

Call-Off Schedule 4 (Call-Off Tender)

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Call-Off Schedule 4 (Call Off Tender)

5.1 Ability to deploy a team upon demand

- Please detail your organisation’s capability to mobilise personnel at a range of levels at short notice and demonstrate flexibility and resilience under pressure.
- Please detail how
 - you will work with the key contract stakeholders to identify, analyse and manage resources to deliver the work packages required under this contract;
 - continuity of service provision will be maintained

Responses must not exceed 750 words and please use font: Arial 10



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[REDACTED]	
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5.2 Experience, Capability & Expertise

- The Potential Provider should clearly set out the structure of the team they expect to deploy to meet the specification and requirements. This should include a description of lawyers, and how their necessary skills, expertise, will ensure the successful delivery of the contract. Please include no more than 6 CVs of the key people that will deliver the work required.
- Responses must demonstrate recent examples of past performance in the following:
Experience in end-to-end legal advice in connection with the procurement of short, medium and long term Covid 19 or equivalent preventive vaccine technologies or medicines for public consumption including, without limitation on the foregoing,
 - procurement;
 - state subsidy (including experience of arranging for the supply of third-party expert market analysis and related data),
 - contract negotiation; and
 - contract drafting

Responses must not exceed 1500 words excluding CVs. The CVs should not exceed 2 pages each
Please use font: Arial 10

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5.3 Governance Support

- Please outline your understanding of the ministerial submission process and your experience of feeding into such a process
- Please supply a specimen advice that you would propose provide to ministers in connection with the provision of a grant to an existing manufacturer which, possibly allied with a long term supply contract might be used to encourage that manufacturer to establish manufacturing facilities or develop additional capability to supply MRNA vaccines within the UK – in each case identifying the key risks and any mitigations that might be applied;

Responses must not exceed 1500 words and please use font: Arial 10

[Redacted content]

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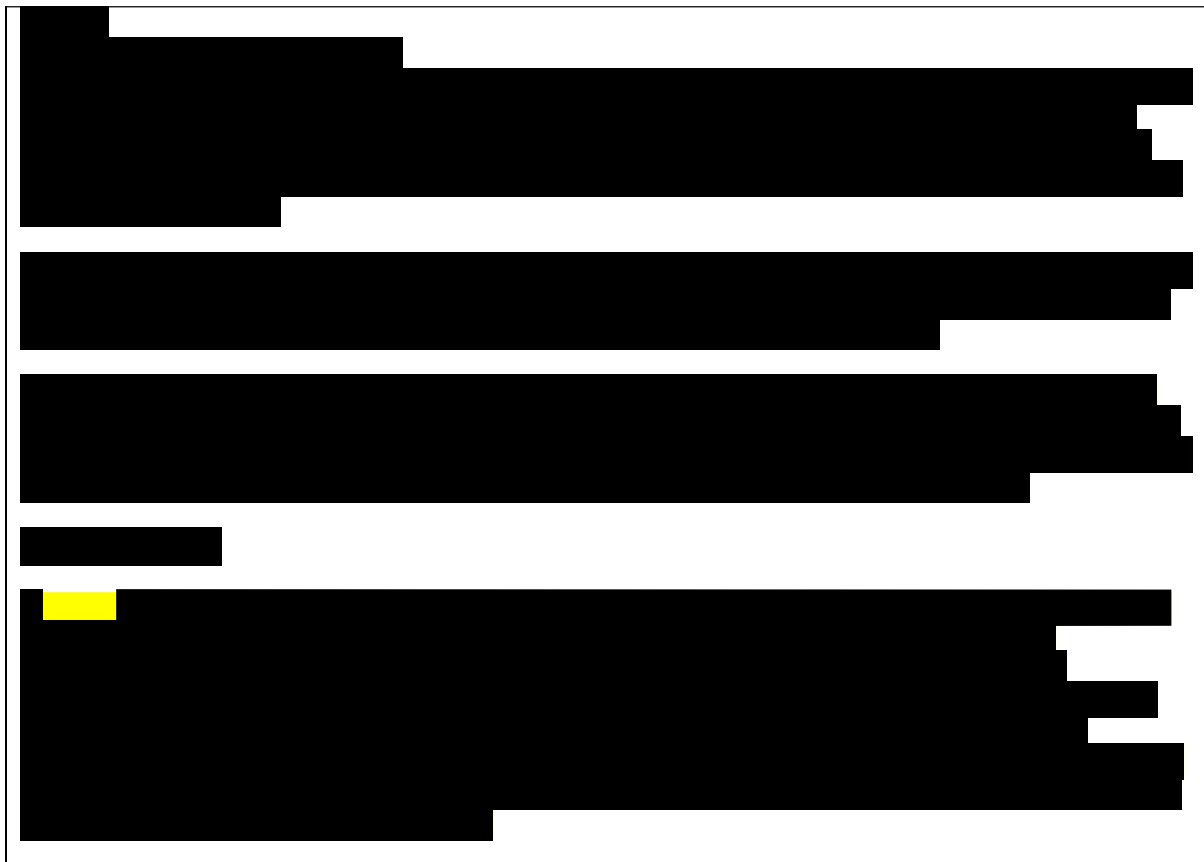
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5.4 Life Science Experience

The potential supplier should be able to demonstrate with 2 separate examples their knowledge, experience, and expertise of the life sciences industry and current contracting practices relevant to a vaccine or medicine supply contract including the current market standard allocations of risk providing guidance on their applicability to supplies procured in the current circumstances.

Responses must not exceed 1500 words and please use font: Arial 10



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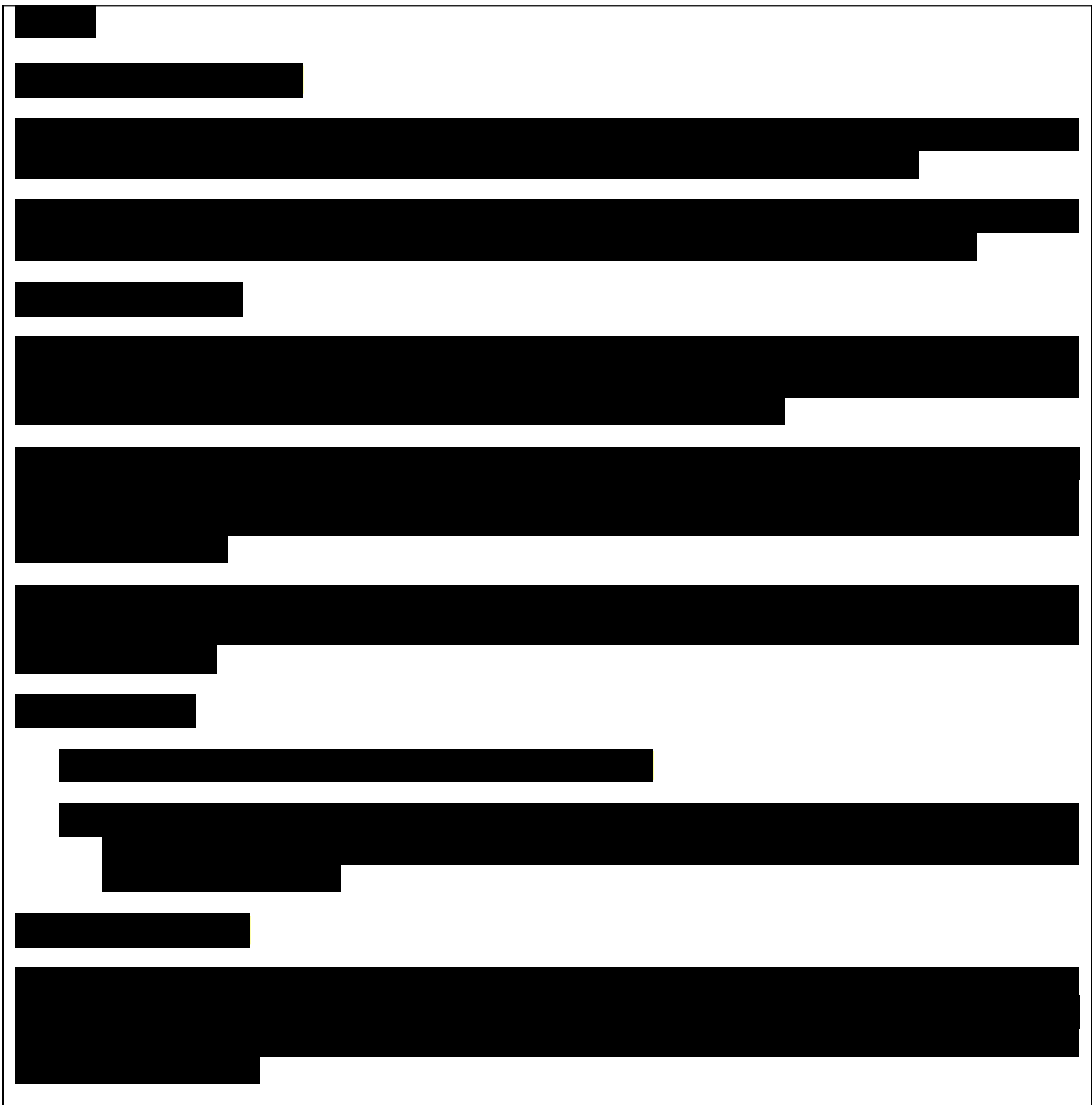


5.5 Social Value

Please detail the added value your business could offer in line with the Department's Social Value agenda.

Do note that these will form part of the service KPIs.

Responses must not exceed 1000 words and please use font: Arial 10



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Multiple lines of redacted text (blacked out) with several yellow highlighting marks.

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Call-Off Schedule 1 (Transparency Reports)

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Call-Off Schedule 1 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

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Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Contract Management Report	Content and format to be shared by Buyer at kick-off meeting. As an example, content includes but is not limited to a request for the Supplier to produce a presentation or document with information on: <ul style="list-style-type: none">• Summary of projects/statements of works• Resourcing current being used/engagement• Risk update• Project cost tracking (including timesheet) and predictions• Customer complaints/feedback• Social Value• Cost avoidance savings• Key mandatory requirements• Exit planning• KPIs tracked in accordance with Call-Off Schedule 14 (Service Levels)	Content and format to be shared by Buyer at kick-off meeting. Contract Management Report - to be presented at monthly contract management meeting	Monthly or more frequently on request from the buyer
Call-Off Contract Charges and budget management	Weekly email regarding fee updates	Weekly headroom/fee updates. Please may you submit a weekly update to [REDACTED], the contract manager and	Weekly

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		senior responsible officer showing: <ul style="list-style-type: none">• unbilled WIP• total (billed and unbilled to date)	
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Call-Off Schedule 2 (Staff Transfer)

1. Definitions

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

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

"Employee Liability" all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions;

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- f) employment claims whether in tort, contract or statute or otherwise;
- g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"Former Supplier"

a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor);

"New Fair Deal"

the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for Staff Pensions: Staff Transfer from Central Government*" issued in October 2013 including:

- (i) any amendments to that document immediately prior to the Relevant Transfer Date; and
- (ii) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;

"Old Fair Deal"

HM Treasury Guidance "*Staff Transfers from Central Government: A Fair Deal for Staff Pensions*" issued in June 1999 including the supplementary guidance "*Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues*" issued in June 2004;

"Partial Termination"

the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract);

"Relevant Transfer"

a transfer of employment to which the Employment Regulations applies;

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"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);

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	(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

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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 Call-Off Contract has no right under the CRTPA to enforce any term of this Call-Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 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 Call-Off Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

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 D (Pensions)
 - *Annex D1 (CSPS)*
 - *Annex D2 (NHSPS)*
 - *Annex D3 (LGPS)*
 - *Annex D4 (Other Schemes)*
- 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

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- 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.

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- 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 D: Pensions

1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes to this Part D:

"Actuary"		a Fellow of the Institute and Faculty of Actuaries;
"Admission Agreement"		either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement (as defined in Annex D3: LGPS), as the context requires;
"Best Direction"	Value	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
"Broadly Comparable"		(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or (b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department, and "Broad Comparability" shall be construed accordingly;
"CSPA"		the schemes as defined in Annex D1 to this Part D;
"Direction Letter/Determination"		has the meaning in Annex D2 to this Part D;

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"Fair Deal Eligible Employees" each of the CSPA Eligible Employees, the NHSPS Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D);

"Fair Deal Employees" any of:

- (a) Transferring Buyer Employees;
- (b) Transferring Former Supplier Employees;
- (c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C;
- (d) where the Supplier or a Subcontractor was the Former Supplier, the employees of the Supplier (or Subcontractor);

who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Buyer;

"Fund Actuary" a Fund Actuary as defined in Annex D3 to this Part D;

"LGPS" the scheme as defined in Annex D3 to this Part D;

"NHSPS" the schemes as defined in Annex D2 to this Part D;

(a)

(b)

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"Statutory Schemes" means the CSPS, NHSPS or LGPS.

2. Supplier obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/ Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
- 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/ Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
 - 2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a Subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer¹.

3. Supplier obligation to provide information

- 3.1 The Supplier undertakes to the Buyer:
- 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and

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- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed);
- 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of the relevant Contract.

4. Indemnities the Supplier must give

4.1 The Supplier shall indemnify and keep indemnified CCS, [NHS Pensions], the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
- 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;
- 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

Subcontractor:

- (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract; or
 - (b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of the relevant Contract; and/or
- 4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

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- 4.2 The indemnities in this Part D and its Annexes:
- 4.2.1 shall survive termination of the relevant Contract; and
 - 4.2.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Buyer and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer and/or the Supplier be referred to an independent Actuary:
- 5.1.1 who will act as an expert and not as an arbitrator;
 - 5.1.2 whose decision will be final and binding on the CCS and/or the Buyer and/or the Supplier; and
 - 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

6. Other people's rights

- 6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

7. What happens if there is a breach of this Part D

- 7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
 - 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within

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a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

8. Transferring Fair Deal Employees

8.1 Save on expiry or termination of the relevant Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment) the Supplier shall or shall procure that any relevant Sub-contractor shall:

8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);

8.1.2 consult with about, and inform those Fair Deal Eligible Employees of the pension provisions relating to that transfer; and

8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of the relevant Contract.

9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPS and/or the relevant Administering Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

10. Broadly Comparable Pension Schemes on the Relevant Transfer Date

10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal

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Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

- 10.2 Such Broadly Comparable pension scheme must be:
- 10.2.1 established by the Relevant Transfer Date²;
 - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
 - 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
 - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
 - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 10.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
 - 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
 - 10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound

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- for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer³; and
- 10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract:
- 10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with paragraph 10.3.3 but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and

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- 10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

11. Broadly Comparable Pension Scheme in Other Circumstances

- 11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2 Such Broadly Comparable pension scheme must be:
- 11.2.1 established by the date of cessation of participation in the Statutory Scheme⁴;
 - 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
 - 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);
 - 11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
 - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

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- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 11.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
 - 11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
 - 11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme⁵; and
 - 11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

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11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

12. Right of Set-off

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under the relevant Contract an amount equal to:

- 12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;
- 12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or
- 12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

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- 12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under the relevant Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

ANNEX D1:

Civil Service Pensions Schemes (CSPS)

1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"CSPS Admission Agreement"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee"	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
"CSPS Fair Deal Employee"	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
"CSPS"	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

2. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

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- 2.2 If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of paragraph 11 of Part D.

Annex D2: NHS Pension Schemes

1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Direction Letter/Determination"	an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Fair Deal Employees;
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"NHS Comparable Employees"

Broadly

each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.

"NHSPS Employees"

Eligible

any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.

"NHSPS Fair Deal Employees"

Deal

other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or

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- (b) their employment with a Former Supplier who provides access to the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter/Determination or other NHSPS "access" facility but who has never been employed directly by the Buyer, an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Fair Deal Employee;

"NHS Body"	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
"NHS Pensions"	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
"NHSPS"	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;

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- "NHS Pension Scheme Regulations"** as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
- "NHS Premature Retirement Rights"** rights to which any NHS Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
- "Pension Benefits"** any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme.

2. Membership of the NHS Pension Scheme

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.
- 2.2 Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Supplier must ensure that:

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- (a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
 - (b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Subcontractors (if any) will) Subcontractor provide any guarantee, bond or indemnity required by NHS Pensions in relation to a Direction Letter/Determination.
- 3. Continuation of early retirement rights after transfer**
- 3.1 From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.
- 4. NHS Broadly Comparable Employees**
- 4.1 The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with paragraph 5.2 below.

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5. What the buyer can do if the Supplier breaches its pension obligations

- 5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractor) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.
- 5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer to offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of paragraph 11 of Part D. Subcontractor.

6. Compensation when pension scheme access can't be provided

- 6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:
- 6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or
 - 6.1.2 a Broadly Comparable pension scheme,
- the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.
- 6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract.

7. Indemnities that a Supplier must give

- 7.1 The Supplier must indemnify and keep indemnified the CCS, the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

Annex D3:

Local Government Pension Schemes (LGPS)

Note the LGPS unlike the CSPA & NHSPA is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Buyer, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether CCS and or the Buyer can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

1. Definitions

In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"2013 Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Buyer"	in relation to the Fund [insert name] , the relevant Administering Buyer of that Fund for the purposes of the 2013 Regulations;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Buyer of that Fund;
"Fund"	[insert name], a pension fund within the LGPS;
["Initial Contribution Rate"⁶]	[XX %] of pensionable pay (as defined in the 2013 Regulations);]

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"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
"LGPS Eligible Employees"	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement;
"LGPS Fair Deal Employees"	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; ;
"LGPS Regulations"	the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. Supplier to become an LGPS Admission Body

2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under the relevant Contract.

OPTION 1

2.2 [Any LGPS Fair Deal Employees who:

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2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and

2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.]

OPTION 2

[Any LGPS Fair Deal Employees whether:

2.2.3 active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or

2.2.4 eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

2.3 The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Buyer in relation to an LGPS Admission Agreement.

3. Broadly Comparable Scheme

3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with paragraph 2.1 because the Administering Buyer will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of paragraph 10 of Part D.

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- 3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of paragraph 11 of Part D.

4. Discretionary Benefits

Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

5. LGPS RISK SHARING⁷

- 5.1 Subject to paragraphs 5.4 to 5.10, if at any time during the term of the relevant Contract the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the "Excess Amount") shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2 Subject to paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of the relevant Contract, the Administering Buyer, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the "Refund Amount") where:
- A = the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
- B = the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
- 5.3 Subject to paragraphs 5.4 to 5.10, where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when

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the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Payment**”), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.

5.4 The Supplier and any Subcontractors shall at all times be responsible for the following costs:

- 5.4.1 any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
- 5.4.2 any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
- 5.4.3 any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
- 5.4.4 any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
- 5.4.5 any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
- 5.4.6 any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);
- 5.4.7 to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;

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- 5.4.8 any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Buyer under Regulation 70 of the 2013 Regulations;
 - 5.4.9 the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
 - 5.4.10 any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Buyer obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the "**Exit Credit**"), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
 - 5.7.1 of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
 - 5.7.2 of being informed by the Administering Buyer of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under paragraph 5.7 above, the Buyer shall either:
 - 5.8.1 notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
 - 5.8.2 request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
 - 5.8.3 request a meeting with the Supplier to discuss or clarify the information or evidence provided.

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- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.
- 5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.
- 5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12 This paragraph 5 shall survive termination of the relevant Contract.

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Annex D4: Other Schemes

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, 1.1.2 and 1.1.1, 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

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- 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

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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)

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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

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- (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

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- 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:

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- (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:

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

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- 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 2.1214, 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

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- 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

Call-Off Schedule 2 (Staff Transfer)

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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.

Call-Off Schedule 3 (Continuous Improvement)

1. Buyer's Rights

1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.

2. Supplier's Obligations

2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.

2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.

2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:

2.3.1 identifying the emergence of relevant new and evolving technologies;

2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);

2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and

2.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.

2.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred

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(100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.

- 2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 2.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
- 2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
- 2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
 - 2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.12 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

Call-Off Schedule 5 (Pricing Details)

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Call-Off Schedule 5 (Pricing Details)

Role Descriptor	Framework Maximum Rate £	Hourly Rate £ (exc VAT)
Partner	£ [REDACTED]	£ [REDACTED]
Legal Director/Counsel	£ [REDACTED]	£ [REDACTED]
Senior Solicitor	£ [REDACTED]	£ [REDACTED]
Solicitor/Associate	£ [REDACTED]	£ [REDACTED]
NQ/Junior Solicitor	£ [REDACTED]	£ [REDACTED]
Trainee/Paralegal	£ [REDACTED]	£ [REDACTED]

Call-Off Schedule 7 (Key Supplier Staff)

- 1.1 The Order Form 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.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 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.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
 - 1.5.1 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);
 - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
 - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and

- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The 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.

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

1. Definitions

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

"BCDR Plan"	1 has the meaning given to it in Paragraph 2.2 of this Schedule;
"Business Continuity Plan"	2 has the meaning given to it in Paragraph 2.3.2 of this Schedule;
"Disaster"	3 the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
"Disaster Recovery Deliverables"	4 the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Disaster Recovery Plan"	5 has the meaning given to it in Paragraph 2.3.3 of this Schedule;
"Disaster Recovery System"	6 the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
"Related Supplier"	7 any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	8 has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	9 has the meaning given to it in Paragraph 6.3 of this Schedule;

2. BCDR Plan

2.1 The Buyer and the Supplier recognise that, where specified in Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

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

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- 2.2 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:
 - 2.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
 - 2.2.2 the recovery of the Deliverables in the event of a Disaster
- 2.3 The BCDR Plan shall be divided into three sections:
 - 2.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 2.3.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - 2.3.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").
- 2.4 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. General Principles of the BCDR Plan (Section 1)

- 3.1 Section 1 of the BCDR Plan shall:
 - 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
 - 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;

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- (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - (d) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
 - 3.1.9 identify the procedures for reverting to "normal service";
 - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
 - 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
 - 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
 - 3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. Business Continuity (Section 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of

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Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:

- 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5. Disaster Recovery (Section 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
 - 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;

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- 5.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
- 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- 5.2.13 testing and management arrangements.

6. Review and changing the BCDR Plan

- 6.1 The Supplier shall review the BCDR Plan:
 - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
 - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and

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the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

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8. Invoking the BCDR Plan

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

9. Circumstances beyond your control

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

Call-Off Schedule 10 (Exit Management)

1. Definitions

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

"Exclusive Assets"	1 Supplier Assets used exclusively by the Supplier in the provision of the Deliverables;
"Exit Information"	2 has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	3 the person appointed by each Party to manage their respective obligations under this Schedule;
"Exit Plan"	4 the plan produced and updated by the Supplier during the Initial Period in accordance with Paragraph 4 of this Schedule;
"Net Book Value"	5 the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	6 those Supplier Assets used by the Supplier in connection with the Deliverables but which are also used by the Supplier for other purposes;
"Registers"	7 the register and configuration database referred to in Paragraph 2.2 of this Schedule;
"Replacement Goods"	8 any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	9 any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date,

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		whether those goods are provided by the Buyer internally and/or by any third party;
"Termination Assistance"	10	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	11	has the meaning given to it in Paragraph 5.1 of this Schedule;
"Termination Assistance Period"	12	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
"Transferable Assets"	13	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	14	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	15	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	16	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

2. Supplier must always be prepared for contract exit

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

- 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and

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2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables

("Registers").

2.3 The Supplier shall:

2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and

2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

3. Assisting re-competition for Deliverables

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in

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Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every two (2) months throughout the Contract Period; and
 - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no

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later than ten (10) Working Days after the date of the Termination Assistance Notice;

- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.

5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:

5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and

5.2.2 the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.

5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.

5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

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6. Termination Assistance Period

6.1 Throughout the Termination Assistance Period the Supplier shall:

- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
 - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
 - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
 - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
 - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
 - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 vacate any Buyer Premises;
 - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

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7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

8. Assets, Sub-contracts and Software

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
- 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

8.2.2 which, if any, of:

- (a) the Exclusive Assets that are not Transferable Assets; and
- (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The

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Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

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

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9. No charges

9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

10. Dividing the bills

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Call-Off Schedule 14 (Service Levels)

1. Definitions

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

"Critical Service Level Failure"	has the meaning given to it in the Order Form;
"Service Credits"	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Credit Cap"	has the meaning given to it in the Order Form;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
"Service Level Performance Measure"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
"Service Level Threshold"	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

2. What happens if you don't meet the Service Levels

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:

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- 2.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
- 2.4.2 the Service Level Failure:
 - (a) exceeds the relevant Service Level Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
 - (c) results in the corruption or loss of any Government Data; and/or
 - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
- 2.4.3 the Buyer is entitled to or does terminate this Contract pursuant to Clause 10.4 (CCS and Buyer Termination Rights).
- 2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
 - 2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
 - 2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
 - 2.5.3 there is no change to the Service Credit Cap.

3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"), provided that the operation of this paragraph **Error! Reference source not found.** shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

Part A: Service Levels and Service Credits

1. Service Levels

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any Service Level Performance Measure; or

1.2 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

2. Service Credits

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

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

The Authority will assess the quality of the Supplier's delivery on a regular and matter by matter basis and will also wish to be satisfied as to the following:

No.	Description	Measured By	Monitoring Frequency	Target
1	Resourcing	- Absence monitoring /consistency in resource provided - Quick response (72 hours) to request for additional resources - Utilising the right level of experience/ grade as agreed with Customer	Every 2 months	98%
2	Exit Planning	Ensure an Exit Plan is developed and kept up to date	Every 2 months	100%
3	Modern Slavery compliance London Living Wage compliance	Adherence to legislation	Once	100%
4	Social Value monitoring	Highlight any social value contributions that arise as part of the contract (social, economic and environmental)	Every 2 months	100%

Part B: Performance Monitoring

3. Performance Monitoring and Performance Review

- 3.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 3.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph **Error! Reference source not found.** of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 3.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 3.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 3.2.3 details of any Critical Service Level Failures;
 - 3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 3.2.6 such other details as the Buyer may reasonably require from time to time.
- 3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
 - 3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 3.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 3.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

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- 3.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 3.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

4. Satisfaction Surveys

- 4.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Call-Off Schedule 15 (Call-Off Contract Management)

1. DEFINITIONS

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

"Operational Board" the board established in accordance with paragraph 4.1 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's 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 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's 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.

Call-Off Schedule 15 (Call-Off Contract Management)

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

4. ROLE OF THE OPERATIONAL BOARD

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.

5. Contract Risk Management

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
 - 5.2.1 the identification and management of risks;
 - 5.2.2 the identification and management of issues; and
 - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Call Off Contract which the Buyer's and the Supplier have identified.

Call-Off Schedule 15 (Call-Off Contract Management)

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Annex: Contract Boards

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

Monthly contract management meeting held between supplier and buyer to discuss:

- Current technical services/projects & roles
- Invoicing & monitoring of work in progress figures
- KPIs as per Call-Off Schedule 14 (Service Levels)
- Customer feedback/issues

The location is most likely to be virtual via Microsoft Teams set up by the Buyer's contract manager unless specified otherwise on occasion.

Call-Off Schedule 20 (Call-Off Specification)

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

To assist the Department in the provision of end-to-end legal advice in connection with the procurement of short, medium, and long term Covid 19 preventive vaccine technologies or vaccines including, without limitation on the foregoing, procurement; state subsidy, contract negotiation and contract drafting relevant to achieving the above together with all ancillary specialist services as may be required to implement the solutions to be explored and / or implemented by the Department. Support will be required in relation to the provision of government grants in connection with policies to secure on-shore manufacturing capability of both vaccines and elements of the vaccine supply chain.

It will be a pre-requisite that bidders should have demonstrable life sciences and related UK based manufacturing experience and expertise. This engagement may include the successful bidders arranging for the supply of third-party expert market analysis and related data (as a disbursement) if required. The benefit of this procurement may be used by the Department itself or by any other Government department; executive agency or arm's length body nominated by the department from time to time.

Call-Off Schedule 24 (Special Schedule)

LEGAL SERVICES CONTRACT

Where the Services provided under a Call-Off Contract include Legal Services, the following provisions shall apply: -

The Core Terms shall be amended as follows: -

3.1 All Deliverables

- 3.1.3 The Supplier shall bring to the attention of the Buyer any conflict between:
- (a) the Core Terms or Special Terms in a Contract;
 - (b) Call-Off Schedule 24 (Special Schedule); and/or
 - (c) any of the requirements in Clause 3.1.1;
- and shall comply with the Buyer's decision on the resolution of any such conflict.

9. Intellectual Property Rights (IPRs)

9.1 Subject to Clause 9.2, each Party keeps ownership of its own Existing IPRs.

9.2 Unless otherwise provided in the Order Form:

- (a) Intellectual Property Rights in the output from the Deliverables shall vest in the Supplier who shall grant to the Buyer a non-exclusive, unlimited, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change, exploit and sub-license the same; and
- (b) the Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferrable worldwide licence to use, change and sub-licence Supplier's Existing IPR to enable it to both:
 - (i) receive and use the Deliverables; and
 - (ii) make use of the deliverables provided by a Replacement Supplier.

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. However, nothing shall prevent a Buyer from using any techniques, ideas, Know-How which the Buyer has gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in the disclosure of the Supplier's Confidential Information or an infringement of IPRs.

9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all Losses incurred as a result.

9.6 If an IPR Claim is made: -

- (a) the Buyer shall notify the Supplier in writing of the IPR Claim and the Buyer shall not make any admissions which may be prejudicial to its defence or settlement. The

Supplier shall at its own expense conduct all negotiations and any litigation arising out of or in connection with the IPR Claim provided always that the Supplier shall: -

- (i) consult CCS and the Buyer on all substantive issues which arise during the conduct of such litigation and negotiations;
 - (ii) take due and proper account of the interests of the CCS and the Buyer;
 - (iii) consider and defend the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Buyer into disrepute; and
 - (iv) not settle or compromise the IPR Claim without the prior written approval of the Buyer (not to be unreasonably withheld or delayed).
- (b) or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (i) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
 - (ii) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the accuracy, completeness, reliability, functionality or performance of the Deliverables.

11. How much you can be held responsible for

11.11 No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by or on behalf of the Buyer to any document or information provided by the Supplier in its provision of the Deliverables, and no failure of the Buyer to discern any defect in or omission from any such document or information shall operate to exclude or limit the obligations of a professional Supplier employed in a buyer / supplier relationship.

11.12 Save as otherwise expressly provided, the obligations of the Buyer under the Contract are obligations of the Buyer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligations upon, or in any other way fetter or constrain the Buyer in any other capacity, nor shall the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the buyer to the Supplier.

11.13 No individual nor any service company of the Supplier employing that individual shall have any personal liability to the Buyer for the Deliverables supplied by that individual on behalf of the Supplier and the Buyer shall not bring any claim under the Contract against that individual or such service company in respect of the Contract save in the case of Fraud or any liability for death or personal injury. Nothing in this Clause 11.13 shall in any way limit the liability of the Supplier in respect of the Deliverables, and such liability shall be uncapped unless otherwise specified in the Order Form.

34 Resolving Disputes

Complaint Handling

34.8 If a Complaint is made by any Buyer, either Party shall notify the other Party in writing of the Complaint which if not resolved by operation of the Supplier's usual Complaint handling procedure within 5 Working Days of becoming aware of the Complaint and, if the Supplier is providing the written notice, such notice shall contain full details of the Supplier's plans to resolve the Complaint.

34.9 Without prejudice to any:

- (a) rights and remedies that a complainant may have at Law (including under a Contract), and

Call-Off Schedule 24 (Special Schedule)

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(b) obligation of the Supplier to take remedial action under the provisions of the Contract,
the Supplier shall use its best endeavours to resolve the Complaint within 10 Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

PROTECT



SECONDMENT AGREEMENT

PROTECT

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PROTECT

Introduction

1. Secondments, in or out of the Civil Service, are a valuable way to exchange knowledge and skills with other sectors and, as such, departments are actively encouraged to use them.

A secondment is a move between a Civil Service department and an external organisation, such as the wider public, voluntary or private sector, for an agreed time period.

2. Secondments are either:

Outward; when a Civil Service employee moves temporarily to work in an external organisation outside of the Civil Service, but remains employed by the Civil Service.

Inward; when an individual from outside of the Civil Service moves temporarily to work for a Civil Service department but remains employed by their external organisation.

The benefits a secondment can bring

3. Secondments are a key element of the Civil Service development offer and talent development strategy. They provide opportunities to:
 - develop specific skills required for organisational performance that cannot be developed within the Civil Service
 - develop talent via recognised programmes
 - build a broader understanding of departmental delivery chains and relationships with strategic partners.
4. Secondments:
 - bring new skills back into the business
 - build capability through skills transfer between the Civil Service and external organisations
 - offer development opportunities to employees
 - increase awareness of customers and the impacts departments have on them
 - support employers in other sectors to build their capability.

What to know before you start

5. **The Civil Service Management Code (section 10.3)** gives particular information around:
 - Conduct and discipline
 - Pensions arrangements
 - Injury Benefits
 - Recruiting to inward secondments
 - Pre-appointment checks for inward secondments

These are referenced in this guidance at appropriate points. Details of further Civil Service guidance which may be useful when considering a secondment can be found at [Annex 1](#).

Discussing secondment opportunities

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6. Discussing a potential secondment with an external organisation will require an element of negotiation for either an inward or an outward placing. To get the best outcome it is advisable to:
 - start discussions as early as possible; involving departmental HR, finance, and where necessary legal colleagues from the outset
 - be clear about Civil Service rules or requirements: e.g. the Civil Service Commission's Recruitment Principles allow inward secondments of up to two years without the need for fair and open competition
 - ensure that the individual being seconded understands and is a part of any discussions at the appropriate stage
 - be flexible wherever possible; but also be aware of the wider aims of the secondment and keep the business benefits at the forefront of discussions.

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Outward secondments

Glossary of terms

Employee - Current civil servant undertaking a secondment in an external organisation.

Host organisation - An external organisation that is not part of the Civil Service.

Home department - Civil Service department where the employee is permanently employed.

Requests for secondments

7. When an employee considers a secondment would be beneficial to their development they should talk this through with their manager. Completing the business case template at [Annex 2](#) is a good way to help both parties decide if the opportunity would be a good one for the employee and provide benefits to the business.

Eligibility

8. To be eligible for a secondment an employee must:
 - have been recruited in line with the [Civil Service Commission's Recruitment Principles](#) (appointment on merit through fair and open competition)
 - be in a position to clearly benefit from development outside of the Civil Service
 - have successfully completed their probationary period
 - demonstrate acceptable performance and attendance levels
 - not have an immigration visa restriction which specifies a particular place of work.
9. If an eligible employee is on a fixed term contract consider the decision alongside the business benefit in relation to:
 - fixed term employees are usually recruited to undertake a specific piece of work
 - the secondment can only be agreed for the remaining duration of the fixed term contract or less
 - there may be limited opportunities for the employee to bring skills back to the department.

Business benefits

10. If an employee meets the eligibility criteria, managers will need to consider the business benefits that will be gained by the department and the wider Civil Service as a result of the secondment.

Decision making

11. If it is agreed the secondment is a good opportunity a consideration may be how to fill the role left by the employee going on secondment. There may be occasions when their specific role should be retained for them, for example where they have gone on secondment to bring back specific skills to the business; or their post can be filled permanently depending on the type of post and length of secondment. The following options can also be considered:
 - offering the role to an employee on a development programme

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- asking for an exchange with the host organisation
- advertising the role as a loan.

[DN: Department to insert link to approval process for vacancy filling].

Communicating decisions

12. Managers should communicate the decision to the employee by providing clear reasons and rationale, particularly where the secondment is refused. If refused, managers should consider other ways in which the employee could be further developed.

Agreements for secondments

13. The Civil Service Management Code states that the terms of the secondment are for negotiation between the home department, the host organisation and the employee.
14. A written agreement which is understood by all parties should be in place before a secondment begins. This is normally, but not exclusively, written by the home department with input by the host organisation.
15. A template for an outward secondment agreement is available at [Appendix 1](#).

The agreement should cover

16. **Duration** This should be appropriate to the nature of the opportunity and not exceed two years unless there is a specific business justification for doing so. Outward secondments are to develop new skills for the Civil Service and the duration should reflect this. The agreement should include an **end date**.

Notice Periods should be agreed to cover circumstances where either the home department or the host organisation needs to terminate the agreement.

Pay The usual arrangement is for the employee to continue to be on the payroll and receive the pay awards of their home department with the external organisation reimbursing the salary costs. Moving employees to the payroll of the external organisation is not recommended as there are implications regarding Civil Service Pension Schemes contributions and reckonable service.

Employees may not necessarily continue to be entitled to non contractual allowances they are in receipt of in the home department.

Reimbursement There can be variations in how much salary is reimbursed. There are occasionally circumstances where the home department may agree not to be reimbursed, or may be partially reimbursed, for example where the secondment is very short or where there is a significant business benefit which offsets the cost. This will need to be agreed by **[DN departments to insert relevant approvals route]**.

As the employee remains on their home department's payroll during a secondment, VAT is applied to the salary as the host organisation is considered to be purchasing a service from the home department.

Pensions Regardless of whether the employee will remain on their department's payroll during the secondment the employee must be given a written statement of the

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effect upon their pension arrangements. Managers will need to refer to their departmental pension's administrator regarding this.

Automatic enrolment Duties should be included within the secondment agreement. As employees retain the terms and conditions of their home department and remain on their payroll, it is the home department that is responsible for automatically enrolling the worker under legislation.

Injury benefits If the employee remains in the pension scheme of their department they must receive injury benefit cover from the department. In other cases, the receiving organisation must provide the cover. Departmental pension's administrators will be able to provide advice where there is any doubt about liability. A written statement must be given to the employee explaining who is providing the injury benefit. It is advisable to do this within the secondment agreement.

Terms and Conditions The secondment agreement will specify any changes to contractual terms but the employee will normally remain on those of their home department.

Policies There should be a clear understanding of the policies the employee is working under during the secondment. A practical approach may be to use the host organisation's policies for day to day management activities but where policies link to payroll mechanisms it may be better to use those of the home department.

Conduct and Business Appointment Rules A civil servant on outward secondment remains subject to the Civil Service Management Code and the existing rules of their home department. The Business Appointment Rules continue to apply. During the secondment, the employee must also behave as if they were members of the host organisation in following its policies and directives.

Return arrangements The secondment agreement should outline what post the employee is eligible to return to at the end of the secondment period; the minimum commitment should be that a department will accept the employee back at their previous grade and location where possible. If there is no post available or the home department no longer occupies the previous location, the employee will be declared surplus.

Duty of care. The agreement should be clear about the responsibility to protect the employee from reasonably foreseeable risk or harm which might occur as a result of their work. The under-pinning principle is that a home department will always retain responsibility for the duty of care but that it can choose to discharge this responsibility by asking the host organisation to take responsibility for some or all aspects.

At the start of the secondment

17. Once the secondment is agreed, the practical steps to facilitate the transfer will need to be undertaken. A line manager checklist is available at [Annex 3](#).

A **home** manager should:

- confirm the employee has been recorded as going on secondment
- ensure that keep in touch arrangements have been agreed.

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During the secondment

Keep in Touch

18. Keep in touch activities need to be tailored to suit all parties. Key things to consider are:

- method, e.g. tele-kit, video conference, face to face, telephone
- departmental information required such as newsletters or vacancy bulletins
- frequency e.g. weekly, monthly
- other information required by the host line manager, which will depend on the payroll and management arrangements in place.

The home line manager has overall responsibility for maintaining the programme of keep in touch and ensuring a smooth return process. They should review the employee's development goals and ensure they have an effective development plan.

- They are also responsible for updating the employee about key developments such as:
 - any promotion opportunities
 - any restructuring taking place within the home department
 - early release schemes they may be eligible to apply for whilst on secondment.
- **The employee** is responsible for ensuring the agreed keep in touch arrangements are followed, actively informing both managers of any changes or developments in their home department and the timescales for returning at the end of the secondment.
- **The host line manager** is responsible for engaging with and supporting the keep in touch process.

Managing the employee whilst on secondment

19. As the employee remains on their home departmental payroll, their home line manager will need to ensure that they are taking all necessary action linked to pay. This includes but is not limited to: performance management, annual leave and sick pay.

20. All the actions taken for an employee on secondment should be recorded to ensure they are not treated differently from other employees managed under those policies.

21. It can be complex for a host line manager to manage individuals on secondment using unfamiliar policies, processes and entitlements. Home line managers should be as helpful as possible in interpreting departmental policies and supporting with any issues that arise.

Ending early

22. Secondments will usually come to an end at the pre-agreed end date but either the home department or host organisation can terminate the secondment by giving the agreed notice.

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23. A secondment may need to end because:

- the employee accepts a new permanent role
- the home department encounters exceptional resourcing issues and requests that the employee return early (this would only be due to an urgent business need)
- significant business change in either the home department or host organisation, for example a TUPE or Machinery of Government change
- the secondment is not working successfully and discussion has not resolved the problem.

Towards the end of the secondment

24. As part of the [keep in touch](#) arrangement it is important to plan the employee's return to the home department.

This should include a review of the benefits of the secondment and any discussion of how further benefit could be achieved in the time remaining. It is important to assess this against the benefits listed in the original business case, the objectives set for the employee and progress made.

If it is confirmed that the secondment will end at the pre-agreed time the home department needs to start considering what post the employee will return to. The department will also need to consider how best to use the development the employee has gained from the secondment.

Extending the secondment

25. In exceptional circumstances the host organisation may wish to extend the secondment. They can make this request but the home department will need to agree. This decision should be based on the original purpose of the secondment and an assessment of the continued benefits to all parties. A secondment's purpose is to bring new skills into the Civil Service; those which are extended may not deliver this. The outcome of the extension request should be recorded formally so that all parties are aware of the outcome.

At the end of the secondment

26. It is essential that the employee and home line manager regularly communicate and plan well in advance the practical arrangements that need to be made to facilitate an effective return. This will include any steps required to induct the employee back into the organisation and any payroll amendments which may be required.

Both the home department and the host organisation should take part in a review meeting to hand over fully, following the secondment.

Employees should be kept fully up-to-date with any organisational changes which may alter the return arrangements. In the event that it is not possible to accommodate the employee as planned, the employee should be notified as soon as possible, and managed in line with the home department's surplus policies.

Evaluation and using new skills

27. When an employee returns to the department they should meet with their home manager to:

- review the outcomes of the keep in touch meeting which took place towards the end of the secondment

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- discuss and evaluate the benefits gained from the secondment compared with the original objectives and agree next steps to build on the experience. It may also be useful to have a follow up evaluation once the employee has been back in post for a number of months.
- find ways to share their learning in their work environment.

Further help

28. The Frequently Asked Questions provide further detailed advice in response to questions that employees or managers may ask when considering a secondment opportunity.

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Inward Secondments

Glossary of terms

Individual Current employee of an external organisation, undertaking a secondment in a Civil Service department; they will not be a current civil servant.

Home organisation External organisation where the individual is permanently employed

Host department Civil Service department where the individual is undertaking the secondment.

Using secondments to fill a role

29. As secondments are classed as external recruitment they are subject to the requirements of the Civil Service Commission's Recruitment Principles. Secondments into the Civil Service are also covered by the recruitment freeze. As such use of them will require discussion with senior management and be subject to existing departmental processes to gain approval to recruit externally. The benefits to the department and the wider Civil Service will need to be made clear as part of this process.
30. Inward secondments must be conducted in line with the Civil Service Commission's Recruitment Principles. To facilitate movement between the Civil Service and other employers the Commission allows **secondments of up to two years without the need for recruitment via fair and open competition based on merit.**
31. Numbers of inward secondments need to be included in departmental annual reports to the Civil Service Commission.

Advertising

32. Secondment opportunities could be advertised on CS Jobs, through professional networks or to communities using that profession's website. If advertised on CS Jobs this would be classed as appointment on merit through fair and open competition and the limit of two years would not apply. However, as the aim of a secondment is to develop skills within the Civil Service, longer periods should not normally be required.

Direct placement

33. Secondments may also be filled by identifying a suitable individual, where:
 - a department approaches an individual, employed by an external organisation, with very specialised skills to carry out particular work, and the individual's organisation agrees to a secondment
 - pre-existing 'exchange' arrangements exist between Civil Service departments and external organisations or professions as part of a recognised scheme
 - an individual has a particular development need or interest and there is an opportunity which is suitable, available and of business benefit to the department.
34. It is important that all activity undertaken to fill a role using a secondment is in line with equality legislation.

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Applications for secondments

35. When considering a secondment application, the potential host manager should assess it in line with the requirements of the role. They should make clear to the individual the duration, salary, terms of secondment, and the need for agreement from the home organisation.
36. They will also need to make clear to the individual that the role is offered on a secondment basis and is not an offer of permanent employment.

Pre-appointment checks

37. Managers will need to ensure that personnel security risks are effectively managed by applying controls and checks relevant to the specific secondment post. The Civil Service Nationality Rules will not apply where the individual remains the employee of an external organisation. As the individual is working within the Civil Service they will require all other pre-appointment checks in the same way as a permanent new starter. This will also include ensuring that the individual does not have any visa restrictions that limit the secondment. It is helpful to make individuals aware of the pre-appointment checks process, any timescales involved, and additional restrictions that would otherwise apply if employed directly by the Civil Service.

[Annex 1](#) lists guidance to be aware of. These checks should be conducted in line with departmental recruitment guidance [DN: Department to insert links].

Secondment agreements

38. The Civil Service Management Code states that the terms of a secondment are a matter for negotiation between the home organisation, the host department and the individual.

A secondment should always be under-pinned by a written agreement between all parties. A template for an inward secondment agreement is available at [Appendix 2](#).

During an inward secondment the individual will be carrying out work for the Civil Service department whilst remaining employed by their home organisation. The home organisation's agreement would normally be used. As long as the department's interests are represented the template used should not be a barrier. The department can suggest the use of the template at Appendix 2 if the home organisation agrees.

Checking the details of an agreement

39. Consider:

Duration and end date To facilitate movement between the Civil Service and other employers the Commission allows secondments of up to two years without the need for recruitment via fair and open competition based on merit. Any proposal for a longer secondment at the outset, or to extend the appointment beyond two years requires the approval of the Commission. Timescales in agreements should reflect this.

Notice periods should be agreed to cover circumstances where either the home organisation or the host department needs to terminate the agreement.

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Pay The usual arrangement is for the individual to continue to be on the payroll of the home organisation and be covered by their pay arrangements, with the host department reimbursing salary costs. Departments should not normally agree to reimburse variable pay such as bonuses.

Reimbursement VAT is payable by the host department as they will need to use an invoice to pay the home organisation for the individual's costs; this is because during a secondment the individual remains on their home organisation's payroll.

Automatic enrolment duties should be included within the secondment agreement. As the individual will retain the terms and conditions of their employer and remain on their payroll, it is the home organisation that is responsible for automatically enrolling the worker under legislation.

Injury benefits Arrangements for injury benefit cover must be agreed before any inward secondment commences and given to the secondee in writing, explaining who provides the benefit and what it is comprised of. If the individual remains in the pension scheme of their home organisation they should receive injury benefit cover from them. In other cases, the host must provide the cover. Departmental pension's administrators will be able to provide advice where there is any doubt about liability.

Terms and Conditions The secondment agreement will specify any temporary changes to contractual terms but the individual will normally remain on those of their home organisation.

Policies There should be a clear understanding of which policies the individual is working under during the secondment. Where policies link to pay systems it may be better to use those of their home organisation whilst following those of the host department for areas linked to day to day management activity.

Conduct Individuals seconded in to the Civil Service must be made aware that they will be subject to the Official Secrets Acts and are also required to observe the Civil Service and departmental rules on conduct, confidentiality and security. They should ensure that there is no conflict of interest that will cause embarrassment either to their home organisation or their host department. These may be in addition to rules that are applicable to them in their home organisation.

Duty of care The agreement should be clear about the responsibility to protect the individual from reasonably foreseeable risk or harm which might occur as a result of their work. The under-pinning principle is that a home organisation will always retain responsibility for the duty of care but that it can choose to discharge this responsibility by asking the host department to take responsibility for some or all aspects.

At the start of the secondment

40. Once the secondment is agreed, the practical steps to facilitate the transfer will need to be undertaken.

A **host** manager should be aware of:

- any reasonable adjustments required and ensure these are in place
- keep in touch arrangements and responsibilities that have been agreed
- arrangements for paying the individual, including expenses
- the arrangements for managing the individual and whose policies they are working under

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- the external organisation's policies that relate to pay such as performance management, annual leave, attendance management.

During the secondment

Keep in touch

41. Keeping in touch during the secondment is the responsibility of all the parties involved:

- **The individual** is responsible for ensuring the agreed keep in touch arrangements are followed, actively informing both managers of any changes and the timescales for returning at the end of the secondment.
- **The home line manager** has overall responsibility for maintaining the keep in touch programme and ensuring a smooth return process. They will need to liaise with their employee and provide the host line manager with information needed to manage the individual.
- **The host line manager** is responsible for engaging with, and supporting, the keep in touch process and supplying information required by the home organisation.

Managing the employee

42. During the secondment the host line manager is responsible for the day to day management of the individual and should maintain accurate records which can be shared with the home organisation as necessary.

As the individual remains on their home organisation's payroll, the policies linked to pay will need to be adhered to and any required action taken; these will include performance management, annual leave and attendance management.

Both managers should discuss and agree what the requirements are in terms of record keeping and paperwork.

It can be complex managing individuals on secondment where some of the policies used are those of the home organisation and as a result are unfamiliar to the host line manager. In order to ensure the process runs smoothly any issues that arise which are covered by the home organisation's policies, processes and entitlements should be discussed with the home manager as part of the keep in touch process.

Ending a secondment early

43. Secondments will usually come to an end at the pre-agreed end date. Either the host department or the home organisation can terminate the secondment early by giving the agreed notice period.

44. A secondment may need to end early because:

- the individual accepts a new permanent job role
- the individual returns to the home organisation due an urgent business requirement
- the secondment is not working successfully and discussion has not resolved the problem.

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Towards the end of the secondment

45. Towards the end of the secondment a review of the benefits of the secondment, and any discussion of how further benefit could be achieved in the time remaining, should be undertaken. This should involve the home organisation as this will support the evaluation process and build links for future opportunities.

Extending the secondment

46. As inward secondments are used to transfer skills and facilitate movement between the Civil Service and other employers, the Civil Service Commission allows **secondments of up to two years without the need for recruitment via fair and open competition based on merit.**

Any proposal for a longer secondment at the outset, or to extend the appointment beyond two years requires the approval of the Commission. Additional information is available from the [Commission's website](#).

At the end of the secondment

47. Activity undertaken at the end of the secondment should include:

- Performing a review of the secondment and the skills and benefits it has brought for: the host department, the individual, the home organisation and the wider Civil Service. This will be key for informing future secondment activity.
- Considering keeping in contact with the individual as a way to build networks outside of the Civil Service which could lead to similar arrangements in the future.

Further help

48. The Frequently Asked Questions provide further detailed advice in response to questions that employees or managers may ask when considering a secondment opportunity.

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Annex 1 – Civil Service guidance and rules to consider

Section 10.3 of the Civil Service Management Code sets out rules concerning:

- Conduct and discipline
- Pensions arrangements
- Injury Benefits
- Recruiting to inward secondments
- Pre-appointment checks for inward secondments

This guidance reflects the Management Code position but the source information can be found [here](#).

Cabinet Office Recruitment Freeze Guidelines This applies to those taken on inward secondment, even if the individual stays on their home organisation's payroll or there is a zero cost agreement.

Civil Service Commission's Recruitment Principles The Civil Service Management Code states that inward secondments must not conflict with rules governing appointment on merit through fair and open competition. The rules allow secondments to be an exception to the Principles but also put a limit of two years on their duration. Secondments recruited via a fair and open competition route will be rare but if this does occur that posting will not be treated as an exception and can be for a period of longer than two years. The link can be found [here](#).

Pre-appointment checks guidance All those moving into the Civil Service on secondment need to have undergone pre-appointment checks. Refer to departmental guidance and the:

- **Baseline Personnel Security Standard**, this sets out the standard security checks across Government and the different clearance level required for different roles. [DN: Department to insert link to departmental guidance]
- **Civil Service Nationality Rules**, these apply only to inward secondments where the terms of the secondment agreement are such that the individual is considered to be employed by the Civil Service. These can be found [here](#).

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Annex 2 – Business case template

Employees wishing to apply for a secondment opportunity must satisfy the eligibility criteria set out in the secondments policy and complete the business case template. Detailed information should be provided to enable managers to make an informed decision on whether they are able to support and approve the application.

All sections should be completed in full:

Employee name and grade			
Details of the secondment opportunity: employer, type of business/organisation, role type and working hours			
Duration of secondment			
Details of personal development the opportunity would provide			
Details of business benefits to the home department. For example, skills or knowledge that you will return with.			
Details of business benefits to the wider Civil Service.			
Details of business benefits to the host organisation.			
Outcome (please give reasons for accepting or rejecting the request).			
Manager name and grade			
Signature		Date	

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Annex 3 - Line manager checklist (outward secondments)

The checklist below can be used to record evidence throughout the secondment process. An up to date copy should be retained which can be reviewed as part of the `Keeping in Touch` process. If there is a change of home manager during the secondment this checklist should be handed to the new manager.

Employee details

Name	
Grade	
Contact details	

Host manager details

Name	
Business/organisation	
Contact details	

Secondment request

Have the eligibility requirements been met? (see Secondments Policy)	<i>Confirm checks and insert details of any issues/concerns.</i>
Does the business case evidence benefit for the department, the employee, and the Civil Service?	<i>If yes record date business case approved. If not insert reason refused and date employee informed.</i>
Does the employee understand the return arrangements? Record details of discussions	

Secondment agreement - Does the employee understand the arrangements for:

Terms and conditions?	
Salary and expenses?	
Keeping in Touch?	
Development reviews?	
Absence reporting arrangements?	
Performance reporting?	
Recording the terms of the agreement?	<i>Ensure the employee and manager have a signed and dated copy of the agreement.</i>

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Prior to the secondment

What arrangements have been made for filling any vacancy left by the secondment?	
Have you taken action on any HR/payroll changes required e.g. has the employee been recorded as going on secondment?	
Have you undertaken relevant performance action?	
Have you considered reasonable adjustments?	

During the secondment

Are you sending the employee regular communications from the home department as required, e.g. job opportunities?	
When will the keep in touch meetings taking place? Record dates if required.	
Has the employee requested an extension to the secondment?	
Has the extension been agreed?	

Planning for the employee's return

Has a discussion taken place with the employee about return?	
Is the employee's original post still available? If not has an alternative post been found?	
Has the employee's return date been agreed by all parties?	
Do any reasonable adjustments need to be made prior to the employee's return?	

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Does the employee require an induction?	
Has the host manager sent over the relevant paperwork and performance reports?	
Has an evaluation of the secondment opportunity and development gained taken place? Record any meeting date(s).	

Post return

Has a further evaluation review been conducted six months after the return date?	
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Appendices – Template Secondment Agreements

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Appendix 1 – Outward secondment agreement

AGREEMENT FOR SECONDMENT OF CIVIL SERVICE EMPLOYEE TO NON-CIVIL SERVICE ORGANISATION

Warning: this is only a template and must be adapted to suit individual circumstances. Legal advice should be taken where appropriate.

This Agreement is made between:

- I. **[Insert name of non-Civil Service (external) organisation]** of **[insert address]** (“the Host”)
- II. the Department of **[insert Civil Service Department name]** (“the Department”)
- III. **[insert name of Civil Service employee]** (“the Secondee”).

1. Secondment and duration

- 1.1 The Secondee will be seconded by the Department to work for the Host in the post of **[insert post title]** from **[insert start date]** to **[insert end date]**. The Secondee's line manager during the secondment will be **[insert name or job title of line manager]**; if a change of line manager is necessary the details will be given to the Secondee and the Department.

2. Status of Secondee; return to Department

- 2.1 The Secondee will remain the employee of the Department for the duration of the secondment and will not become, or be regarded as, the employee of the Host. If the Secondee ceases to be employed by the Department for any reason during the secondment period then the secondment will terminate immediately.
- 2.2 At the end of the secondment the employee will return to the home department. The home department will do its best to place the employee in either the same post or another post at the same grade and location as s/he was in before the secondment started, but it cannot guarantee that any post will be available. **[Home departments may wish to make reference to their deployment policies here.]**
- 2.3 On returning to the Department any terms of the Secondee's contract which were varied because of the secondment will revert back to their original state. Any higher remuneration which applied because of the secondment will cease with the secondment.
- 2.4 Any temporary promotion linked to the secondment will cease when the secondment ends and the Secondee will return to the Department at their original grade.

3. Location and hours of work

- 3.1 During the secondment the Secondee's place of work will be **[insert place of work]**.
- 3.2 The Secondee's hours of work during the secondment will be **[insert working hours]**.

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4. Remuneration

- 4.1 During the secondment the Department will continue to pay the Secondee his/her normal remuneration (including pay for sickness absence, annual leave and pension contributions) **[DN less any department/role specific allowances]**. This includes any Departmental pay award which has been made but has not yet come into effect.

OR (if the rate of pay is higher during the secondment)

During the secondment the Department will pay the Secondee at the rate of £ [insert special pay rate if applicable] per annum and will also provide the same benefits as applied before the secondment [or insert here a list of which Departmental benefits will be provided and whether any additional Host benefits will apply. This can be done in an Annex if necessary]. Any departmental pay award which was made before the secondment starts but is not yet effective will not apply.

- 4.2 The Department will also be responsible for paying PAYE tax and national insurance contributions and any other applicable deductions in respect of the Secondee's remuneration.
- 4.3 **Pay Awards:** Any pay awards that are implemented within the Department during the secondment should be applied to the Secondees salary as and when they occur.

OR (if the rate of pay is higher during the secondment)

Any pay increases during the secondment will be determined by the Host with the Department's consent. **[DN: a requirement for consent is included so that the Department can prevent any inappropriate increases being granted.]** Any such pay increase will only apply during the period of the secondment. Departmental pay awards will not apply.

On the Secondee's return to the Department his/her salary will be set as follows: **[insert details of how the salary on return will be calculated. E.g. it could be the pre-secondment salary adjusted in line with pay changes which have taken place in the department during the secondment, and based on the box markings (or host equivalents) in appraisals which were done during the secondment. Departmental pay policies may set out what happens about pay on return from a secondment, in which case this clause can refer to the relevant policy.]**

5. Reimbursement

- 5.1 The Host will reimburse the Department for the full cost of the Secondee's remuneration during the secondment, including any performance-related pay, all benefits, employer's National Insurance contributions and pension contributions. The Host will also pay VAT where applicable on the invoiced amount.

OR (if less than full reimbursement is to be made)

The Host will reimburse the Department for the cost of the Secondee's salary [and **[Insert any extras]**. The host will also pay the VAT where applicable on the invoiced amount.

- 5.2 Reimbursement will be made within **[insert suitable period, e.g. 30 days]** of the Department providing the Host with an invoice giving details of the cost and showing any applicable VAT. Invoices will be presented monthly/quarterly **[delete as**

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appropriate] in advance/arrears/on the following dates **[delete as appropriate, insert relevant dates]**.

[DN: if the pay or reimbursement arrangements are complex it may be appropriate to deal with them in an Annex to the agreement.]

6. Performance Management; performance related pay

- 6.1 During the secondment the Department will continue to conduct performance reviews of the Seconded and will make decisions about any performance-related pay in accordance with its procedures. If the Host is liable to reimburse the Department for any performance-related pay, the Department must consult the Host before making a decision about such pay.
- 6.2 The Host will provide the Department with appropriate input for these purposes, to agreed timescales.

OR (delete as appropriate)

Performance reviews during the secondment period will be conducted by the Host under its procedures, with appropriate input from the Department. Decisions about any performance-related pay will be made by the Host under its policies, but will require the consent of the Department. **[DN: this is included so that the department will be able to prevent any inappropriate bonuses being paid.]**

The Seconded will not be entitled to any performance-related pay awarded by the Department.

The Host will assist the Department as appropriate with any post-secondment appraisal which includes work done during the secondment.

[DN: it is important to make sure that the chosen options for whose appraisal and performance systems are used will mesh together properly. In general the party which makes decisions about performance pay should also make decisions about appraisals.]

7. Pension and Injury Benefit Schemes

- 7.1 The home department that is responsible for automatically enrolling the worker under legislation.
- 7.2 This secondment will not affect the Seconded's occupational pension arrangements with the Department.

OR

- 7.3 The pension arrangements during the secondment will be as follows: **[Insert details of changes. The Management Code requires that the Seconded be given a written statement of the effect of the secondment on pension.]**
- 7.4 This secondment will not affect the Seconded's eligibility for the Civil Service Injury Benefit Scheme. **[If alternative arrangements are being made, this clause will require amendment. The Management Code requires that the Seconded be given**

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a written statement setting out who is providing the benefit and what it comprises.]

8. Expenses and training

- 8.1 Any travel, subsistence or other expenses incurred by the Seconded in the course of the secondment will be reimbursed [by the Department in accordance with the rules applicable in that department] or **[delete as appropriate]** [by the Host in accordance with the rules of the Host].
- 8.2 **[Insert any applicable provisions about who provides and pays for training and development during the secondment.]**

9. Health and safety

- 9.1 During the secondment the Host will be responsible for the Seconded's health & safety, and will ensure that the Seconded is only required to work for such periods and at such times as are permitted by the Working Time Regulations 1998.

10. Leave and associated pay

- 10.1 During the secondment the Seconded will continue to be entitled to holiday, sickness absence and other leave (and any associated pay) as provided for in his/her terms and conditions of employment with the Department. At the beginning and end of the secondment any accrued annual leave will be transferred with the Seconded.

OR (delete as appropriate)

During the secondment the Seconded will be entitled to holiday, sickness absence and other leave (and any associated pay) as provided for in the Host's terms and conditions. At the beginning and end of the secondment any accrued annual leave will be transferred with the seconded.

- 10.2 The Seconded must book leave and report any sickness or other absence to **[insert details]. In some cases it may be appropriate for the Seconded to report to his Departmental line manager and to the permanent Employer].**
- 10.3 **In the event the Seconded takes maternity/paternity [DN: delete as appropriate] or adoption leave and:**

The original secondment has not ended prior to return, the Host consents to continue with the secondment and the Seconded has the opportunity to return to the Host organisation to complete the remainder of the secondment period.

The original secondment ends during the period of leave, the Host consents to the Seconded continuing on the agreed secondment terms (if any additional terms were granted) until the secondment period would have finished, had the Seconded not taken **[DN insert type]** leave. At that point, even if the period of leave has not expired they will return to the Home department and move back onto the terms in place prior to the secondment.

11. Standards, including confidentiality and conflicts of interest

- 11.1 During the secondment the Seconded will observe all the Host's rules, policies and procedures relating to conduct and standards, including confidentiality, unless the Department's rules, policies or procedures require a higher standard, in which case the

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Seconded will observe that higher standard. This will also apply after the secondment has ended, in relation to any continuing obligations. **[DN: this will cover things like confidentiality, non-dealing or conflicts of interest rules which go further than the home department's policies and which the Seconded must stick to even after the secondment ends.]**

- 11.2 In the event of any breach of this clause ("Standards, including confidentiality") the Host will inform the Department, and may terminate the secondment early as set out in the termination clause in this agreement.
- 11.3 The Seconded's attention is particularly drawn to the following Host policies which are attached to this agreement: **[insert details of policies which are specific to the Host in respect of standards and conduct].**
- 11.4 The Seconded will continue to be bound by the Civil Service Code at all times during the secondment. The same applies to the Business Appointment Rules; these place restrictions on the work which civil servants are able to carry out after leaving the Civil Service and can be found in the Department's staff handbook and in the Civil Service Management Code. The Seconded will also continue to be bound by the Official Secrets Act.
- 11.5 The Department will not require the Seconded to disclose or use any information which is confidential to the Host, and will keep confidential any confidential information it acquires as a result of the secondment.
- 11.6 The Host will not require the Seconded to disclose or use any information which is confidential to the Department, and will keep confidential any confidential information it acquires as a result of the secondment.
- 11.7 If an actual or potential conflict of interests arises during the secondment, any party which becomes aware of the conflict will notify the other parties in writing as soon as possible, and all the parties will attempt to manage the conflict appropriately. If this is not possible the secondment must be terminated in accordance with the termination clause in this agreement.

12. Discipline and grievances

- 12.1 The Seconded will continue to be subject to the disciplinary and grievance procedures of the Department in respect of matters occurring during the secondment. The Host will co-operate with the Department in such matters, including by providing any necessary information.

13. Policies and procedures

- 13.1 Except as otherwise provided in this agreement, the Seconded will continue to be subject to the Department's policies and procedures during the secondment.

OR (if it is more appropriate for the Host's policies to apply)

Except as otherwise provided in this agreement, the Seconded will be subject to the Host's policies and procedures. **[DN consider whether to draw the Seconded's attention here to any major differences between the policies/procedures, or attach the relevant policies. Also consider whether any particular policies of Host organisation will not be appropriate, such that the Department's policies should apply instead.]**

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14. Duty of care

14.1 The Department retains responsibility for the duty of care.

Or [Delete as appropriate]

The Host [insert name] has the duty of care during the secondment.

[DN: The responsibility for duty of care must be mutually agreed]

15. Data protection

By signing this agreement the Secondee agrees to appropriate information about him/her being passed between the Host and the Department and processed by them for employment, managerial, administrative and similar purposes and to comply with legal requirements. Such information will be held securely. Further information about data protection can be found in the Host's staff handbook. **[DN: departments should note that the processing of sensitive data may require more specific consent from the employee.]**

[DN: the Host may wish to review and add further information here.]

16. Early termination

Either the Host or the Department may terminate the secondment for any reason by giving **[e.g. one month]** notice in writing to the other two parties.

16.1 The Host may also terminate the secondment on grounds of serious misconduct by the Secondee, by written notice to the other two parties with immediate effect.

16.2 Either the Host or the Department may terminate the secondment if a conflict of interests arises which cannot be appropriately managed, by written notice to the other two parties with immediate effect.

17. Information and monitoring of leave

17.1 The Host/Department **[delete as appropriate]** will monitor annual leave, sickness absence and other leave. The Host and Department will each provide the other with any information the other needs in order to manage the Secondee, both during the secondment and when it ends. **[It may be appropriate to make provision here for the party that does the monitoring to provide regular reports to the other party about leave and other management matters.]**

17.2 The Secondee must notify both the Host and the Department if his/her home address changes during the secondment.

18. Ethical considerations

18.1 This clause will apply during the secondment and for **[insert suitable period e.g. six months, on which legal advice should be taken]** months after its termination.

18.2 The Host will not induce (or attempt to induce) the Secondee to leave the Department or take up employment with the Host.

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18.3 Neither the Department nor the Seconded will induce (or attempt to induce) any of the Host's staff with whom the Seconded has worked to leave the Host or take up employment with the Department.

18.4 This clause will not prevent either the Department or the Host from running general recruitment campaigns or from offering employment to an individual who responds to such a campaign.

19. Liability and indemnities

19.1 The Seconded will work under the supervision of the Host. The Department will not have any liability to the Host for the acts or omissions of the Seconded in the course of the secondment. **[DN: this is to guard against claims being made by the Host if the Seconded does poor work.]**

19.2 The Host will indemnify the Department fully and keep it indemnified fully at all times against any loss, injury, damage or costs arising out of any act or omission of the Seconded in the course of the secondment. **[DN: this is to ensure that the Host and not the Department pays if a third party (including the Host's own staff) makes a claim based on the actions of the Seconded – e.g. if a host employee claims that the Seconded bullied him. The department will remain vicariously liable for the Seconded's actions during the secondment and that is why it could be sued by third parties.]**

19.3 The Host will indemnify the Department fully and keep it indemnified fully at all times against any loss, injury, damage or costs arising out of any act or omission of the Host or its employees, officers or agents relating to the secondment. **[DN: this ensures that the Host should pay if it treats the Seconded badly (e.g. discrimination) or negligently causes him to suffer injury, and the Department has to make a pay-out to the employee or incur other costs as a result.]**

20. Intellectual property

20.1 Any intellectual property which arises in the course of the Seconded's work for the Host shall belong to the Host.

20.2 **[DN: If the Department may wish to use any of the intellectual property produced by the Seconded, wording should be added here so that the Host grants the Department a suitable licence to use this and any confidentiality restrictions elsewhere in this agreement are lifted.]**

21. Assignment

21.1 This agreement may not be assigned by any party to the agreement without the agreement of the other two parties.

22. Governing law and jurisdiction

22.1 This agreement is governed by and will be construed in accordance with the law of England.

22.2 The parties irrevocably agree that the Courts of England and Wales will have exclusive jurisdiction in relation to any dispute or difference arising out of or in connection with this agreement or its subject-matter or formation (including non-contractual disputes or claims).

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23. Variation

23.1 The terms of this agreement may only be varied by agreement in writing between the Host and the Department.

[DN: you may also wish to consider with your legal advisers whether to include additional clauses dealing with service of notices, third party rights and non-waiver of remedies, an “entire agreement” clause and an interpretation clause. Although rarely used you may wish to consider these in relation to your particular business need.]

Signed by:	On behalf of:	Date:
[insert name of signatory]	[insert department name]	
[insert name of signatory]	[insert host organisation name]	
[insert name of signatory]	Employee	

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Appendix 2 – Inward secondment agreement

AGREEMENT FOR SECONDMENT OF INDIVIDUAL FROM NON-CIVIL SERVICE ORGANISATION INTO CIVIL SERVICE DEPARTMENT

Warning: this is only a template and must be adapted to suit individual circumstances. Legal advice should be taken where appropriate.

This Agreement is made between:

- I. **[Insert name of seconding non-Civil Service organisation]** of **[insert address]** (“the Employer”)
- II. the host Department of **[insert Civil Service Department name]** (“the Department”)
- III. **[Insert name of individual secondee]** (“the Secondee”) of **[insert address]**.

1. Secondment and duration

- 1.1. Appointment to a post in the Home Civil Service (“the Civil Service”) is governed by the Constitutional Reform and Governance Act 2010 and the Civil Service Commission’s Recruitment Principles issued by the Civil Service Commissioners. The Principles except secondments of up to two years to the Civil Service from the requirement that selection for appointment should be made on the basis of fair and open competition.
- 1.2. The Secondee will be seconded by the Employer to work for the Department in the post of **[insert post title] [for the purposes of – insert detail here on relevant project or general indication of purpose]**. The secondment shall be from **[insert start date]** to **[insert end date]** unless terminated earlier in accordance with this Agreement. The parties may agree to extend the secondment provided that the secondment does not in any event exceed two years in duration.
- 1.3. The Secondee’s reporting manager during the secondment will be **[insert name or job title of line manager]**; if a change of reporting manager is necessary the details will be given to the Secondee and the Employer.
- 1.4. During the secondment the Secondee will work under the supervision of the Department and carry out all reasonable instructions from the Department. The Secondee will carry out their duties during the secondment in a professional manner and to a professional standard, exercising the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person of their level.
- 1.5. The Employer will take out and maintain in full force with a reputable insurance company a reasonable level of insurance cover for loss, injury or damage caused to or by the Secondee in connection with the secondment.
- 1.6. The Secondee will not, without the prior written approval of the Department, do any act, enter into any contract, make any representation, give any warranty, incur any liability or assume any obligation, whether expressly or by implication, on behalf of the Department, or bind or hold himself/herself out as capable of binding the Department in any way.

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- 1.7. The Seconded will not carry out any work for the Employer during the secondment, except **[DN: insert any exceptions, e.g. attending Employer training or updates or doing small amounts of handover work near the start of the secondment. Be aware of possible conflicts of interest.]**
- 1.8. The Seconded will remain the employee of the Employer for the duration of the secondment and will not become, or be regarded as, the employee of the Department. If the Seconded ceases to be employed by the Employer for any reason during the secondment period then the secondment will terminate immediately.
- 1.9. If the Seconded is held to be employed by the Department at any time during the secondment then the Department may dismiss the Seconded and the Employer shall offer the Seconded employment on the terms that applied immediately before that dismissal.

2. Location and hours of work

- 2.1. During the secondment the Seconded's place of work will be **[insert place of work]**. The Department may require the Seconded to work from other locations as necessary. The Seconded will be informed in advance of any change to the place of work [as long as it remains within reasonable travelling distance].
- 2.2. The Seconded may be required to travel on the Department's business to such locations and by such means and on such occasions as the Department may from time to time require.
- 2.3. The Seconded's hours of work during the secondment will be **[insert Departmental working hours]** plus any additional time as may be reasonably required by the Department from time to time.

3. Remuneration

- 3.1. During the secondment the Employer will continue to pay the Seconded his/her normal remuneration (including pay for sickness absence and annual leave, any variable pay, all benefits, and pension contributions).
- 3.2. The Employer will continue to be responsible for paying PAYE tax and national insurance contributions and any other applicable deductions in respect of the Seconded's remuneration.
- 3.3. Any pay rises during the secondment will be determined by the Employer in the normal way.

4. Pensions - automatic enrolment

- 4.1. The Home employer remains responsible for automatically enrolling the employee under legislation.

5. Reimbursement

- 5.1. The Department will pay the monthly/quarterly **[delete as appropriate]** sum of **[insert monthly or quarterly payment amount]** which represents the Seconded's basic salary and pension contributions as a contribution towards the cost of

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employing the Secondee, plus VAT if applicable. The Department will not be liable to pay any additional sums (other than the Secondee's expenses, as set out below).

- 5.2. Payment/reimbursement will be made within **[insert suitable period, e.g. 30 days]** of the Employer providing the Department with an invoice giving details of the payments due and showing any applicable VAT. Invoices will be presented monthly/quarterly **[delete as appropriate]** in advance/arrears/on the following dates **[delete as appropriate/add dates]**. **[DN consider adding other details such as the address to which invoices should be sent, any reference/purchase order number which must be quoted, etc.]**
- 5.3. The Employer must ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. The Department will not be liable to pay any items not included in the final invoice.
- 5.4. [If the Secondee is away from work for any reason for more than **[insert period of time, e.g. six weeks]**, the Department's obligation to make payments under clause 5.1 will not apply during that absence.][If this occurs the Department and the Employer will review the secondment, and possible options will include continuing the secondment, ending it on notice or extending it by agreement.] **[DN: both parts of this clause are optional. Note that if a secondment is reviewed, care should be taken not to act in a way which constitutes unjustifiable discrimination, e.g. it may be discriminatory to end a secondment because the secondee is on maternity leave.]**

6. Performance Management; performance-related pay

- 6.1. During the secondment the Employer will continue to conduct performance reviews of the Secondee in accordance with its procedures. **[If the Department is liable to reimburse the Employer for any performance-related pay, consider including a mechanism for keeping this under control – see note to alternative clause 5.1 above.]**
- 6.2. The Department will provide the Employer with appropriate input for these purposes as required.
- 6.3. The Department will assist the Employer as appropriate with any post-secondment performance review which includes work done during the secondment.
- 6.4. During the secondment the Employer will continue to make decisions about any performance-related pay in accordance with its procedures.
- 6.5. For the avoidance of doubt, the Secondee will not be paid any performance-related pay awarded by the Department to its own employees.

7. Expenses and training

- 7.1. Any travel, subsistence or other expenses wholly, exclusively and necessarily incurred by the Secondee in the course of the secondment and in connection with the secondment will be reimbursed by the Department in accordance with its rules and policies provided such expenses are evidenced in such manner as the Department may specify from time to time.

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- 7.2. The Department will allow, in consultation with the Employer, reasonable absence from the Secondee to attend such training courses and other meetings at the Employer's offices as are normally appropriate for a staff member of their level and experience provided that reasonable notice of such training courses and/or meetings is given to the Department. Any such training courses and any related travel expenses will be paid for by the Employer and are not recoverable from the Department.
- 7.3. Where the Department requires the Secondee to attend training, the Department will meet the costs of such training including the course fees and reasonable travel and subsistence expenses in accordance with its policies.

8. Health and safety

- 8.1. During the secondment the Department will be responsible for the Secondees health & safety insofar as this is within the Department's control. The Department will ensure that the Secondee is only required to work for it for such periods and at such times as are permitted by the Working Time Regulations 1998.

9. Leave and associated pay

- 9.1. During the secondment the Secondee will continue to be entitled to holiday, sickness absence and other leave (and any associated pay) as provided for in his/her terms and conditions of employment with the Employer. At the beginning and end of the secondment any accrued annual leave will be transferred with the secondee.
- 9.2. The Secondee must book leave with and report any sickness or other absence to **[insert details. In some cases it may be appropriate for the Secondee to report to his Departmental reporting manager and to his Employer].**
- 9.3. **In the event the secondee takes maternity/paternity [DN: delete as appropriate] or adoption leave and:**

Secondment has not ended prior to return, the Department will consent to continue with the secondment and the individual has the opportunity to return to the department to complete the remainder of the secondment period.

Secondment ends during the period of leave, the Department consents to the individual continuing on the agreed secondment terms (if any additional terms were granted) until the secondment period would have finished, had the employee not taken leave. At that point, even if the period of leave has not expired they will return to the employer and move back onto the terms in place prior to the secondment.

[DN: The department and the employer are not obligated to extend the secondment but if all parties agree to this due to strong business justification for doing so then this approach may be taken, however it is important to note that secondments which are recruited to as an exception to the commissioners principles are limited to two years.]

10. Standards

- 10.1. During the secondment the Secondee will observe the provisions of the Civil Service Code (attached), the Official Secrets Acts, and all the Department's rules, policies and procedures relating to conduct and standards, including confidentiality and security, unless the Employer's rules, policies or procedures require a higher

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standard, in which case the Secondee will observe that higher standard in addition. This will also apply after the secondment has ended, in relation to any continuing obligations (including confidentiality and the Business Appointment Rules).

- 10.2. In the event of any breach of this clause the Department will inform the Employer, and may terminate the secondment early as set out in the termination clause in this agreement.
- 10.3. The Secondees attention is particularly drawn to the following Departmental policies which are attached to this agreement:
 - 10.3.1. **[Insert list, including e.g. confidentiality, Official Secrets, non-dealing rules, security, the Business Appointment Rules, political activities, conflicts of interest, declaration of interests, hospitality, etc.]**
- 10.4. The Secondee should note that the Business Appointment Rules (which form part of the Civil Service Management Code) may place restrictions on the work which he/she is able to carry out after the secondment comes to an end.
- 10.5. The Department will not require the Secondee to disclose or use any information which is confidential to the Employer. Any information the department does acquire as a result of the secondment will be kept confidential.
- 10.6. The Employer will not at any time require the Secondee to disclose or use any information which is confidential to the Department, and will at all times keep confidential any confidential information it acquires as a result of the secondment.
- 10.7. If an actual or potential conflict of interests arises during the secondment, any party which becomes aware of the conflict will notify the other parties in writing as soon as possible, and all the parties will attempt to manage the conflict appropriately. If this is not possible the secondment must be terminated in accordance with the termination clause in this agreement.

11. Discipline and grievances

- 11.1. The Secondee will continue to be subject to the disciplinary and grievance procedures of the Employer during the secondment. The Department will co-operate with the Employer in such matters, including by providing any necessary information as required.
- 11.2. The Department and the Employer will notify each other promptly if they become aware of any disciplinary issue or grievance.

12. Policies and procedures

- 12.1. Except as otherwise provided in this agreement, the Secondee will continue to be subject to the Employer's policies and procedures during the secondment.

13. Duty of care

- 13.1. The Employer retains responsibility for the duty of care during the secondment.

Or [Delete as appropriate]

The Department has the duty of care during the secondment.

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[DN: The responsibility for duty of care must be mutually agreed]

14. Data protection

- 14.1. By signing this agreement the Seconded agrees to appropriate information and personal data (as defined in the Data Protection Act 1998 as amended from time to time) about him/her being passed between the Employer and the Department and the Department holding, processing and accessing such information and personal data both manually and by electronic means for legal, personnel, employment, managerial, administrative and similar purposes and to comply with legal requirements and central guidance.
- 14.2. For the purposes of this clause references to "personal data" include "sensitive personal data" as defined by the Data Protection Act (as amended from time to time). Sensitive personal data that may be held by the Employer and may be transferred to the Department where necessary will include information about: the Seconded's physical or mental condition, the commission or alleged commission of any offence; any proceedings for an offence committed or alleged to have been committed by the Seconded, including the outcome or sentence in such proceedings; and racial or ethnic origin or religious or similar beliefs (for the purposes of equal opportunities monitoring).
- 14.3. Such information will be held securely. Further details about data protection can be found in the Department's Staff Handbook. **[DN: check and if necessary amend this clause to ensure that it matches the Department's data protection policy. Departments should also note that processing of sensitive personal data may require more specific consent from the employee.]**
- 14.4. In the interests of open government and public access to information, the Department may need to disclose details of officials who are on secondment to it from non-Civil Service organisations, including the Seconded's name, the name and address of the Employer, the nature of the work done and the sums paid to the Employer by the Department. This could be made necessary or desirable by legislation, Parliamentary questions, and requests for information under the Freedom of Information Act, or by central guidance or departmental policy on disclosure. The Employer and the Seconded consent to such disclosure. In deciding what disclosure should be made, the Department will take account of its obligations under the Data Protection Act 1998.

15. Early termination

- 15.1. Either the Employer or the Department may terminate the secondment for any reason by giving [insert a suitable period, e.g. one month] notice in writing to the other two parties.
- 15.2. The Department may terminate the secondment with immediate effect without notice (or payment in lieu of notice):
 - 15.2.1. On termination of the Seconded's employment with the Employer;
 - 15.2.2. If the Employer is guilty of any serious or repeated breach of the terms of this agreement; or
 - 15.2.3. If the Employer becomes bankrupt or makes any arrangement or composition with or for the benefit of its creditors.

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15.3. The Department may also terminate the secondment on grounds of:

- 15.3.1. serious misconduct by the Secondee or any other conduct which affects or is likely to affect or prejudice the interests of the Department or is otherwise unsuitable for the work of the Department;
- 15.3.2. Where the Secondee is unable to properly perform his/her duties by reason of ill health, accident or otherwise for a period or periods aggregating at least [x] working days,

by written notice to the Employer with immediate effect.

15.4. Either the Employer or the Department may terminate the secondment if a conflict of interests arises which cannot be appropriately managed, by written notice to the other with immediate effect.

15.5. [If there is a review of the secondment under sub-clause **[insert number of sub-clause above dealing with long-term absence]** and the Department considers it reasonable to end the secondment early, the Department may terminate the secondment by written notice to the Employer with immediate effect.]

16. Information and monitoring of leave

16.1. The Employer/Department **[delete as appropriate]** will monitor annual leave, sick absence and other leave. The Employer and the Department will each provide the other with any information the other needs in order to manage the Secondee, both during the secondment and after it ends. **[DN: It may be appropriate to make provision here for the party that does the monitoring to provide regular reports to the other party about leave and other management matters.]**

16.2. The Secondee must notify the Department if his/her home address changes during the secondment.

17. Ethical considerations

17.1. This clause will apply during the secondment and **for [insert suitable period, on which legal advice should be taken]** months after its termination.

17.2. The Department will not induce (or attempt to induce) the Secondee to leave the Employer or take up employment with the Department.

17.3. Neither the Employer nor the Secondee will induce (or attempt to induce) any of the Department's staff with whom the Secondee has worked to leave the Department or take up employment with the Employer.

17.4. This clause will not prevent either the Department or the Employer from running general recruitment campaigns or from offering employment to an individual who responds to such a campaign.

18. Return of property

18.1. At the end of the secondment or at any time on request, the Secondee and the Employer will return all property supplied by the Department and all documents (including copies) which the Secondee has produced, received or obtained in connection with the secondment, and will irretrievably delete any electronic copies

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thereof. The Employer and Seconded will confirm in writing and produce such evidence as is reasonable to prove compliance with these obligations.

19. Intellectual property

- 19.1. All Intellectual Property Rights in the output from the Contract shall vest in the Individual who shall grant to the Host department a non-exclusive, unlimited, irrevocable licence to use and exploit the same.
- 19.2. Subject to this Clause and save as expressly granted elsewhere under the Contract, the Host department shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Individual or its licensors and the Individual shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Host department or its licensors.
- 19.3. The Individual shall on demand fully indemnify and keep fully indemnified and hold the Host department and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Host department and or the Crown may suffer or incur as a result of any claim that the performance by the Individual of the Contract infringes or allegedly infringes a third party's Intellectual Property Rights (any such claim being a "Claim").
- 19.4. If a Claim arises, the Host department shall notify the Individual in writing of the Claim and the Host department shall not make any admissions which may be prejudicial to the defence or settlement of the Claim. The Individual shall at its own expense conduct all negotiations and any litigation arising in connection with the Claim provided always that the Individual:
 - 19.4.1. shall consult the Host department on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 19.4.2. shall take due and proper account of the interests of the Host department;
 - 19.4.3. shall consider and defend the Claim diligently using competent counsel and in such a way as not to bring the reputation of the Host department into disrepute; and
 - 19.4.4. shall not settle or compromise the Claim without the prior written approval of the Host department (not to be unreasonably withheld or delayed).
- 19.5. The Individual shall have no rights to use any of the Host department's names, logos or trademarks without the prior written approval of the Host department.

[DN: if the Seconded is likely to produce any valuable/significant IP, departmental legal advice should be sought on whether this clause should be expanded].

20. Assignment

- 20.1. This agreement may not be assigned by any party to the agreement without the agreement of the other two parties.

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21. Governing law and jurisdiction

- 21.1. This agreement is governed by and will be construed in accordance with the law of England.
- 21.2. The parties irrevocably agree that the Courts of England and Wales will have exclusive jurisdiction in relation to any dispute or difference arising out of or in connection with this agreement or its subject-matter or formation (including non-contractual disputes or claims).

22. Variation

- 22.1. The terms of this agreement may only be varied by agreement in writing between the Employer and the Department.

23. Third Party Rights

- 23.1. A person who is not a party to this agreement may not enforce any of its terms under the Contract (Rights of Third Parties) Act 1999.

24. Notices

- 24.1. Any notice given under this agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being [or by sending it by fax to the fax number notified by the relevant party to the other party]. Any such notice shall be deemed to have been received:
- 24.1.1. if delivered personally, at the time of delivery; [and]
- 24.1.2. in the case of pre-paid recorded delivery or registered post, [48] hours from the date of posting; and
- 24.1.3. in the case of fax, at the time of transmission].
- 24.2. In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post [or that the notice was transmitted by fax to the fax number of the relevant party].

25. Indemnity

- 25.1. The Host shall indemnify the Employer fully and keep the Employer indemnified fully at all times against any loss, injury, damage or costs suffered, sustained or incurred by:
- 25.1.1. the Seconded in relation to any loss, injury, damage or costs arising out of any act or omission by the Host or its employees or agents [during the Secondment Period]; or
- 25.1.2. a third party, in relation to any loss, injury, damage or costs arising out of any act or omission of the Seconded [during the Secondment Period OR in the course of carrying out the Services].

PROTECT

25.2. The Employer shall indemnify the Host fully and keep the Host indemnified fully at all times against any claim or demand by the Secondee arising out of their employment by the Employer or its termination during the Secondment Period (except for any claim relating to any act or omission of the host or its employees or agents).]

26. ENTIRE AGREEMENT

26.1. This agreement [together with any documents referred to in it] constitute[s] the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the Secondment.

26.2. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

26.3. The only remedy available to either party for breach of this agreement shall be for breach of contract under the terms of this agreement.

26.4. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

26.5. Nothing in this agreement shall limit or exclude any liability for fraud.

[DN departments: you may also wish to consider with your legal advisers whether to include additional clauses dealing with service of notices, third party rights and non-waiver of remedies, an “entire agreement” clause and an interpretation clause. Although rarely used you may wish to consider these in relation to your particular business need.]

Signed by:	On behalf of:	Date:
[insert name of signatory]	[insert department name]	
[insert name of signatory]	[insert name of employer]	
[insert name of signatory]	Secondee	

This Agreement is made between:

- I. [Insert name of non-Civil Service (external) organisation] of [insert address] (“the Host”)
- II. the Department of [insert Civil Service Department name] (“the Department”)
- III. [insert name of Civil Service employee] (“the Secondee”).