically designed to be compatible with DWP's e-tendering and e-evaluation requirements and must not, under any circumstances, be altered by Potential Suppliers.
- 7.19 The Tender must be submitted to the Employer using the DWP Portal. A Tender submitted by any other means will not be accepted.
- 7.20 A Tender response may be completed and submitted via the DWP Portal at any time before the Submission Deadline. Instructions explaining how to submit and complete relevant responses are located within the Portal.
- 7.21 A Potential Supplier may modify and resubmit its Tender at any time prior to the Submission Deadline. Tenders cannot be modified after the Submission Deadline. As at the Submission Deadline, the Potential Supplier must ensure that it has only submitted a single Tender through the Portal (and has not duplicated its response).
- 7.22 Each Potential Supplier is responsible for ensuring that its Tender has been successfully completed and all relevant information uploaded to the Portal prior to the Submission Deadline. For these purposes, it is recommended that each Potential Supplier allows time for a final check to be undertaken prior to the Submission Deadline. It will not be possible for Potential Suppliers to submit any further information after the Submission Deadline. Information Technology (IT) problems affecting the Potential Supplier's own system will not be considered reasonable grounds for late submission.
- 7.23 Potential Suppliers must not seek to alter the content or functionality of any Excel spreadsheet, declaration or other response template issued as part of this Invitation to Tender save only for the population of those tender-specific items of information which are specifically required to be included in relevant instructions for the response template in question. Without prejudice to the generality of this requirement and save only to the extent (if any) specifically permitted by DWP to do so in relevant instructions, Potential Suppliers must not insert or otherwise seek to apply any

qualifications or assumptions around any of the matters on which responses are required.

- 7.24 You should be aware that if your Tender is successful Tender submission will form part of your Call Off Contract with the Employer.

Additional Materials, Documents & Attachments

- 7.25 No additional documentation should be submitted with the Tender unless specifically requested by the Employer in this document. Any further material shall not be taken into account during evaluation.
- 7.26 Information that forms part of general company literature or promotional brochures will not be evaluated and should not be submitted.
- 7.27 The Tender should not contain any inserted, pasted or embedded pictures or documents (image files, Adobe Acrobat documents or other Word documents) unless specifically requested by the Employer.
- 7.28 Any additional documents requested by the Employer must be clearly referenced within the body of the Tender using a unique, un-ambiguous and relevant file name. They must be saved using MS Word (in Web Page, filtered format only), MS Excel, MS Power Point, Adobe Acrobat, pdf or jpeg formats. No other file formats should be used.

Tender Validity Period

- 7.29 The Tender must remain valid and capable of acceptance by the Employer for ninety (90) days from the Submission Deadline.

Sub-Contracting Arrangements

- 7.30 Consortium bids will not be accepted by the Employer. Where the Potential Supplier proposes to sub-contract any part of the Services, the Potential Supplier must provide full details of their supply chain as part of its tender. Potential Suppliers must also declare any conflicts of interest.
- 7.31 Based on the information provided by the Potential Supplier under paragraph 7.30 above, the Employer may clarify any aspect of the Sub-Contract arrangement to ensure that the arrangement is appropriate and that the arrangement does not cause a conflict of interest which cannot be mitigated to the Employer's satisfaction.
- 7.32 If you intend to use a supply chain for this contract, you must demonstrate you have effective systems in place to ensure a reliable supply chain and pay all sub-contractors in your supply chain promptly and effectively. Prior to contract award, the following evidence will be required from the Successful Supplier:
- A copy of your standard payment terms for all of your supply chain contracts.

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- A copy of your standard payment terms used with sub-contractors on public sector contracts subject to the Public Contract Regulations 2015. (this should include (as a minimum) 30 day payment terms).
 - A copy of your procedures for resolving disputed invoices promptly and effectively.
 - Details of any payments of interest for late payments you have paid in the past twelve months or which became due during the past twelve months and remain payable (contractually or under late payment legislation) and, if any such payment has been made (or arose), an explanation as to why this occurred and an outline of what remedial steps have been taken to ensure this does not occur again.
 - A breakdown of the percentage of invoices paid by you to those in your immediate supply chain on all contracts for each of the two previous six month reporting periods. This should include the percentage of invoices paid within each of the following categories:
 - Within 30 days
 - In 31 to 60 days
 - In 61 days or more
 - Due but not paid by the last date for payment under agreed contractual terms.

Note: As not all payments involve an invoice, this should include all situations where payments are due.

It is acceptable to cross refer to information that has previously been submitted to Government or other bodies or is publicly available (provided it covers the required reporting periods), including data published in accordance with the Reporting on Payment Practices and Performance Regulations 2017. If you do wish to cross refer, please provide details and/or insert link(s) in your response.

You should explain in your response what a reporting period is by referring to the BEIS Guidance:

<https://www.gov.uk/government/publications/business-payment-practices-and-performance-reporting-requirements>

If the Successful Supplier is unable to demonstrate that all invoices have been paid within the agreed contractual terms, the Employer will require a written explanation in no more than 2000 characters.

If the Successful Supplier is unable to demonstrate that $\geq 95\%$ of invoices payable to your supply chain on all contracts have been paid within 60 days of the receipt of the invoice in at least one of the last two six months reporting periods, the Employer will require an action plan for improvement which includes (as a minimum) the following:

1. Identification of the primary causes of failure to pay:

(a) 95% of all supply chain invoices within 60 days; and

(b) if relevant under the previous question, all invoices within agreed terms.

2. Actions to address each of these causes.

3. A mechanism for and commitment to regular reporting on progress to the bidder's audit committee (or equivalent).

4. Plan signed off by director.

5. Plan published on its website (this can be a shorter, summary plan).

7.33 The attention of the Potential Supplier is also drawn to the general rules set out in paragraph 18 of this Instructions to Potential Suppliers in relation to any Change in Circumstance.

Licensing and Registration

7.34 The Employer requires Potential Suppliers to indicate if licensing and registration is required for your business in order to provide the Services and, if so, whether your organisation holds the required licensing and registration. The Employer must be satisfied that Potential Supplier has the required licenses and registration to meet the requirement otherwise the Tender will be rejected.

Security Policy

7.35 The attention of the Potential Supplier is drawn to the Security Policy in Contract Schedule 8 of the Form of Contract in Appendix F.

7.36 Prior to contract award, the Successful Supplier and any sub-contractors (as applicable) shall complete the Information Security Questionnaire in the format stipulated by the Employer and embedded in this paragraph within 5 working days of being notified by the Employer that the Consultant is the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract.

7.37 The Potential Supplier is not required to complete the Information Security Questionnaire as part of their Tender. However, the Potential Supplier is required to read and understand the Information Security Questionnaire to ensure they can complete this in full in the event that they are notified by the Employer to be the successful Framework Supplier (as defined in the Framework Agreement) in respect of this Call Off Contract). A full response entails providing supporting comments in column G on how you will or, do meet all minimum requirements as listed in the guidance in column D. Where meeting requirements is planned for development, please provide an action plan within column G. The Employer will require copies of any referenced supporting evidence.



8. Use of SMEs in the Successful Supplier's Supply Chain

- 8.1 The Employer recognises the important role Small and Medium Enterprises (SMEs) have in helping to deliver economic growth and prosperity. SMEs are defined as enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million euros (€50,000,000), and/or an annual balance sheet total not exceeding 43 million euros (€43,000,000). DWP is committed to supporting the government's target of 33% of government spending with third party suppliers to go to SMEs through either direct or indirect spend through the supply chain where it is relevant to the contractual requirement to do so and provides value for money.

9. Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

- 9.1 Your attention is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended ("**TUPE Regulations**") and clause Z22 within Appendix F. It is the Employer's view that the commencement of the provision of the *service* or a part of thereof is not expected to result in a Relevant Transfer.
- 9.2 The Employer confirms that it currently does not consider that TUPE will apply to any staff and accordingly it has not identified any person to be a Transferring Former Consultant Employee or Transferring Employer Employee.
- 9.3 If you have a contrary view to that of the Employer on the applicability of TUPE, it would be helpful if you would advise the Employer via the Employer's Agent email giving the reasons no later than one (1) week prior to the Submission Deadline.

10. Reliance

- 10.1 The only information upon which the Potential Supplier or member of a Potential Supplier's Team may rely in respect of this Call Off Contract will be such information (if any) as may be specifically and expressly represented and/or warranted in the Final Contract.
- 10.2 Subject only to paragraph 10.1:
- 10.2.1 a Potential Supplier considering entering a contractual relationship in respect of the Services should make their own investigations and enquiries as to DWP's requirements beforehand; and
- 10.2.2 neither DWP nor any of its officers, ministers, employees, agents or advisors makes any representation or warranty as to, or (save in the case of fraudulent misrepresentation) accepts any liability or responsibility in relation to, the adequacy, accuracy, reasonableness or completeness of this ITT and/or any Associated Documents (including, but not limited to, loss or damage arising as

a result of reliance placed by the Potential Supplier and/or any member of the Potential Supplier's Team on any such information).

- 10.3 The issue of this ITT is not to be construed as a commitment by DWP to enter into a contract as a result of the Mini-Competition. Any expenditure, work or effort undertaken prior to the execution of any Final Contract is accordingly a matter solely for the commercial judgement of the Potential Supplier and (if applicable) members of the Potential Supplier's Team.

11. Confidentiality

- 11.1 Subject to the exceptions referred to in paragraph 11.3 below, the ITT and associated Documents are made available to the Potential Supplier on condition that it:
- 11.1.1 shall at all times treat the ITT and Associated Documents as confidential;
 - 11.1.2 subject to paragraph 11.3, shall not disclose, copy, reproduce, distribute or pass the ITT and/or any Associated Documents to any other person at any time or allow any of these things to happen;
 - 11.1.3 shall not use the ITT and/or any Associated Documents for any purpose other than for the purposes of preparing for, and engaging in the Call Off Contract and submitting (or deciding whether to submit) a Tender;
 - 11.1.4 shall comply with the provisions of paragraph 11 of this Instructions to Potential Suppliers (which contains restrictions on publicity activity within any section of the media); and
 - 11.1.5 shall procure that each of the members of the Potential Supplier's Team who receives any of the Information is made aware of, and complies with the provisions of, paragraph 11 of this Instructions to Potential Suppliers as if it were a Potential Supplier.
- 11.2 If the Potential Supplier, in DWP's opinion, breaches any of the requirements of paragraph 11 of this Instructions to Potential Suppliers may, at DWP's sole discretion, be disqualified from further participation in the Call Off Contract (without prejudice to any other civil remedies available to DWP and without prejudice to any criminal liability which such conduct by the Potential Supplier may attract).
- 11.3 The Potential Supplier may disclose, distribute or pass the ITT and Associated Documents to another person if either:
- 11.3.1 this is necessary and done for the sole purpose of enabling the Tender to be submitted and the person receiving the ITT and Associated Documents undertakes in writing to keep the ITT and Associated Documents confidential on

the same terms as set out in paragraph 11 of this Instructions to Potential Suppliers/ITT; or

11.3.2 the Potential Supplier obtains the prior written consent of DWP in relation to such disclosure, distribution or passing of the ITT and Associated Documents.

11.4 By participating in this Call Off Contract, the Potential Supplier understands and agrees, and shall procure that all others whose information is supplied to support their Tender agrees, that DWP is permitted to disclose all information submitted to it to the United Kingdom Parliament or any other contracting Employer (as defined in the 2015 Regulations), office or agency of Her Majesty's Government in the United Kingdom and their officers, ministers, servants, agents and advisers. In addition, the Potential Supplier's attention is drawn to paragraph 17 of this Instructions to Potential Suppliers.

12. Canvassing

12.1 The Potential Supplier or member of the Potential Supplier's Team who, in connection with the Call Off Contract:

12.1.1 offers any inducement, fee or reward to any servant or agent of DWP or any person acting as an advisor to DWP in connection with the Call Off Contract or does anything which would constitute a breach of the Prevention of Corruption Act 1889 to 1916;

12.1.2 contacts any servant or agent of DWP or any person acting as an advisor to DWP prior to a contract being entered into about any aspect of the Call Off Contract in a manner not permitted by this ITT; and/or

12.1.3 contacts the Supply Chain Integrator (Sodexo) or any sub-contractors involved in this Project, including Baker Mallett LLP. For the avoidance of any doubt please see the Estates Target Operating Model diagram and accompanying information in Appendix A for all suppliers part of the Estates Target Operating Model.

12.1.4 does anything which would constitute a breach of the Bribery Act 2010

may at DWP's absolute discretion be disqualified from further participation in the Call Off Contract (in either case without prejudice to any other civil remedies available to DWP and without prejudice to any criminal liability which such conduct by the Potential Supplier or member of the Potential Supplier's Team may attract).

12.2 Paragraph 12.1 applies without prejudice to Part 2 of the 2015 Regulations which provides, in certain circumstances, for the mandatory exclusion of the Potential Supplier.

13. Non-Collusion

13.1 The Potential Supplier or member of the Potential Supplier's Team who, in connection with this Call Off Contract and without obtaining the prior written consent of DWP:

-
- i. fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other person (other than a member of the Potential Supplier's Team acting in that capacity);
 - ii. enters into any agreement or arrangement with any other person (other than a member of the Potential Supplier's Team acting in that capacity) that it shall refrain from submitting the Tender or as to the amount of the Tender to be submitted;
 - iii. offers or agrees to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to the proposed Tender any act or omissions; or
 - iv. communicates to any person other than DWP or a member of the Potential Supplier's Team the amount or approximate amount of its Tender (except where such disclosures are made in confidence to obtain quotations necessary for the preparing of the Tender);
- may at the Employer's absolute discretion be disqualified from further participation in the Call Off Contract (without prejudice to any other civil remedies available to DWP and without prejudice to any criminal liability that such conduct by the Potential Supplier may attract).

14. Copyright

- 14.1 The copyright in this ITT and the Associated Documents is vested in DWP. This ITT and the Associated Documents may not be reproduced, copied or stored in any medium without the prior written consent of DWP except for the purposes of preparing and submitting the Tender.

15. Publicity

- 15.1 The Potential Supplier and members of the Potential Supplier's Team shall not undertake (or permit to be undertaken) at any time (whether prior to or after any contract has been entered into) any publicity or activity with any section of the media (including, but not limited to, making any announcements) in relation to this Call Off Contract and/or the Services other than with the prior written consent of DWP. In this paragraph 15.1, the word "media" includes (but is not limited to) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.

16. Right to Reject Initial Tender/Exclude the Potential Supplier

- 16.1 The Employer reserves the right to reject a Tender and/or exclude the Potential Supplier and/or one or more members of the Potential Supplier's Team from further participation in the Call Off Contract where:

- 16.1.1 the Tender is submitted late, is completed incorrectly, is incomplete, is submitted other than via the Portal or otherwise fails to meet any of the

Employer's submission requirements which have been notified to the Potential Supplier, including those set out in this ITT;

16.1.2 the Potential Supplier and/or any relevant members of the Potential Supplier's Team are unable to satisfy the terms of Article 57 of Directive 2014/24/EU and/or Regulation 57 of the 2015 Regulations at any stage during the Call Off Contract;

16.1.3 the Potential Supplier and/or any relevant members of the Potential Supplier's Team are guilty of material misrepresentation or false statement in relation to the Tender and/or the Call Off Contract;

16.1.4 the Potential Supplier and/or any member of the Potential Supplier's Team fails to comply with any of the terms set out this ITT and/or any Associated Documents;

16.1.5 as a result of any Change in Circumstance the Employer considers that the Potential Supplier and/or particular members of the Potential Supplier's Team should be excluded from further participation in the Call Off Contract; and/or

16.1.6 the Employer has a right under any other provision in this ITT and/or under the general law to reject the Tender and/or exclude the Potential Supplier and/or one or more members of the Potential Supplier's Team from further participation in the Call Off Contract.

17. Freedom of Information

17.1 All information relating to the Potential Supplier, any member of the Potential Supplier's Team and/or any Tender which is submitted to DWP and/or any information relating to any contract to which DWP is party, including information arising under a contract or about its performance, may be accessible under the FOIA or Environmental Information Regulations 2004 (EIR). DWP is under a legal obligation to disclose such information if requested, unless an exemption applies. DWP may also be required to disclose requirements under other legislation or applicable codes of practice or otherwise as required by law, including by order of a court of competent jurisdiction.

17.2 The Potential Supplier must, as part of this Call Off Contract, identify to DWP information submitted which it regards as being potentially exempt from disclosure by DWP under the FOIA or EIR. Such identification may be either specific or by class. The Potential Supplier must state the grounds that it believes exist for potentially exempting the information from disclosure, together with detailed reasoning for each. The Potential Supplier should also indicate whether it considers that the potential exemption from disclosure applies only for the duration of the Call Off Contract or whether the potential exemption would continue after the conclusion of the Call Off Contract.

17.3 Please note that, consistent with the spirit of its obligations under the FOIA or EIR, as a general principle DWP will seek to prevent, or restrict the scope of confidentiality

obligations sought to be imposed upon it other than in accordance with the FOIA or EIR. As such DWP reserves the right not to accept, in whole or in part, receipt of any information marked as confidential or sensitive or to require further explanation of the reasons why the Potential Supplier considers confidentiality obligations to be appropriate in a particular case.

- 17.4 Where the Potential Supplier has indicated that information should be exempted from disclosure, DWP may disclose this information following its own consideration of the situation. DWP may, in its absolute discretion, consult with the Potential Supplier before making a decision on a request for information. The interpretation of DWP in relation to any exemption shall be final. DWP shall not be liable for any loss, damage, harm or other detriment however caused arising from any disclosure of information under FOIA or EIR.
- 17.5 Without prejudice to the other provisions of the paragraphs above, the Potential Supplier acknowledges that, except for any information which is exempt from disclosure in accordance with the FOIA, the content of the Final Contract may be disclosed under the FOIA. DWP shall be responsible for determining in its absolute discretion whether any of the content of the Final Contract is exempt from disclosure in accordance with the provisions of FOIA.
- 17.6 Subject to redactions for confidentiality as determined by DWP, notwithstanding any other term of the Final Contract, the Potential Supplier in the event that it is appointed as the supplier of the Services hereby gives its consent for DWP to publish the Final Contract in its entirety, including from time to time agreed changes to the Final Contract, to the general public. DWP may consult with the relevant Potential Supplier to inform its decision regarding any redactions but DWP shall have the final decision in its absolute discretion. The relevant Potential Supplier shall assist and cooperate with DWP to enable DWP to publish the Final Contract.

18. Change in Circumstances

- 18.1 The Potential Supplier is required to notify the Employer of the occurrence of any of the events listed below (each a "Change in Circumstance") immediately upon becoming aware of any such event. A Change in Circumstance means the occurrence of any of the following:
- 18.1.1 any change, or anticipated change, to the information previously provided to Crown Commercial Service (whether under the terms of the relevant Framework Agreement and/or pursuant to the original procurement process which led to the award of the relevant Framework Agreement) in respect of the Potential Supplier and/or any member of the Potential Supplier's Team, including (but not limited to) any change to:
- 18.1.2 the identity, control or financial standing of the Potential Supplier and/or any member of the Potential Supplier's Team; or

18.1.3 the structure of any sub-contracting arrangements or any other aspect of the relationship, or proposed relationship, between the Potential Supplier and any member(s) of the Potential Supplier's Team; or

18.1.4 any other change, or anticipated change, to the circumstances of the Potential Supplier and/or any members of the Potential Supplier's Team, or the basis of its Tender, which may be expected to influence DWP's decision on the suitability or capability of that Potential Supplier and/or any relevant member of the Potential Supplier's Team to provide the Services.

18.2 Any such notification shall provide full details of the actual or anticipated Change in Circumstance.

18.3 DWP reserves the right a following a Change in Circumstance to revisit any previous suitability or capability assessment and, where it considers appropriate, either exclude the Potential Supplier from further participation in the Call Off Contract, or impose such conditions on the Potential Supplier's continued participation as DWP considers appropriate.

19. Competition Matters

19.1 The Potential Supplier is responsible for complying with any applicable domestic and European competition law requirements and for obtaining any clearances required under these requirements. For the avoidance of doubt, this includes but is not limited to any merger control clearances which may be required for the creation of the Potential Supplier entity.

20. Conflicts of Interest

20.1 The Potential Supplier is responsible for ensuring that there are no conflicts of interest between, on the one hand, the Potential Supplier and/or the members of the Potential Supplier's Team and, on the other hand, DWP. The Potential Supplier must notify DWP of any actual or potential conflict of interest that may be relevant to this Call Off Contract and/or the submission or evaluation of the Tender as soon as reasonably practicable after it becomes aware of such a conflict. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of DWP may result in the Potential Supplier and/or members of the Potential Supplier's Team being excluded from further participation in the Call Off Contract.

21. Tender Process and Costs

21.1 DWP reserves the right at any time:

21.1.1 to issue amendments or modifications to the ITT and/or the Associated Documents;

21.1.2 to alter the timetable or any other any aspect of the Call Off Contract;

21.1.3 not to award a contract;

21.1.4 to cancel or withdraw from the Call Off Contract at any stage; and/or

21.1.5 to re-invite a Tender on the same or any alternative basis.

- 21.2 Any costs or expenses incurred by the Potential Supplier or the Potential Supplier's Team or any other person in connection with the Call Off Contract, including (but not limited to) the submission of its Tender, will not be reimbursed by DWP and neither DWP nor any of its officers, ministers, employees, agents or advisors will be liable in any way to the Potential Supplier, any member of the Potential Supplier's Team or any other person for any costs, expenses or losses incurred by the Potential Supplier, any member of the Potential Supplier's Team or any other person in connection with this Call Off Contract, including (but not limited to) where the Call Off Contract is cancelled or DWP otherwise decides not to award a contract pursuant to the Call Off Contract.

22. Withdrawing from Call Off Contract

- 22.1 The Potential Supplier may decline to take part in the Call Off Contract, but should they choose not to participate, they should alert DWP promptly, giving reasons, and return to DWP all copies of the documentation issued to them by DWP or downloaded from the Portal.

23. Governing Law and Jurisdiction

- 23.1 This Call Off Contract and any Final Contract shall be governed by English Law and subject to the exclusive jurisdiction of the English Courts.

24. Languages

- 24.1 English shall be the official language for all means of communication between Potential Suppliers and DWP on all matters relating to the Call Off Contract.

25. DWP Complaints Procedure

- 25.1 The Employer has published a Commercial Complaints Process for use during competitive procurement.
- 25.2 This process gives details of:
- 25.2.1 DWP Commercial Code of Practice – Competitive Tendering;
 - 25.2.2 The DWP Commercial Complaints Process; and
 - 25.2.3 Information to accompany a commercial complaint.

26. Return of Documents

- 26.1 DWP is unable to return any documents submitted by the Potential Supplier responding to this ITT.

27. Warnings and disclaimers

-
- 27.1 While the information contained in these Instructions to Potential Suppliers is believed to be correct at the time of issue, neither the Employer, its advisors will accept any liability for its accuracy, adequacy or completeness, nor will any express or implied warranty be given (including, but not limited to, loss or damage arising as a result of reliance placed by the Potential Supplier and/or any member of the Potential Supplier's Team on any such information). This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, the ITT and in respect of any other written or oral communication transmitted (or otherwise made available) to any Potential Supplier. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the Employer.
- 27.2 If a Potential Supplier proposes to enter into a Contract with the Employer, it must rely on its own enquiries and on the Form of Call Off Contract in Appendix F, subject to the limitations and restrictions specified in it.
- 27.3 Neither the issue of the ITT, nor any of the information presented in it, should be regarded as a commitment or representation on the part of the Employer (or any other person) to enter into a contractual arrangement.

Glossary of Terms

2015 Regulations	means the Public Contracts Regulations 2015.
Associated Documents	means, in addition to the ITT, any other documents or information which DWP may from time to time provide or make available in connection with the Call Off Contract.
Change in Circumstance	has the meaning given to that expression in paragraph 18 of this document.

Call Off Contract	<p>means the form of contract set out at Appendix F – Call Off Contract of the ITT;</p> <p>The relevant Call Off Contract (or “Call Off Contract Procedure” within the meaning of the Framework Agreement) which is (to be) conducted under the terms of this ITT in respect of the procurement by DWP of the Services.</p>
DWP (also referred to as the "Employer")	means the Secretary of State for Work and Pensions acting as part of the Crown through his/her representatives in the Department for Work and Pensions.
EIR	means the Environmental Information Regulations 2004.
Final Contract	the contract (if any) actually entered into between DWP and the Successful Supplier pursuant to the Call Off Contract.
FOIA	means the Freedom of Information Act 2000.
Framework Agreement	means Crown Commercial Service Framework RM3741 for Project Management and Full Design Team Services.
ITT	means this invitation to tender pack in relation to a particular Call Off Contract (to be) conducted by DWP under the Framework Agreements, comprising a front end "Invitation to Tender" document and various appendices to this.

Moderation Meeting	means a meeting (or meetings as the case may be) at which members of DWP's evaluation team will meet with one or more moderators in order to reach a consensus decision on the scoring of each scored element of the Tender response.
Moderated Score	means the final score which is applied to each scored element of the Potential Supplier's Tender response following a Moderation Meeting.
Portal	means the DWP e-Procurement Solution (ePS) portal used by the Employer for the purposes of administering the Procurement Process electronically, which is currently supplied by Jaggaer;
Potential Supplier	means the Supplier who is party to the Framework Agreement and who have been invited by DWP to participate in this Call Off Contract.
Potential Supplier's Team	means any officers, employees, agents or advisors of the Potential Supplier and/or (if applicable) of any relevant sub-contractors.
Services	the particular requirements which are the subject of this ITT.
Submission Deadline	means the final time and date by which Tenders must be submitted, being the relevant time and date set out in the procurement timetable at paragraph 4.31 of this document, or such other time and date as may be communicated to the Potential Supplier for these purposes;

Successful Supplier	means the Potential Supplier who is successful in being awarded a contract by the Employer pursuant to the Call Off Contract;
Supplier	shall have the meaning given to the term within the Framework Agreement;
Supply Chain	means those sub-contractors and other third party suppliers (if any) who the Potential Supplier proposes to use/engage with for the purposes of delivering the Services if successful in the Call Off Contract;
Tender	means a tender, in respect of the Services, which is or (as the context requires) may be submitted in response to this document by the Potential Supplier;

APPENDIX B - TENDER QUESTIONS

Provision of Project Management Professional Services to support DWP Batch 3 Capex Projects in FY21/22 and FY22/23

Further Competition under

RM3741 Project Management and Full Design Team Services - Lot 2

Mini Competition

PLEASE ANSWER ALL THE FOLLOWING QUESTIONS

If the Potential Supplier fails to answer each sub question or part of each question it shall result in the Potential Supplier being awarded 0 marks for that entire question.

Please note that the page limits inserted in brackets after each question are not to be exceeded. Responses will be ignored to the extent they exceed the relevant word/page limit, inclusive of attachments. Please refer to Schedule 1 - Instructions to Potential Suppliers for further instructions

1. Compliance Assessment – PASS/FAIL

1.1 Insurance requirements:

1.1.1 Please provide confirmation that you have the minimum cover, and have supplied PDF copies of insurance documents relating to, in respect of:

- a. £5m Employers liability insurance;
- b. £5m Public liability insurance; and
- c. £5m Professional Indemnity insurance.

1.2 Security requirements:

1.2.1 Please provide PDF copy of Cyber Essentials Plus or equivalent certificate as required under the Framework.

1.3 Tender Certificate

1.3.1 Please provide (a PDF scanned copy) of the signed and dated Tender Certificate (without any caveats and un-authorised amendments).

1.4 Conflict of Interest

1.4.1 All Potential Suppliers must provide a statement of how they will deal with any current conflict of interest, or one which may arise during the provision of the services (including conflicts within the supply chain) Conflicts may include where Potential Suppliers are:

- a. Currently working for or advising Sodexo or Baker Mallett LLP;
- b. Currently working for or advising the landlord of a DWP site; and/or
- c. Currently working for or advising Contractors who are on the DWP Estate Jobcentre & Office Fit Out Contractor Framework and who may in the future be selected to work on this project.

1.5 Form of Contract

-
- 1.5.1 Does the Potential Supplier accept the Form of Agreement specified in Appendix F which is based upon Framework Schedule 4 A (NEC3 PSC Template Call Off Agreement) inclusive of DWP amendments.

1.6 Appendix C - Pricing Model

- 1.6.1 All Potential Suppliers must complete Appendix C - Pricing Model using rates which do not exceed the maximum rates under Lot 2 of the CCS RM3741 Framework.

1.7 Financial Viability Risk Assessment

- 1.7.1 All Potential Suppliers must provide the information requested in Annex 1 to the Evaluation & Selection Criteria in order for the Employer to source the Potential Suppliers' audited accounts from the last two years directly from Companies House.

2 Approach to service delivery (35%)

2.1 Please confirm the key personnel proposed to be used in delivering the services including rationale for their appointment.

- The response should provide details of the suitability and experience of your proposed key personnel that will be available to fulfil project delivery.
- The response should clearly identify your firm's resource capacity and associated office locations that will be available to meet the Employer's requirements.
- The response should clearly identify whether any of the key personnel will be subcontractors.
- The response should include the following:
 - an organogram, including but not limited to all key personnel;
 - a full resource matrix (inclusive of disciplines, numbers of personnel and relative FTE); and
 - CVs for up to 5 key personnel proposed inclusive of office location and grade.

(Maximum 1 side of A4 for narrative as to why these key personnel are being selected and proposed; 1 side of A4 for organogram; 1 excel tab for resource matrix, CVs of up to five key personnel at 1 side of A4 per CV. CVs to be appropriate to the resource proposed to deliver The Employer's Statement of Requirements and Scope. All text to be size 12 Arial font. - 15%)

2.2 Provide a detailed method statement for delivery of the services specified in the ITT and allowed for in the proposed price, particularly drawing on your approach and success with similar projects.

- The response shall explain how relevant expertise, knowledge, skills, systems, processes and technology will enhance delivery.
- The response should include evidence of where you have provided similar services before and how this experience will help you provide a high-quality service to the Employer.
- The response should explain the approach that will be taken to ensure all reporting and communication will be accurate and clear within the Employer's diverse stakeholder group, including suppliers providing other disciplines.
- Please include an explanation of how all Key Performance Indicators will be met.
- Please include an explanation as to how the location of proposed key personnel and supporting systems technology will inform the methodology and working arrangements, whilst at all times ensuring strong commercial control and effective stakeholder communications.

(Maximum 2 sides of A4, size 12 Arial font - 20%)

3 Availability and management of personnel in the timescales required (15%)

3.1 Provide a Gantt chart with supporting narrative that demonstrates your approach to mobilisation and management of the required resource to support the successful delivery of the Employer's projects

- With reference to the CVs, organogram and resources matrix provided in 2.1, please explain your approach to mobilisation and management of the proposed resources and personnel.
- The response should illustrate how resources will flex to meet the changing resource demands of the work stages and DWP's overarching programme plan, as well as providing competent and timely cover for holiday leave, sickness or staff leaving to ensuring full continuity of a quality service to the Employer.

(Maximum 2 sides of A4, including Gantt chart and narrative, size 12 Arial font - 15%)

4 Continuous Improvement (10%)

4.1 Describe how you will drive continuous improvement for the benefit of the Employer throughout the projects lifecycle

-
- The response should state how you will capture learning, improve existing Employer processes and create and share innovative and better ways for the Employer and its staff to operate. This should include the delivery of up-skilling sessions and training.
 - The response should include evidence of where you have previously identified and applied lessons learned for the benefit of the client in the provision of similar services.

(Maximum 1 side of A4 for narrative, size 12 Arial font - 10%)

APPENDIX D - EVALUATION METHODOLOGY AND SELECTION CRITERIA

**Provision of Project Management Professional Services to
support DWP Batch 3 Capex Projects in FY21/22 and FY22/23**

Further Competition under

RM3741 Project Management and Full Design Team Services - Lot 2

Mini Competition

1. Award Criteria

- 1.1 The following is the weighting that DWP will apply for the Award Criteria and will be used to assess supplier's the responses during the scoring and moderating phase of the ITT evaluation phase. The weighting must be read in conjunction with the scoring mechanisms is as follows:
- 1.1.1 The maximum amount of points available for quality is 60%.
- 1.1.2 The maximum amount of points available for price is 40%.

2. Evaluation Methodology

- 2.1 The Tenders must be submitted strictly in accordance with the requirements of this ITT and will be evaluated in accordance with the steps 1 to 3 as described below.
- 2.2 Where necessary, the Employer may clarify any aspect of the Tender submission via Jaggaer. Where a request for clarification is made by the Employer, the Potential Supplier must provide the requested information in a timely manner and within the timescales specified by the Employer in its request for clarification. The Tender evaluation will be carried out in line with the following steps:

3. Step One: Compliance Check

- 3.1 The Employer will review the Tender submission to ensure full compliance with the requirements which are set out in this ITT. Please read and carefully review Schedule 1 - Instructions to Potential Suppliers for detail of submission requirements.
- 3.2 The Employer's compliance check will include (but is not limited to):
- 3.2.1 an assessment against the following questions:

COMPLIANCE PASS/FAIL QUESTIONS			Pass/Fail
Please Note: The following questions are Pass / Fail, therefore if a Potential Supplier cannot or is unwilling to answer 'Yes', their Tender will be deemed non-compliant and they will be unable to be considered for this requirement. The Potential Supplier should confirm by deleting the inappropriate answer in Annex 1.			
1.1	Has a PDF copy of the Employers Liability insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.2	Has a PDF copy of the Public Liability insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.3	Has a PDF copy of the Professional Indemnity insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.4	Has a PDF copy of Cyber Essentials Plus or equivalent certificate as required under the Framework been submitted?	Yes	No
1.5	Has a signed and dated PDF copy of the signed Tender Certificate been submitted?	Yes	No

1.6	Has a statement on how Conflicts of Interest will be addressed been provided?	Yes	No
1.7	Does the Potential Supplier accept the Form of Contract in Appendix F (including DWP specific amendments)? We understand that following Grenfell several insurance providers have changed their policies regarding fire safety notifications, fire safety and combustibility. We also understand that policies differ between organisations. Following contract award, we are therefore prepared to discuss and agree changes needed to align the wording of the insurance and liability table on pages 8 and 9 of Appendix F – Form of Contract to the market standard. If changes are needed to this section, the Potential Supplier should still select ‘Yes’ to this question. However, please ensure that you highlight within Annex 1 any changes you consider to be required to the insurance and liability table on pages 8 and 9 to align with your organisation’s insurance policies. This will not form part of evaluation.	Yes	No
1.8	Has Appendix C - Pricing Model been submitted using rates which do not exceed the maximum rates under Lot 2 of the CCS RM3741 Framework?	Yes	No
1.9	Has the Potential Supplier provided the information requested in Annex 1 to the Evaluation & Selection Criteria to source the Potential Suppliers’ audited accounts from the last two years directly from Companies House?	Yes	No

3.2.2 An assessment to ensure that all documents requested have been completed in full and in the correct format, including adherence to word and page count limits as applicable. The word and page limit will be set out in the relevant question and any response in excess of these limits will be disregarded and will not be evaluated. The Employer reserves the right to exclude a Potential Supplier that submits a non-compliant Tender. Compliant Tenders will progress to step 2 of the evaluation process.

4. Step Two: Quality Evaluation

- 4.1 Potential Suppliers must answer the quality questions identified within Appendix B - Tender Questions.
- 4.2 The Employer will give your responses to our evaluation panel. Each evaluator will independently assess your responses to the quality questions using the response guidance and the evaluation criteria which is described in Appendix B against each of the questions.

-
- 4.3 Each evaluator will give a mark and a reason for their mark for each question they are assessing. Once the evaluators have independently assessed your answers to the questions, the Employer will arrange for the evaluators to meet and they will discuss the quality of your answers and discuss their marks and reasons for that mark. The discussion will continue until a consensus is reached regarding the mark, and a reason for that mark, for each question.
- 4.4 When the consensus meeting has taken place and the final mark for each question has been agreed by the evaluators, your final mark for each question will be multiplied by that questions weighting to calculate your weighted mark for that question. Each weighted mark for each question will then be added together to calculate your quality score.
- 4.5 Scores for quality will be allocated on a 0 – 4 basis as set out in the table below:

Score	Definition	Awarding this score means ...
4	Excellent	An excellent answer which provides a full and detailed response to the relevant question and a high level of assurance to the Employer that the relevant approach/solution proposed by the supplier will be deliverable and will meet the relevant requirements of the Project. The response includes a high level of detail and excellent supporting evidence.
3	Good	A good answer which provides a full response to the relevant question and a good level of assurance to the Employer that the relevant approach/solution proposed by the supplier will be deliverable and will meet the relevant requirements of the project. The level of detail and supporting evidence is generally good (though there may be some weaknesses in relation to specific elements)
2	Satisfactory	An adequate answer which provides a reasonable level of assurance to the Employer that the relevant approach/solution proposed by the Potential Supplier will be deliverable and will meet the relevant requirements of the project. The level of detail and supporting evidence provided is generally adequate, though there are some weaknesses in relation to specific elements.
1	Limited	A barely adequate answer which provides only a qualified assurance to the Employer that the relevant approach/solution proposed by the supplier will be deliverable and will meet the relevant requirements of project. The response contains limited detail and/or limited supporting evidence as to one or more material elements.
0	Poor	A poor/unacceptable answer which is incomplete, provides little or no clarity or detail as to the relevant approach/solution being proposed by the supplier and/or gives an unacceptably low level of assurance to the Employer that the relevant approach/solution proposed by the supplier will be deliverable and will meet the relevant requirements of the project. The response contains little or no detail and/or supporting evidence as to one or more material elements.

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- 4.6 For the quality scoring the Potential Supplier must score a minimum of 2 for each sub question or part of each question. **Failure to achieve this score of 2 will disqualify the tender submission.** In addition, some individual quality criteria have an individual quality threshold. Failure to meet any of the quality thresholds will disqualify the tender submission and it will not be evaluated further. Please see the table below.

No:	Question	Maximum Points Available	Minimum Score Threshold
2	Approach to service delivery	35%	2
2.1	Please confirm the key personnel proposed to be used in delivering the services including rationale for their appointment.	15%	2
2.2	Provide a detailed method statement for delivery of the services specified in the ITT and allowed for in the proposed price, particularly drawing on your approach and success with similar projects.	20%	2
3	Availability and management of personnel in the timescales required	15%	2
3.1	Provide a Gantt chart with supporting narrative that demonstrates your approach to mobilisation and management of the required resource to support the successful delivery of the Employer's projects.	15%	2
4	Continuous Improvement	10%	2
4.1	Describe how you will drive continuous improvement for the benefit of the Employer throughout the projects lifecycle	10%	2

- 4.7 The evaluated score is **calculated by taking the** score for each question and multiplying by the weighting of each question. Scores will be added together to produce an Evaluated Score. This Evaluated Score will then be divided by the maximum possible Evaluation Score to produce a percentage figure. The percentage figure will then be multiplied by 60 to give the bidder's score out of 60 for the Quality section of the evaluation.

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- 4.8 Percentage differences and relative scores will be expressed as numbers rounded to two decimal places.
- 4.9 The Question Weighting for each question will be divided by the maximum possible score of 4. This will then be multiplied by the Moderated Score awarded by the Evaluation Team to arrive at a score for each response. See example below:

Question Weighting (%)	Maximum Weighting divided by maximum possible score of 4	Evaluation Team's Moderated Score	Total percentage score achieved for the response (%)
20	5	3	15
15	3.75	2	7.5

- 4.10 Tenders that have met or exceeded the quality threshold(s) will then be evaluated for price. For the avoidance of doubt, failure to meet any of the quality thresholds will disqualify the tender submission and it will not be evaluated further.

5. Step Three: Price Evaluation

- 5.1 Pricing constitutes 40% of the overall evaluation score, with this 40% weighted between Core Services Percentage Fee (30%), Non-Core Services Percentage Fee (2%), Core Services Day Rates (3%) and Non-Core Services Day Rates (5%).
- 5.2 The Potential Suppliers with the lowest Core Services Percentage Fee, Non-Core Services Percentage Fee, Core Services Day Rates Fee and Non-Core Services Day Rates Fee will achieve the highest scores available and the other tenders relatively lower scores based on the percentage difference between them.
- 5.3 Percentage differences and relative scores will be expressed as numbers rounded to two decimal places.
- 5.4 A maximum of 40 points are available for an Overall Combined Score. To achieve a maximum score of 40 points the Potential Supplier would need to submit the lowest Core Services Percentage Fee (30 points), the lowest Non-Core Services Percentage Fee (2 points), the lowest Core Services Day Rates Fee (3 points) and the lowest Non-Core Services Day Rates Fee (5 points).
- 5.5 For example, if a Potential Supplier submits the lowest Core Services Percentage Fee at £100k, the lowest Non-Core Services Percentage Fee at £10k, the lowest Core Services Day Rates Fee at £1,000 and the lowest Non-Core Services Day Rates Fee at £1,000, the submission will receive the maximum 40 points. If another tender submission is 10% more expensive across each of the 4nr separate weightings, 10% (4) of the total points available will be deducted, giving that tender submission an overall combined score of 36 points.

Example below:

Potential Supplier	A	B	C	D
Core Services Percentage Fee – 75% Weighting	£100,000	£110,000	£115,000	£125,000
% difference from lowest price	0%	10%	15%	25%
Price Score	30.00	27.00	25.50	22.5
Non-Core Services Percentage Fee – 5% Weighting	£10,000	£11,000	£11,500	£12,500
% difference from lowest price	0%	10%	15%	25%
Price Score	2.00	1.80	1.70	1.50
Core Services Day Rates Fee – 7.5% Weighting	£1,000	£1,100	£1,150	£1,250
% difference from lowest price	0%	10%	15%	25%
Combined Day Rate Score	3.00	2.70	2.55	2.25
Non-Core Services Day Rates Fee – 12.5% Weighting	£1,000	£1,100	£1,150	£1,250
% difference from lowest price	0%	10%	15%	25%
Combined Day Rate Score	5.00	4.50	4.25	3.75
Overall Combined Score	40.00	36.00	34.00	30.00

- 5.6 Potential Suppliers should be aware that although this calculation may result in a negative number, the minimum possible score for price shall be nil (0).
- 5.7 Potential Suppliers should be aware that when evaluating costs, the Employer will consider the credibility of the price submitted. If costs are believed to be abnormally low (e.g. unrealistically and/or unsustainably low prices), the Employer will seek clarification from the Potential Supplier to understand the basis of the price submitted. If clarification does not satisfy the Employer's concerns, the Employer reserves the right to exclude the tender from further evaluation.
- 5.8 Potential Suppliers should note that prices cannot be altered after final tenders have been submitted

6. Award Decision

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- 6.1 The scores from the Quality Evaluation and Price Evaluation will be added together to give the overall Tender mark out of 100.
- 6.2 A contract will be awarded according to the highest overall Tender score.

Annex 1

Full name of the Potential Supplier submitting the information:	
Company registration number (if applicable):	
Full name of the immediate parent company (if applicable):	
Immediate parent company registration number (if applicable):	
Full name of the ultimate parent company (if applicable):	
Ultimate parent company registration number (if applicable):	

COMPLIANCE PASS/FAIL QUESTIONS			Pass/Fail
Please Note: The following questions are Pass / Fail, therefore if a Potential Supplier cannot or is unwilling to answer ‘Yes’, their Tender will be deemed non-compliant and they will be unable to be considered for this requirement. The Potential Supplier should confirm by deleting the inappropriate answer.			
1.1	Has a PDF copy of the Employers Liability insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.2	Has a PDF copy of the Public Liability insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.3	Has a PDF copy of the Professional Indemnity insurance certificate been submitted to CCS within the last 12 months?	Yes	No
1.4	Has a PDF copy of Cyber Essentials Plus or equivalent certificate as required under the Framework been submitted?	Yes	No
1.5	Has a signed and dated PDF copy of the signed Tender Certificate been submitted?	Yes	No
1.6	Has a statement on how Conflicts of Interest will be addressed been provided?	Yes	No

1.7	<p>Does the Potential Supplier accept the Form of Contract in Appendix F (including DWP specific amendments)?</p> <p>We understand that following Grenfell several insurance providers have changed their policies regarding fire safety notifications, fire safety and combustibility. We also understand that policies differ between organisations. Following contract award, we are therefore prepared to discuss and agree changes needed to align the wording of the insurance and liability table on pages 8 and 9 of Appendix F – Form of Contract to the market standard. If changes are needed to this section, the Potential Supplier should still select ‘Yes’ to this question. However, please ensure that you highlight within this Annex 1 any changes you consider to be required to the insurance and liability table on pages 8 and 9 to align with your organisation’s insurance policies. This will not form part of evaluation.</p>	Yes	No
1.8	Has Appendix C - Pricing Model been submitted using rates which do not exceed the maximum rates under Lot 2 of the CCS RM3741 Framework?	Yes	No
1.9	Has the Potential Supplier provided the information requested in Annex 1 to the Evaluation & Selection Criteria to source the Potential Suppliers’ audited accounts from the last two years directly from Companies House?	Yes	No

APPENDIX E - TENDER CERTIFICATE

**Provision of Project Management Professional Services to
support DWP Batch 3 Capex Projects in FY21/22 and FY22/23**

Further Competition under

RM3741 Project Management and Full Design Team Services - Lot 2

Mini Competition

TENDER CERTIFICATE

I/We the undersigned, hereby Tender and offer to provide the Services which is more particularly referred to in the Invitation to Tender supplied to me/us for the purpose of Tendering for the provision of the Services and upon the terms thereof.

I/we certify that the information supplied is accurate to the best of my/our knowledge and I/we understand that false information could result in the exclusion of my/our Tender.

I/we understand that it is a criminal offence, punishable by imprisonment, to give or offer any gift or consideration whatsoever as an inducement or reward to any servant of a public body and that any such action will entitle DWP to cancel any contract currently in force and will result in my/our exclusion from the list of Potential Suppliers invited to Tender and/or exclusion of my/our Tender.

I/we hereby certify that I/we have/will not canvassed any Director, employee, representative or adviser of DWP in connection with the proposed award of the contract by DWP and that no person employed by me/us or acting on my/our behalf, or advising me/us, has/will done any such act.

I/we confirm that save as expressly provided for, the Potential Supplier undertakes to keep confidential all information concerning is ITT and all other information concerning the business and affairs of DWP which the tender has received or obtained in connection with this ITT, or in discussion relating to it.

I/We confirm that we accept the Call Off Contract as issued with the Invitation to Tender.

I/We undertake in the event of acceptance of our Tender to execute the Call Off Contract within 10 business days of such acceptance (or otherwise as agreed with DWP).

I/We agree that DWP may disclose the Potential Supplier's information/documentation (submitted to DWP during this procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes

Statement of non-canvassing.

I/we hereby certify that I/we have not canvassed any Minister, Director, employee, representative or adviser of DWP in connection with the proposed award of the Call Off Contract by DWP, and that no person employed by me/us or acting on my/our behalf, or advising me/us, has done any such act.

I/we further hereby undertake that I/we will not canvass any Minister, Director, employee, representative or adviser of DWP in connection with the award of the Call Off Contract and that no person employed by me/us or acting on my/our behalf, or advising me/us, will do any such act.

Statement of non-collusion

The essence of selective tendering for the Call Off Contract is that DWP shall receive bona fide competitive Tenders from all Potential Suppliers.

In recognition of this principle, I/we certify that this is a bona fide offer, intended to be competitive and that I/we have not fixed or adjusted the amount of the offer in accordance with any agreement or arrangement with any other person.

I/we also certify that I/we have not done, and undertake that I/we will not do, at any time any of the following acts:

- (a) communicate to a person other than DWP, the amount or approximate amount of my/our proposed offer except where the disclosure in confidence of the approximate value of the Tender was essential to obtain insurance premium quotations required for the preparation of the Tender; or
- (b) enter into any agreement or agreements with any other person that they shall refrain from Tendering or as to the amount of any offer submitted by them; or
- (c) offer or agree to pay or give or actually pay or give any sum of money, inducement or valuable consideration, directly or indirectly, to any person for doing or having done or having caused to be done in relation to any other offer or proposed offer, any act or omission.

Conflict Of Interest

I/we confirm that, based on the information provided in the ITT and in the general public domain I/we would have no conflicts of interest in respect of providing the Services if offered this appointment. I/We confirm that, should I/we be successful in this further competition, I/ we shall not act for or otherwise advise any contractor and/or private sector entity on any project under which DWP directly and/or as part of a supply chain could appoint us.

I/we agree that DWP may, in its consideration of the offer and in any subsequent actions, rely upon the statements made in this Certificate.

I/we confirm that the Tender remains valid for a minimum of 90 days from the date of this Tender Certificate.

I/we confirm that the undersigned are authorised to commit the Potential Supplier to the contractual obligations contained in the Invitation to Tender and the Call Off Contract.

Signed: Witnessed:

Name: Name:

Position:..... Position:

For and on behalf of ***[Potential Supplier]***

.....

Supplier Clarification Log – ITT_23948 - Project Management Professional Services Batch 3 FY21/22 & FY22/23

Version: 3 Issued: 21/05/2021

Question ID	Date Received	Question	Response	Date Answered
1	12/05/21	We note that the quality question responses outline the text limits per question eg. (Maximum 2 sides of A4, size 12 Arial font - 20%). Can you confirm is tables and figures need to be included within the 2 page limit?	<p>Tender responses must be within the maximum page limits. This includes tables and figures unless specifically detailed otherwise e.g. <i>Maximum 1 side of A4 for narrative as to why these key personnel are being selected and proposed; 1 side of A4 for organogram; 1 excel tab for resource matrix, CVs of up to five key personnel at 1 side of A4 per CV.</i></p> <p>In the above example, any additional tables and figures must be included within the maximum 1 side of A4 for narrative.</p>	13/05/21
2	14/05/21	Has the cost management tender already been published?	Yes, the cost management tender was published on 26/04/21. All suppliers on Lot 4 of CCS Framework RM3741 were contacted to ask if they would like to be added to the ITT.	17/05/21
3	17/05/21	Please could you consider the following: "We expect Covid-19 and any recurrence of Covid-19 or other similar epidemic or pandemic to have a considerable impact on a number of its projects, particularly where there could be restrictions on the movement of people impacting on service delivery. We	<p>We will not be including specific drafting to this effect within the call-off contract.</p> <p>In relation to any potential programme delay and/or additional costs, we would expect the Consultant to follow the Early Warning Notice and Compensation Event procedure within the NEC3 Professional Services Contract. We will then assess all submitted Early Warning Notices and/or Compensation Events on a case by case basis in the life of the Call Off Contract.</p>	21/05/21

		request that appropriate drafting is included in the framework/call-off agreements giving express entitlement to the Consultant in the event of Covid-19/epidemic risks, especially in relation to any potential programme delay, KPI achievement and associated costs.	<p>Please note the wording within KPI1: Delivery to Task Order programme milestones. This ensures the Consultant will be measured against programme milestones as amended via a Compensation Event.</p> <p>Please also see clause X20, and note that the Employer reserves the right to disapply the <i>incentive schedule</i> in whole or in part where the Employer considers that mitigating circumstances apply. It is highly likely that where the Consultant can demonstrate that Covid-19/epidemic impacts have affected their performance that the Employer would consider this as a mitigating circumstance.</p>	
4	17/05/21	We have reviewed the VAT clauses, please could you reconsider Clause Z28.6 as we believe we should not be prevented from raising a valid VAT invoice should we determine that we have previously raised an invoice without VAT in error?	The intention of Z28.6 is to say that DWP won't have to pay any VAT unless it has been properly invoiced. This does not mean that errors in previously submitted invoices cannot be corrected.	21/05/21
5	20/05/21	<p>Please clarify what is expected for Non-Core services 7a.1 & 7a.2. Can you confirm that both requirements are for the same service but based on two different project scenarios?</p> <p>For 7.a.2, are we to</p>	We uploaded a revised APPENDIX A – Employer's Statement of Requirements and Scope – v.2. on 13/05/2021. This latest version was updated to correct an error whereby services 7a.1 and 7a.2 had the same description. The latest version of APPENDIX A mirrors the optional services 7a.1, 7a.2 and 7a.3 in Schedule 2 of the CCS Framework, and provides additional notes from a DWP context. Please see the	21/05/21

		<p>assume that the claim being adjudicated is based on 'up to 20 relevant events (i.e. CEs) relating to the claim' or 'up to 20 claims/disputes per project'?</p> <p>For 7a.2 & 7a.3, please clarify what is meant by 'cost of an average of 15 and 20 Compensation Events or financial claims per project'? There is only one fee % requested but it appears to cover two scenarios (i.e. 15 & 20)</p>	<p>relevant CCS Framework document here: https://assets.crowncommercial.gov.uk/wp-content/uploads/RM3741%20Schedule%20of%20services%20a%20v%204.xlsx</p> <p>To confirm, the wording is in the row below.</p> <p>Under the initial Framework pricing guidance published by CCS here, "Core Service Disciplines which will be priced at Call Off stage, if required, are described in Annex A – Schedule of Services (Attachment 9a) and highlighted in red text for each Core Service Discipline. This applies to each Lot for which Potential Providers are submitting a Tender." This applies to the services above, which are highlighted in red text in Schedule 2.</p> <p>You can base your fee on the average of 15 and 20 Compensation Events or financial claims per project i.e. 17.5.</p>	
7a.1	In collaboration with the other suppliers, assess any compensation events/ financial claims/ applications for extension of the completion date and the effects on the programme of any proposed variations, and monitor the cost and programme effects of any variations for which instructions are issued to the Contractor.	The Consultant is requested to provide a percentage fee for this service within the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on assessing and monitoring the cost of an average of 15 and 20 Compensation Events or financial claims per project, regardless of procurement route or value. Please note that this requirement is subject to change. This fee will only be used if required.		
7a.2	Assist the Contract Administrator with all activities in connection with the adjudication of disputes between the Contracting Authority and the Contractor.	The Employer is not expecting to require adjudication of disputes, however the Potential Supplier is requested to provide a percentage fee for this service within		

		the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on one dispute, across both RIBA Stages 5 and 6. Please note that this requirement is subject to change. This fee will only be used if required.
7a.3	In co-operation with the other members of the Project Team concerned, evaluate claims and make recommendations.	The Consultant is requested to provide a percentage fee for this service within the 'Non-Core Serv. Percentage Fee' tab in Appendix C - Pricing Model. This should be based on assessing and monitoring the cost of an average of 15 and 20 Compensation Events or financial claims per project, regardless of procurement route or value. Please note that this requirement is subject to change. This fee will only be used if required.

Assumption Clarifications

Element of the service	Clarification
Completion of RIBA Stage 7	Subject to taking part in post-project reviews, post-project monitoring and supporting post-completion defect rectification, all of which may require support up until the defects date, the Employer considers that RIBA Stage 7 will be completed when the O&M Manuals, which have been approved by the Employer, are uploaded and all outstanding actions from the previous RIBA stages have been satisfactorily completed
'3.Non-Core Serv. Percentage Fee' Tab	<p>The Employer reserves the right to use tendered day rates to fulfil any of the non-core and optional service requirements for which a percentage fee has been tendered during the life of the Call Off Contract when project scopes are confirmed and task orders are issued.</p> <p>Tendered day rates may be used to calculate fixed price sums for these activities in relation to each project. This will be carried out during the life of the Call Off Contract when project scopes are confirmed and task orders are issued, based on the Potential Supplier's reasonable estimate for the amount of time required for the relevant activity, subject to the agreement of the Employer.</p>