

"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
"Staffing Information"	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format: (a) their ages, dates of commencement of employment or engagement, gender and place of work;
	(b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
	(c) the identity of the employer or relevant contracting Party;
	(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
	(e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
	(f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
	(g) any outstanding or potential contractual, statutory or other liabilities in respect of such

	individuals (including in respect of personal injury claims);
	(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
	(i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
	(j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;
"Supplier's Final Supplier Personnel List"	a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;
"Supplier's Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Term"	the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;
"Transferring Buyer Employees"	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.

2. INTERPRETATION

- 2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its

Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

- 2.2 The provisions of Paragraphs 2.1 and 2.6 of Part A, Paragraph 3.1 of Part B, Paragraphs 1.5, 1.7 and 1.9 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together "Third Party Provisions") confer benefits on third parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.
- 2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Order Contract has no right under the CRTPA to enforce any term of this Order Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 2.5 Any amendments or modifications to this Order Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

3. Which parts of this Schedule apply

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

- **Part C (No Staff Transfer on the Start Date)**
- **Part E (Staff Transfer on Exit)**

Part C: No Staff Transfer on the Start Date

1. What happens if there is a staff transfer

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 If any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, notify the Former Supplier in writing; and
 - 1.2.2 the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Supplier or the Subcontractor (as appropriate) or take such other reasonable steps as the Buyer or Former Supplier (as the case may be) it considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Buyer and/or the Former Supplier), the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the 15 Working Day period referred to 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 Supplier may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 1.5 Subject to the Supplier and/or the relevant Subcontractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.8 the Buyer shall:
 - 1.5.1 indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the

Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and

- 1.5.2 procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.6 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.7 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.8 The indemnities in Paragraph 1.5:
 - 1.8.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
 - (b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
 - 1.8.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any

Subcontractor to the Buyer and, if applicable, Former Supplier within 6 months of the Start Date.

- 1.9 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

2. Limits on the Former Supplier's obligations

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

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer 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 the relevant Contract;
 - 1.1.3 the date which is 12 Months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),
- it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer.
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

- 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Staff (including pensions and any payments connected with the termination of employment);
- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier 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 Supplier's Provisional Supplier 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);
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;

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

- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer such information as the Buyer may reasonably require relating to the manner in which the Services are organised, which shall include:

- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.

- 1.7 The Supplier shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer

Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier 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. Staff Transfer when the contract ends

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

Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.

- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;

2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring on or before the Service Transfer Date of:

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

(b) **any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;**

2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor 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 Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and**
- (b) **in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;**

2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier 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 Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor 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 Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
 - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Supplier's Final Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing; and
 - 2.5.2 the Supplier may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor.
- 2.6 If such offer of is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, Buyer shall procure that the Replacement Supplier shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release the person from his/her employment or alleged employment;
- 2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer 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 Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor (as appropriate) that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person;
- 2.8 Subject to the Replacement Supplier's and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 and in accordance with all applicable proper employment procedures set out in applicable Law and subject to Paragraph 2.9 below, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees pursuant to the provisions of Paragraph 2.7 provided

that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

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

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

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Subcontractor to the Supplier within 6 months of the Service Transfer Date..

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee. .

2.11 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

- (b) the Supplier and/or any Subcontractor; and**
- (c) the Replacement Supplier and/or the Replacement Subcontractor.**

- 2.12 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13 Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
 - 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or**
 - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;**
 - 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

- 2.13.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service 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 Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier 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 Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and**
- (b) **in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;**

2.13.7 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List 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 Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

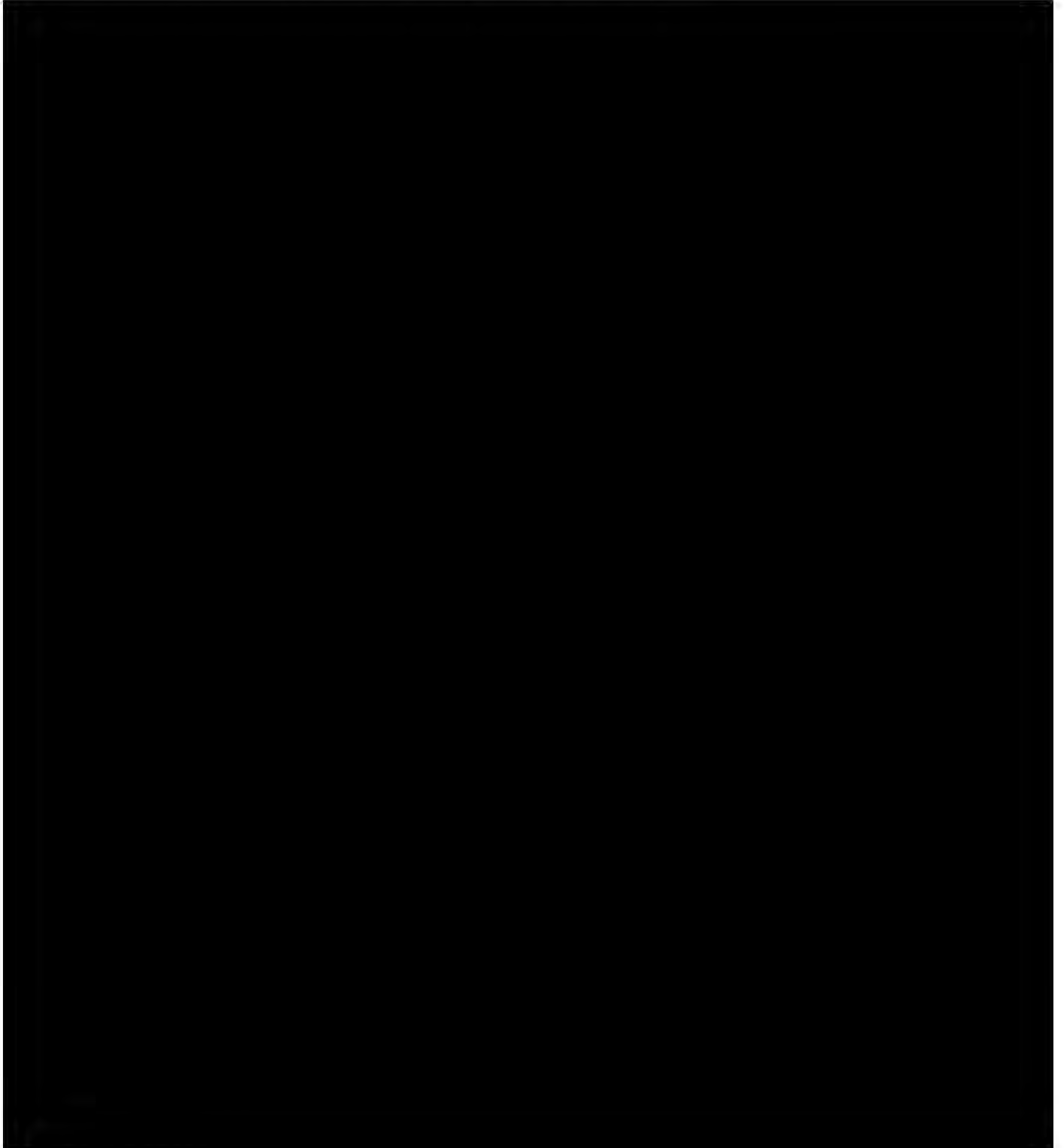
2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

Order Schedule 4 (Order Tender)

Order Schedule 5 (Pricing Details)

Order Schedule 5 (Pricing Details)

The total call-off contract value shall not exceed £29,972.00 excluding VAT.



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Order Schedule 7 (Key Supplier Staff)

1. The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
2. The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
3. The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
4. The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - 4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
5. The Supplier shall:
 - 5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least [TBC] Months’ notice;
 - 5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and

Order Schedule 7 (Key Supplier Staff)

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- 5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.
- 6. The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles

Key Role	Key Staff	Contact Details
N/A		

Order Schedule 8 (Business Continuity and Disaster Recovery)

1. BCDR PLAN

- 1.1 At the Supplier's request, the Customer shall provide the Supplier with a copy of its Business Continuity & Disaster Recovery ("BCDR") Plan.
- 1.2 The Supplier shall develop a BCDR Plan and ensure that it is linked and integrated with the Buyer's BCDR Plan and the Supplier shall review and amend its BCDR Plan on a regular basis and as soon as is reasonably practicable on receipt of an amended Buyer BCDR Plan from the Buyer.
- 1.3 The Supplier shall ensure that its Sub-Contractor's BCDR Plans are integrated with the Supplier's BCDR Plan.
- 1.4 If there is a Disaster, the Parties shall, where applicable, implement their respective BCDR Plans and use all reasonable endeavours to re-establish their capacity to fully perform their obligations under this Order Contract. A Disaster will only relieve a Party of its obligations to the extent it constitutes a Force Majeure Event in accordance with Clause **Error! Reference source not found.** (Circumstances Beyond Your Control).

Order Schedule 9 (Security)

Part A: Short Form Security Requirements

1. Definitions

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

"Breach of Security"

the occurrence of:

- a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2;

"Security Management Plan"

the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time;

2. Complying with security requirements and updates to them

- 2.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
- 2.2 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer as part of its Order Procedure it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

- 2.3 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.4 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.5 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

3. Security Standards

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
 - 3.2.1 is in accordance with the Law and this Contract;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
 - 3.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. Security Management Plan

4.1 Introduction

- 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

4.2 Content of the Security Management Plan

4.2.1 The Security Management Plan shall:

- (a) comply with the principles of security set out in Paragraph **Error! Reference source not found.** and any other provisions of this Contract relevant to security;
- (b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 Development of the Security Management Plan

- ### 4.3.1
- Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date

Security Management Plan which will be based on the draft Security Management Plan.

- 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

4.4 Amendment of the Security Management Plan

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
- (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Deliverables and/or associated processes;
 - (c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
 - (d) any new perceived or changed security threats; and
 - (e) any reasonable change in requirements requested by the Buyer.
- 4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:
- (a) suggested improvements to the effectiveness of the Security Management Plan;
 - (b) updates to the risk assessments; and

- (c) suggested improvements in measuring the effectiveness of controls.

4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

5. Security breach

5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:

5.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
- (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
- (c) prevent an equivalent breach in the future exploiting the same cause failure; and
- (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Order Schedule 13 (Implementation Plan and Testing)

Part A – Implementation Plan

1. Agreeing the Implementation Plan

- 1.1 The Supplier's tendered draft Implementation Plan is at Annex 1 to this Part A of Order Schedule 13. The Supplier will provide an updated, fully developed draft for Approval within 20 days of the Order Contract Start Date.
- 1.2 The updated draft must contain enough detail for effective management of Order Contract implementation.
- 1.3 The Buyer shall not unreasonably withhold Approval of the updated draft provided that the Supplier shall incorporate the Buyer's reasonable requirements in it.

2. Following the Implementation Plan

- 2.1 The Supplier shall perform its obligations in respect of Delivery and, where relevant, Testing of the Deliverables in accordance with the Approved Implementation Plan.
- 2.2 Changes to any Milestones, Milestone Dates, Milestone Payments or Delay Payments shall only be made via the Variation Procedure.
- 2.3 Where the Supplier is responsible for the failure to achieve a Milestone by the date specified in the Approved Implementation Plan this shall constitute a material Default.

3. Delays

- 3.1 If the Supplier becomes aware that there is, or is likely to be, a Delay it shall;
 - Notify the Buyer in writing within 2 Working Days of becoming aware, explaining the likely impact of the Delay
 - Use all reasonable endeavours to mitigate the effects of the Delay, including complying with the Buyer's reasonable instructions

Order Schedule 13: (Implementation Plan and Testing)
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Annex 1 Draft Implementation Plan

Implementation/project plan to be discussed during project kick of meeting

Order Schedule 15 (Order Contract Management)

1. Definitions

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

"Operational Board"	the board established in accordance with paragraph 5.1 of this Schedule;
"Project Manager"	the manager appointed in accordance with paragraph 2.1 of this Schedule;

2. Project Management

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. Role of the Supplier Contract Manager

- 3.1 The Supplier's Contract Manager shall be:
- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
 - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be the delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
 - 3.1.3 able to cancel any delegation and recommence the position himself; and
 - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

Order Schedule 15 (Order Contract Management)

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- 3.3 Receipt of communication from the Supplier's Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

4. Contract Risk Management

- 4.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Order Contract.
- 4.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
- 4.2.1 the identification and management of risks;
 - 4.2.2 the identification and management of issues; and
 - 4.2.3 monitoring and controlling project plans.
- 4.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 4.4 The Supplier will maintain a risk register of the risks relating to the Order Contract which the Buyer and the Supplier have identified.

5. ROLE OF THE OPERATIONAL BOARD

- 5.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 5.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 5.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 5.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 5.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

Annex: Contract Boards

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

- PA Consulting Services Ltd
- UK Research and Innovation (UKRI)

Locations and frequencies to be agreed during project kick-off meeting

Order Schedule 20 (Order Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Order Contract

1. Introduction

BEIS is the Lead Government Department (LGD) responsible for overall effectiveness of the safety and security regime for the UK's chemical industry, and within this role we work with partners across central government, industry, and regulators to provide high standards of security at the designated Critical National Infrastructure (CNI) chemical sites in the UK.

The chemicals sector was designated as a national infrastructure sector in 2015 and 11 sites, operated by 10 companies, were identified as CNI in 2016. More recently a further 6 sites have been identified as CNI, making a current total of 17 sites, operated by 15 companies.

The BEIS Chemicals CNI department has a working Chemicals Emergencies Response Plan (CERP) which covers incident response from a loss of containment of toxic gas only as defined in its CNI designation.

More recently an incident response Annex has been designed, although it has yet to be fully tested. The CERP and the Cyber Incident Response Annex require to be continually and periodically tested to ensure it is fit for purpose.

2. Aims & Objectives

The recently revised joint HMG and chemicals industry CNI protective security strategy provides an approach to achieve minimum security standards in physical personnel and cyber security, hereby named 'protective security', by 2024 in collaboration with stakeholders and industry.

The security improvement journey also includes an emergency exercising programme where the intention is to undertake at least 2 small exercises (which may include (although not limited to)) tabletops (TTX) and discussion exercises (DisX) of different intensities, scenarios and testing outcomes per year with the aim of doing a 'blended' protective security breach Command Post Exercise (CPX) by Autumn 2022.

Where appropriate, these exercises should include external agencies, and incidents of a major nature should be reported to BEIS as agreed in the Reporting Framework for Chemical Incidents developed with the Chemicals Sector Resilience Liaison Group (CSRLG).

The LGD is expected to periodically test all elements of the response plans which may incorporate testing communication flows between OGDs and COBR in a COBR led incident combining a blended attack of physical and personnel and cyber as well as testing industry's communication protocols both using technical and communication exercises.

The aim is to undertake a Tier 1 (X Gov't) COBR-led exercise simulating a 'blended attack leading to a large loss of containment of toxic gas which is likely to include a simulated SAGE panel and MET office intelligence countermeasures as well as a

HSE/NCSC/CPNI/OGD/BEIS interface.

This is not expected to occur until late 2022, but a strategy for exercising which builds up to this is required and will be the main output of this project.

Interim steps are expected to include (although not limited to) table-top exercises using a range of different cyber/blended attack scenarios with varying severities to test communication flows between operators and Government as well as between Government departments, to test current emergency response protocols to and determine whether improvements are required.

3. Objectives

1. 'Rapid' desk-study review of key essential documents to build context and chemical CNI BAU.
2. Undertake a 'criticalities'/NCSC incident management mapping exercise
3. Develop 7-10 scenarios 'story boarding of different categories, which x2 should be a 'blended' protective security attack.
4. Develop exercising options for simulating different incident response scenarios. CNI Chemicals companies should be encouraged to participate, and specific simulated exercises can be focussed on them.
5. Develop an exercising programme up to 2025.
6. Identify next steps and further work needed.

4. Background to the Requirement

The chemicals security and resilience team has developed and routinely maintained an operational incident response plan for the Chemicals CNIs. The protocols for emergency and incident response cover the Central Government response to any significant incident at a chemicals CNI location, although the main focal point for the Chemicals CNI incident response plan is to ensure a significant loss of containment of Toxic Liquified Gas (TLG) has proportionate protocols to manage the incident up to the post incident recovery phase.

Even events which does not result in a loss of containment may be serious enough to for ERCO to monitor and thereby generate ministerial interest and non-Cobr lead incident management needs to be tested.

5. Scope

1. **Desk study review:** Undertake a desk review of all available information and reports to produce a blueprint strategy for incident response exercising in different NCSC/Cabinet office classifications. This also includes the review of the CERP to identify where improvements are needed.
2. Undertake a mapping exercise between the Cabinet Office/NCSC/CPNI criticalities scale and the NCSCs National Cyber Incident Categorisation matrix.
3. **Scenario 'story boarding':** Develop 7-10 exercising scenarios which x2 (C1 NCSC classification and CAT 4/5 criticalities scale) will incorporate a blended attack from hostile state actors with the remaining 5-8 scenarios (C2-C4 classification) consisting of malicious cyber-attacks on OT safety systems and OT/IT interface. The scenarios should be realistic and accurate and based on recent attacks.
4. Develop exercising options which includes (although not limited to) technical exercises, non-COBR led incident, testing communication flows between site and emergency responders, COBR led blended attack, BEIS (included interested OGDs), tabletop exercises etc. CNI chemical companies should be encouraged to participate, and specific exercising options can be based on chemical CNIs.
5. Develop an exercising programme up to 2025 which should include at least two small exercises per year and a 'blueprint' for a 'blended' protective security COBR led response in late 2022.
6. **Next steps:** Provide a gap analysis to identify information deficiencies, utilise best practise and advise on any further work for future projects.

6. Requirement

1. **Desk study review:** Undertake a desk review of all available information and reports to produce a blueprint strategy for incident response exercising in different NCSC/Cabinet office classifications. This also includes the review of the CERP to identify where improvements are needed. Documents may include (although not limited to: CERP, NCSC CAF, risk categorisation matrix, OG86, CPNI best practise for physical and personnel security and learning from previous exercises such as the recent Downstream Oil programme), criticality guidelines, 2021 chemicals security and resilience strategy and any relevant best practice the expert supplier recommends.
2. Undertake a mapping exercise between the Cabinet Office/NCSC/CPNI criticalities scale and the NCSCs National Cyber Incident Categorisation matrix. This ensures that the cyber implications can be mapped across the criticality scales and vice versa.
3. **Scenario 'story boarding':** Develop 7-10 exercising scenarios which x2 (C1 NCSC classification and CAT 4/5 criticalities scale) will incorporate a blended attack from hostile state actors with the remaining 5-8 scenarios (C2-C4 classification) consisting of malicious cyber-attacks on OT safety systems and OT/IT interface. The scenarios should be realistic and accurate and based on previous attacks over the last 12-18 months. BEIS does have some previous examples which we can share, **however the newly designed scenarios must be realistic and provides a resemblance of recent cyber-attacks in the CNI sectors such as solar winds, shamoon etc.**
4. Develop exercising options which includes (although not limited to) technical exercises, non-COBR led incident, testing communication flows between site and emergency responders, COBR led blended attack, HMG tabletop exercises etc. BEIS expects that the exercising options should be fully quantified in terms, resources, budget, planning and facilitation and exercising options should be quantified in terms of time, duration, participants, facilitation, and lessons learned.
5. Develop an exercising programme up to 2025 which should include at least two small exercises per year and a 'blueprint' for a 'blended' protective security cobra led response in late 2022. This should complement the "BEIS 2021 chemicals security and resilience strategy" as the expectation is to fully test CERP in a COBR led incident response. The COBR led response which include (although not limited to): arrangement of a SAGE panel, the use of MET office to get real time data to toxic cloud dispersion, NCSC, CPNI, HSE and relevant OGDs. The supplier is invited to be creative but also balance the attack sophistication with realism and accuracy using subject matter expertise and threat and hostile state actor knowledge.
6. Provide the provision of further work needed for subsequent projects and contacts.

7. Timetable

Duration:

- Up to the 21st July 2022

Deliverables:

- Plan of work report: 29th March 2022
- Draft Report: 13th May 2022
- Final report: 30th June 2022

Payment Milestone:

- 90% of total project costs invoiced on 31st March 2022, subject to quality of plan of work report
- 10% of total project costs invoiced on 21st July 2022

Outputs:

- Report drafted in Microsoft word
- Gantt charts
- Spreadsheets (to collect and/or quantify data)



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Core Terms - DPS

1. Definitions used in the contract

1.1 Interpret this Contract using Joint Schedule 1 (Definitions).

2. How the contract works

2.1 The Supplier is eligible for the award of Order Contracts during the DPS Contract Period.

2.2 CCS doesn't guarantee the Supplier any exclusivity, quantity or value of work under the DPS Contract.

2.3 CCS has paid one penny to the Supplier legally to form the DPS Contract. The Supplier acknowledges this payment.

2.4 If the Buyer decides to buy Deliverables under the DPS Contract it must use DPS Schedule 7 (Order Procedure) and must state its requirements using DPS Schedule 6 (Order Form Template and Order Schedules). If allowed by the Regulations, the Buyer can:

- make changes to DPS Schedule 6 (Order Form Template and Order Schedules)
- create new Order Schedules
- exclude optional template Order Schedules
- use Special Terms in the Order Form to add or change terms

2.5 Each Order Contract:

- is a separate Contract from the DPS Contract
- is between a Supplier and a Buyer
- includes Core Terms, Schedules and any other changes or items in the completed Order Form
- survives the termination of the DPS Contract

2.6 Where the Supplier is approached by an eligible buyer requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this DPS Contract before accepting their order. The Supplier will promptly notify CCS if the eligible buyer won't use this DPS Contract.

2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.

2.8 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

- verify the accuracy of the Due Diligence Information
- properly perform its own adequate checks

2.9 CCS and the Buyer won't be liable for errors, omissions or misrepresentation of any information.

2.10 The Supplier warrants and represents that all statements made and documents submitted as part of

the procurement of Deliverables are and remain true and accurate.

2.11 An Order Contract can only be created using the electronic procedures described in the OJEU Notice as required by the Regulations.

2.12 A Supplier can only receive Orders under the DPS Contract while it meets the basic access requirements for the DPS stated in the OJEU Notice. CCS can audit whether a Supplier meets the basic access requirements at any point during the DPS Contract Period.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the DPS Application and, in relation to an Order Contract, the Order Tender (if there is one)
- to a professional standard
- using reasonable skill and care
- using Good Industry Practice
- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract
- on the dates agreed
- that comply with Law

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

3.2 Goods clauses

3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.

3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.

Core Terms

3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.

3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.

3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.

3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

3.3 Services clauses

3.3.1 Late Delivery of the Services will be a Default of an Order Contract.

3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

4 Pricing and payments

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.

Core Terms

4.2 CCS must invoice the Supplier for the Management Levy and the Supplier must pay it using the process in DPS Schedule 5 (Management Levy and Information).

4.3 All Charges and the Management Levy:

- exclude VAT, which is payable on provision of a valid VAT invoice
- include all costs connected with the Supply of Deliverables

4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.

4.5 A Supplier invoice is only valid if it:

- includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer
- includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any)
- doesn't include any Management Levy (the Supplier must not charge the Buyer in any way for the Management Levy)

4.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, CCS or the Buyer can publish the details of the late payment or non-payment.

4.8 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then CCS or the Buyer may either:

- require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items
- enter into a direct agreement with the Subcontractor or third party for the relevant item

4.9 If CCS or the Buyer uses Clause 4.8 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

4.10 CCS and the Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:

- the relevant item being made available to the Supplier if required to provide the Deliverables
- any reduction in the Charges excluding any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges

4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do

so by a court.

5. The buyer's obligations to the supplier

5.1 If Supplier Non-Performance arises from an Authority Cause:

- neither CCS or the Buyer can terminate a Contract under Clause 10.4.1
- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract
- the Supplier is entitled to additional time needed to make the Delivery
- the Supplier cannot suspend the ongoing supply of Deliverables

5.2 Clause 5.1 only applies if the Supplier:

- gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware
- demonstrates that the Supplier Non-Performance only happened because of the Authority Cause
- mitigated the impact of the Authority Cause

6. Record keeping and reporting

6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for 7 years after the End Date.

6.3 The Supplier must allow any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit.

6.4 The Supplier must provide information to the Auditor and reasonable co-operation at their request.

6.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

- tell the Relevant Authority and give reasons
- propose corrective action
- provide a deadline for completing the corrective action

6.6 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:

- the methodology of the review
- the sampling techniques applied
- details of any issues

- any remedial action taken

6.7 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

7. Supplier staff

7.1 The Supplier Staff involved in the performance of each Contract must:

- be appropriately trained and qualified
- be vetted using Good Industry Practice and the Security Policy
- comply with all conduct requirements when on the Buyer's Premises

7.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.

7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8. Rights and protection

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform each Contract
- each Contract is executed by its authorised representative
- it is a legally valid and existing organisation incorporated in the place it was formed
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract
- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract
- it is not impacted by an Insolvency Event
- it will comply with each Order Contract

8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies both CCS and every Buyer against each of the following:

- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract
- non-payment by the Supplier of any tax or National Insurance

8.4 All claims indemnified under this Contract must use Clause 26.

8.5 CCS or a Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.

8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify CCS and every Buyer.

8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

9. Intellectual Property Rights (IPRs)

9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:

- receive and use the Deliverables
- make use of the deliverables provided by a Replacement Supplier

9.2 Any New IPR created under an Order Contract is owned by the Buyer. The Buyer gives the Supplier i) a licence to use any Buyer Existing IPRs and New IPR during the Order Contract Period for the purpose of fulfilling its obligations under the Order Contract, and ii) a licence to use the New IPRs (excluding any Information which is the Buyers Confidential information or which is subject to the Data Protection Legislation) after the Order Contract period on the terms set out in the Open Government Licence. "

9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.

9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:

- obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR

- replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables

10. Ending the contract

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

10.3 Ending the contract without a reason

10.3.1 CCS has the right to terminate the DPS Contract at any time without reason or liability by giving the Supplier at least 30 days' notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.3.2 Each Buyer has the right to terminate their Order Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.4 When CCS or the buyer can end a contract

10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- there's a Supplier Insolvency Event
- there's a Contract Default that is not corrected in line with an accepted Rectification Plan
- the Relevant Authority rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- there's any material default of the Contract
- there's a Default of Clauses 2.10, 9, 14, 15, 27, 32 or DPS Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract
- there's a consistent repeated failure to meet the Performance Indicators in DPS Schedule 4 (DPS Management)
- there's a Change of Control of the Supplier which isn't pre-approved by the Relevant Authority in writing
- there's a Variation to a Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations
- the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them

10.4.2 CCS may terminate the DPS Contract if a Buyer terminates an Order Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If there is a Default, the Relevant Authority can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.4.4 When the Relevant Authority receives a requested Rectification Plan it can either:

- reject the Rectification Plan or revised Rectification Plan, giving reasons
- accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties

10.4.5 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:

- must give reasonable grounds for its decision
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days

10.4.6 If any of the events in 73 (1) (a) to (c) of the Regulations happen, the Relevant Authority has the right to immediately terminate the Contract and Clause 10.5.2 to 10.5.7 applies.

10.5 What happens if the contract ends

Where the Relevant Authority terminates a Contract under Clause 10.4.1 all of the following apply:

10.5.1 The Supplier is responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.5.2 The Buyer's payment obligations under the terminated Contract stop immediately.

10.5.3 Accumulated rights of the Parties are not affected.

10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.

10.5.5 The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.

10.5.6 The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.5.7 The following Clauses survive the termination of each Contract: 3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

10.6 When the supplier can end the contract

10.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate an Order Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

10.6.2 If a Supplier terminates an Order Contract under Clause 10.6.1:

- the Buyer must promptly pay all outstanding Charges incurred to the Supplier
- the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the

Core Terms

Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated

- Clauses 10.5.4 to 10.5.7 apply

10.7 When subcontracts can be ended

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved by the Relevant Authority in writing
- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4
- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority

10.8 Partially ending and suspending the contract

10.8.1 Where CCS has the right to terminate the DPS Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Order Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Order Contracts that have already been signed.

10.8.2 Where CCS has the right to terminate a DPS Contract it is entitled to terminate all or part of it.

10.8.3 Where the Buyer has the right to terminate an Order Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.8.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.8.5 The Parties must agree any necessary Variation required by Clause 10.8 using the Variation Procedure, but the Supplier may not either:

- reject the Variation
- increase the Charges, except where the right to partial termination is under Clause 10.3

10.8.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.8.

11. How much you can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under this DPS Contract (whether in tort, contract or otherwise) is no more than £100,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Order Contract (whether in tort,

Core Terms

contract or otherwise) is no more than the greater of £1 million or 150% of the Estimated Yearly Charges unless specified in the Order Form

11.3 No Party is liable to the other for:

- any indirect Losses
- Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect)

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors
- its liability for bribery or fraud or fraudulent misrepresentation by it or its employees
- any liability that cannot be excluded or limited by Law
- its obligation to pay the required Management Levy

11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3, 9.5, 12.2 or 14.8 or Order Schedule 2 (Staff Transfer) of a Contract.

11.6 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.

11.7 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:

- Deductions
- any items specified in Clause 11.5

11.8 If more than one Supplier is party to a Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

12. Obeying the law

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).

12.2 The Supplier indemnifies CCS and every Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with a Contract.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

13. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance

Requirements) and any Additional Insurances in the Order Form.

14. Data protection

14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).

14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.

14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:

- tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier
- restore the Government Data itself or using a third party

14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.7 unless CCS or the Buyer is at fault.

14.8 The Supplier:

- must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading
- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice
- securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it
- Indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

14.9. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the

spread of, and minimise the impact of Malicious Software.

14.10 If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.

14.11. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause shall be borne by the Parties as follows:

14.11.1 by the Supplier, where the Malicious Software originates from the software provided by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Relevant Authority when provided to the Supplier; and

14.11.2. by the Relevant Authority, if the Malicious Software originates from the software provided by the Relevant Authority or the Government Data (whilst the Government Data was under the control of the Relevant Authority).”The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.

15. What you must keep confidential

15.1 Each Party must:

- keep all Confidential Information it receives confidential and secure
- not disclose, use or exploit the Disclosing Party’s Confidential Information without the Disclosing Party’s prior written consent, except for the purposes anticipated under the Contract
- immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure
- if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party
- if the information was given to it by a third party without obligation of confidentiality
- if the information was in the public domain at the time of the disclosure
- if the information was independently developed without access to the Disclosing Party’s Confidential Information
- to its auditors or for the purposes of regulatory requirements
- on a confidential basis, to its professional advisers on a need-to-know basis
- to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010

15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 CCS or the Buyer may disclose Confidential Information in any of the following cases:

- on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer
- on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to
- if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions
- where requested by Parliament
- under Clauses 4.7 and 16

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.

16.2 Within the required timescales the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:

- publish the Transparency Information
- comply with any Freedom of Information Act (FOIA) request
- comply with any Environmental Information Regulations (EIR) request

16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision, which does not need to be reasonable.

17. Invalid parts of the contract

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond your control

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

- provides a Force Majeure Notice to the other Party
- uses all reasonable measures practical to reduce the impact of the Force Majeure Event

20.2 Either party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under Clause 20.2:

- each party must cover its own Losses
- Clause 10.5.2 to 10.5.7 applies

21. Relationships created by the contract

No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

22. Giving up contract rights

A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

23. Transferring responsibilities

23.1 The Supplier can not assign a Contract without the Relevant Authority's written consent.

23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Relevant Authority.

23.3 When CCS or the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that CCS or the Buyer specifies.

23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If CCS or the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- their name
- the scope of their appointment
- the duration of their appointment

24. Changing the contract

24.1 Either Party can request a Variation to a Contract which is only effective if agreed in writing and signed by both Parties.

24.2 The Supplier must provide an Impact Assessment either:

- with the Variation Form, where the Supplier requests the Variation
- within the time limits included in a Variation Form requested by CCS or the Buyer

24.3 If the Variation to a Contract cannot be agreed or resolved by the Parties, CCS or the Buyer can either:

- agree that the Contract continues without the Variation
- terminate the affected Contract, unless in the case of an Order Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them
- refer the Dispute to be resolved using Clause 34 (Resolving Disputes)

24.4 CCS and the Buyer are not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the DPS Pricing or the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give CCS and the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, DPS Pricing or a Contract and provide evidence:

- that the Supplier has kept costs as low as possible, including in Subcontractor costs
- of how it has affected the Supplier's costs

24.7 Any change in the DPS Pricing or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

25. How to communicate about the contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address indicated on the Platform.

25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.

25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Dealing with claims

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim
- give the Indemnifier reasonable assistance with the claim if requested

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money
- the amount the Indemnifier paid the Beneficiary for the Claim

27. Preventing fraud, bribery and corruption

27.1 The Supplier must not during any Contract Period:

- commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2)
- do or allow anything which would cause CCS or the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them

27.2 The Supplier must during the Contract Period:

- create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same
- keep full records to show it has complied with its obligations under Clause 27 and give copies to CCS or the Buyer on request
- if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures

27.3 The Supplier must immediately notify CCS and the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- been investigated or prosecuted for an alleged Prohibited Act
- been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency
- received a request or demand for any undue financial or other advantage of any kind related to a Contract
- suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act

27.4 If the Supplier notifies CCS or the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

27.5 In any notice the Supplier gives under Clause 27.4 it must specify the:

- Prohibited Act
- identity of the Party who it thinks has committed the Prohibited Act
- action it has decided to take

28. Equality, diversity and human rights

28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the

Contract, including:

- protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise
- any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law

28.2 The Supplier must take all necessary steps, and inform CCS or the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

29. Health and safety

29.1 The Supplier must perform its obligations meeting the requirements of:

- all applicable Law regarding health and safety
- the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier

29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of a Contract.

30. Environment

30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

31. Tax

31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Buyer cannot terminate a Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 Where the Charges payable under a Contract with the Buyer are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify CCS and the Buyer of it within 5 Working Days including:

- the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant
- other information relating to the Occasion of Tax Non-Compliance that CCS and the Buyer may reasonably need

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance

contributions in the UK relating to payment received under an Order Contract, the Supplier must both:

- comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions
- indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding
- the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer
- the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements
- the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management

32. Conflict of interest

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to CCS and each Buyer if a Conflict of Interest happens or is expected to happen.

32.3 CCS and each Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

33. Reporting a breach of the contract

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to CCS or the Buyer any actual or suspected breach of:

- Law
- Clause 12.1
- Clauses 27 to 32

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach

listed in Clause 33.1 to the Buyer or a Prescribed Person.

34. Resolving disputes

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- determine the Dispute
- grant interim remedies
- grant any other provisional or protective relief

34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

35. Which law applies

This Contract and any issues arising out of, or connected to it, are governed by English law.

36. Buyer Premises

36.1 Licence to occupy Buyer Premises

36.1.1. Any Buyer Premises shall be made available to the Supplier on a non-exclusive licence basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under this Order Contract. The Supplier shall have the use of such Buyer Premises as licensee and shall vacate the same immediately upon completion, termination, expiry or abandonment of this Order Contract.

36.1.2. The Supplier shall limit access to the Buyer Premises to such Supplier Staff as is necessary to enable it to perform its obligations under this Order Contract and the Supplier shall co-operate (and ensure that