

Scottish Procurement and Commercial Directorate
Collaborative and Scottish Government Procurement
Division

T: 0141-244 [REDACTED]
E: [REDACTED]@gov.scot



Scottish Go
Riaghaltas na h-Al
gov.scot

Serco Ltd
Serco House,
Bartley Wood Business Park,
16 Bartley Way,
Hook,
Hampshire
RG27 9UY

Our ref: Case/313593

4 October 2016

Attn: [REDACTED]

Dear Sir,

Mini-Competition on Lot 5 of CCS RM988 Creative Solutions, Execution and Related Services Framework for provision of Know The Score and Drinkline Scotland Helplines

Thank you for your tender dated 17 August 2016. We have now completed our evaluation of all tenders received and on behalf of Scottish Ministers, we are pleased to confirm acceptance of your tender.

The documents listed below shall be deemed to form part of the contract:

- Scottish Government Invitation to Tender (ITT) for the subject mini-tender dated 1 August 2016;
- Your company's tender, dated 17 August 2016 and clarification emails dated 13th September 2016, 16th September 2016 and 19th September 2016;
- Annex A Crown Commercial Services terms and conditions for RM988 with contract specification at Appendix 1 and pricing at Appendix 2.
- Annex B Data Controller (the Scottish Government) / Data Processor (Supplier) Contract
- Annex C UK Government Cyber Essentials Framework

The contract shall commence on **1 November 2016 and end on 31 October 2017** with the option to extend for a period of 12 months thereafter, unless the contract is terminated in accordance with the Terms and Conditions of the contract at Annex A. The total cost for this contract shall be £96000 (excluding VAT).

Payment will be made within 30 days of receipt of a valid invoice submitted at agreed project milestones. This invoice should detail the work undertaken to date, including a breakdown of all expenses.

The Scottish Government Contract Manager for this requirement is [REDACTED] who can be contacted on Tel: 0131 244 [REDACTED] email: [REDACTED]@gov.scot .

Furthermore no action should be undertaken by your company at this time in respect of this contract until the official contract start date. The Scottish Ministers accept no responsibility or liability for any actions which you may take based on the information detailed in this letter. Any such actions and their financial consequences will be entirely at your own risk.

For your information Scottish Government provides a summary of the evaluation team's comments on the attached Annex which you may find useful for future bids.

I would be grateful if you could acknowledge receipt of this contract award letter by signing and returning the attached copy to me by the **7 October 2016**.

Yours faithfully

[REDACTED]
Senior Portfolio Specialist

On behalf of **Serco Limited**, I hereby acknowledge receipt of Contract Award Letter (Case/313593) dated **4 October 2016**.

Signature:

[REDACTED]

Position:

Customer
Service Director

Print
Name:

[REDACTED]

Date:

7/10/2016

Authorised Signatory on behalf of **Serco Ltd**

The Scottish Government
Scottish Procurement & Commercial
Directorate



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0141 244 [REDACTED]
E: [REDACTED]@gov.scot

Serco Ltd
Serco House,
Bartley Wood Business Park,
16 Bartley Way,
Hook,
Hampshire
RG27 9UY

10 October 2017

Attention: [REDACTED]

Dear [REDACTED]

**CONTRACT CASE/313593 FOR KNOW THE SCORE AND DRINKLINE
SCOTLAND HELPLINES (Mini-Competition on Lot 5 of CCS RM988 Creative
Solutions, Execution and Related Services Framework)
FOR THE PERIOD 1 NOVEMBER 2016 TO 31 OCTOBER 2017 WITH THE
OPTION TO EXTEND FOR A PERIOD OF ONE YEAR – AMENDMENT 1**

With reference to the above mentioned Contract and your price proposal dated 10 October 2017, I hereby inform you that the stated contract is to be extended for a period of 12 months from 1 November 2017 and amended, detailed as follows:

All reference to the period 1 November 2016 to 31 October 2017 will now read 1 November 2016 to 31 October 2018.

Appendix 2 will be updated as follows:

Contract Charges

Know The Score And Drinkline Scotland Helplines

Pricing Schedule

The 'fixed' price (i.e. not subject to change) in pounds sterling and exclusive of any VAT for the total cost of the proposed solution to deliver the **Know the Score and Drinkline Scotland Helplines** as detailed below.

Pricing is on a fee per month basis.

Work Area	Know the Score	Drinkline Scotland
Fee per month ex VAT for the period 1/11/16 to 31/10/18	£5,000	£3,000
Total for period 1/11/16 to 31/10/17	£60,000	£36,000
Total for period 1/11/17 to 31/10/18	£60,000	£36,000
Total Cost for both helplines	£96,000 per annum, £192,000	

All other terms and conditions remain unchanged.

Please acknowledge receipt of this contract amendment by completing the acceptance and return by **17 October 2017**.

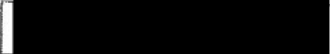
Yours faithfully



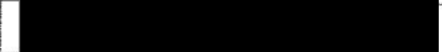

Senior Portfolio Specialist

Confirmation of Acceptance of Amendment No.1 dated 10 October 2017

Authorised signatory on behalf of Serco Ltd

Signature: 

Position: Customer Services Director

Name: 

Date: 11/10/2017

Evaluation Summary to Case/313593

The stated contract was awarded in accordance within the Notices and Instructions to Tenderers, as detailed in the Invitation to Tender.

Summary of Evaluators Comments

Technical Proposal Section	Summary of Evaluation Comments
Schedule 3 Q 1	Serco has clearly met the requirements on staffing as set out in the invitation to tender. Strong evidence is provided of: a large pool of trained advisors, a clearly defined system for forecasting contact volumes and induction training.
Q 2	Good evidence is provided of the training infrastructure in place and staff training available to meet the remit. Also good links with external stakeholders with the required specialist knowledge to inform training documents. Some additional information on the process for Tier 2 on-going development would have been welcome.
Q 3	A strong and detailed response demonstrating a good understanding of all the elements required. The managing and monitoring of delivering quality in the service has been well evidenced. More detail would have been welcome on what the KPSOL system is and how it is the best platform for developing a robust knowledgebase.
Q4	Strong evidence is provided of meeting required security standards and having systems in place. More information around ensuring security measures remains up to date and fit for purpose at all times would have been welcome.
Q5	Overall a strong a detailed response. More information would have been welcome on reviewing the efficiency of the service during the contract, beyond the information offered. More evidence could have been provided on how cost efficiency in the system will be achieved.
Q6	Clear transition plan is evidenced including date and shows a smooth transition to the new contract with no drop in service quality. More detail would have been welcome on how the agreed Key Performance Indicators would be met and on the Operational Plan.
Q7	Strong previous relevant experience is evidenced in the contract management team. There are clear processes in place to deal with complaints and escalation.

Annex A

Appendix 1(Contract Services)

Know The Score and Drinkline Scotland Helplines

Statement of Requirements

1. As a result of tender exercise Case 313593 provision of Know The Score and Drinkline Scotland Helplines, Scottish Government has awarded this contract to Serco Ltd.

The scope of requirements is as follows for the provision of two Scottish Government (SG) helplines:

- a) Know the Score
- b) Drinkline (Scotland).

For Know the Score only, the following is also required:

- an email enquiry response service and a webchat response service
- provision for callers to order information materials and forwarding of the orders by the Supplier to SG distributors.

Know the Score is a Scottish Government funded public information campaign to provide factual information on drugs that was launched in March 2002.

The core message is that all drugs are potentially harmful. This message is communicated through literature, a website, and a free and confidential telephone helpline/email/webchat service. The campaign attempts not to lecture, patronise, glamorise or scaremonger.

The aim of the Know the Score helpline is to provide factual information about the harmful effects and other consequences of drug taking so that individuals can understand the risks and to encourage those in need to contact their local drug treatment services. The campaign is part of the Scottish Government's Road to Recovery drug strategy and is designed to complement other activities such as schools education and community diversionary initiatives

The service offers information, advice and support on any matters regarding illegal drugs for those based in Scotland. Support is also offered to concerned others and Know the Score can signpost individuals to various organisations in Scotland.

Drinkline Scotland, which launched in August 2006, is a free and confidential alcohol helpline. The service offers information, advice and support on any matters regarding alcohol for individuals based in Scotland. The overall aim of the service is to provide information on alcohol and to encourage those in need to contact their local alcohol treatment services. Support can also be offered to concerned others and Drinkline Scotland can signpost individuals to various organisations in Scotland.

Please see Appendices C and D at the end of this specification for the policy context and service requirements for both requirements.

The contact centre (and related services) will be operational by 1 November 2016 and the contract will remain in place until 31st October 2017 with the option of a 12 month extension for the period 1 November 2017 to 31 October 2018.

2. Services

All services are Mandatory and form the minimum standard required to conduct the service. Requirements at paragraphs 4.1, Disclosure Scotland checks, Criminal Records Bureau (CRB) equivalent as outlined at 4.2 and 4.10 Data Protection and Data Security will be maintained for the duration of the contract.

Scottish Government expects to approve the use of sub-contractors and will have the final approval on sub-contractors proposed at any time during the contract period.

3. Objectives

The objectives of this project are listed below.

Know the Score objectives:

- To provide information on illegal drugs including effects and risks.
- To offer harm reduction information when appropriate.
- To support all individuals with their substance misuse problems within their recovery journey
- To support concerned others and signpost where appropriate
- To supply details of local drug treatment services and other relevant organisations.

Drinkline Scotland objectives:

- To provide factual information on alcohol including: units, recommended daily guidelines, effects and risks
- To offer advice on the correct manner to cut down or stop drinking
- To encourage callers to undertake the alcohol audit to assess their own drinking levels
- To support all individuals with their substance misuse problems within their recovery journey
- To support concerned others and signpost where appropriate
- To supply details of local alcohol treatment services and other relevant organisations.

4. Minimum Technical Requirements

4.1 Summary of requirements

This section should be read alongside the detailed required specifications for each helpline service to be delivered which are provided as Appendix C - Drinkline (Scotland) and Appendix D - Know the Score to this Appendix 1.

Service requirements are as follows:

Work Area	Know the Score Drinkline Scotland
Immediate contact handling:	
Provide high quality and immediate tailored advice which can be given via telephone, email or web-chat.	
Data-capture responders (where appropriate) and feed data into the central database.	
For <u>Know the Score only</u> , receive orders from callers for information materials and pass these onto Scottish Government distributors, who are currently APS. (Note: APS group is the Scottish Government official publisher. APS print and supply KTS materials).	
Support Systems:	
Provide and maintain an up-to date detailed directory of national/local drug and alcohol support services, enabling individuals to be signposted to them.	
For drugs services this should be refreshed quarterly using data streamed from the Scottish Drugs Services Directory. For Alcohol Services through the Alcohol Support Services Directory.	
Reporting and management information:	
Provide detailed monthly reporting on calls and emails handled by advisers.	
Provide data feeds for ad-hoc evaluation activity commissioned by SG.	

4.2 Advisor and contact handling requirement

Indicatively, more than one tier of operator is used on both services. The future solution as this contract progresses may require tiers of service provision to continue but other routes may be considered. The way the service operates currently is outlined below:

Tier One

This tier triage calls to establish the nature of the query, handling simple information requests and passing complex contacts to tier two resources. Contacts handled by this tier would include details of local services, straightforward enquiries, requests for fulfilment material etc.

Tier Two

The second tier of contact handling receives complex contacts from the first tier, where the query requires a more in-depth response. Contacts handled by this tier would include those requiring complex answers or where immediate assistance is required.

IVR is available if all the operators are engaged or calls come in outside operating hours.

Serco Ltd will ensure there is sufficient trained staff available at designated times to meet demand, including how they will triage contacts and provide multi-layered service provision.

Serco Ltd will monitor how cost efficiencies can be realised through process improvement and service alignment. Cost effectiveness needs to be tempered by the need to provide a customer focused service. Information provision languages other than English will be considered with access to Language Line to provide on-call translation services.

Note: All personnel working across SG helpline services must have received Disclosure Scotland checks or Criminal Records Bureau (CRB) equivalent. Tier 1 advisers are required to receive Basic Disclosure or CRB equivalent and Tier 2 advisers are required to receive Enhanced Disclosure checks or CRB equivalent.

4.3 General agent skills

All current advisors responding to enquiries have a range of skills and educational qualifications. General skills that apply to Tier One agents include:

Tier One/all agent skills

- Excellent telephone skills
- Good listening skills
- Able to take in and retain information
- Deal professionally with a large number of calls
- Computer literate

Personal qualities include:

- Ability to deal with callers from a wide range of ages and backgrounds
- Empathetic
- Logical & Objective
- Ability to deal professionally with a large number of calls
- Ability to adhere to guidelines
- Genuine interest in the subject matter covered by the service they provide

4.3.2 Tier two agent skills

Tier Two agents are likely to handle calls that require greater training. As well as having the more basic skills of Tier One colleagues, they will also need:

- The ability to handle more difficult/emotional/sensitive calls
- Counselling/advisory skills
- Enhanced training on the subject on which they will handle contacts, reflecting the current training regime for current Tier Two agents
- Empathy with the area that they are providing advice on
- Experience of the subject on which they are providing advice

4.4 Service operating hours

Serco Ltd must operate the service from 8am – 11pm, 7 days a week, for both Know the Score and Drinkline Scotland. This will include an email service for Know the Score during

those hours and a webchat service for Know the Score which currently operates from 2pm – 6pm, 7 days a week. The Supplier is required to signpost calls out-with these hours to the Samaritans and NHS 24 who operate a 24 hour service.

4.5 Equality and Diversity

Serco Ltd has and will maintain an effective diversity policy which recognises the individual needs and aspirations of all groups.

Serco Ltd will ensure that all work undertaken on behalf of the Scottish Government complies fully with current equalities legislation and the UK Single Equality Scheme.

Serco Ltd must demonstrate a commitment to diversity and equality through the effective recruitment, retention, training and development of a diverse workforce.

4.6 Staff Training

The dynamic nature of the health areas covered by this specification requires a constant focus on skills development and training for all agents. Training levels for both helplines are outlined at Appendices C and D below of this Appendix 1. These are Mandatory training levels and will be met prior to the service commencing.

Operator training is included as part of the service cost for this Contract.

Scottish Government will supply additional training to the trainers in order to prepare training materials if required.

4.6.1 Induction training

Specific field training requirements for drugs or alcohol for the respective helplines is set out in the relevant appendices. All new agents should receive full induction training. In addition to the standard department/organisation induction programme, any comprehensive induction programme should cover:

- The aims and structure of the department/organisation as a whole, and the role and purpose of the contact centre and how it fits into the rest of the organisation
- Knowledge of particular service(s) as appropriate, the subject matter and the business process of the service
- Customer service skills (often referred to as 'soft skills'), in general terms and specific techniques that can be used across all vehicles of response, e.g. telephone, email, webchat.
- Familiarity with IT systems
- Organisational policies and procedures
- Team building
- Stress management
- Management training for team leaders

The length of induction training will depend on the skills the individual already has and the complexity of the health issue/business processes they are handling.

The Service Provider will ensure new recruits are adequately skilled to perform the roles to deliver the services and insure continuity in service provision.

4.6.2 On-going training and development

On-going training is essential to reinforce and refresh the initial training message and to support continuous improvement. As the service develops, new training will be needed. Training will focus on the learning and personal development of the individual, in the context of the needs of the service. Adequate time will be given for on-going training to ensure agents are kept informed of any new developments in their area of specialism including SG Policy guidance.

4.7 System requirements

A central database will be provided to enable call handling and reporting to function effectively and support evaluation of all the services provided. This system is required only to collect information from callers to enable day to day operation of the SG helplines and service monitoring. Both services will be delivered anonymously with personal contact details only required to be collected when callers to Know the Score request information materials to be sent to them.

The central database will provide for:

- A scalable and flexible solution to allow for changes to the system, in terms of data capture and functionality
- Compliance with all relevant data protection and Scottish Government information security requirements (see 4.10)
- Timely system changes at minimal cost
- Provision of regular specified and ad-hoc management reporting
- Reporting that is compatible with Microsoft software
- Support export of data in standard formats. (e.g. CSV. XLS)
- Mechanism(s) for data cleansing
- Capability to record and store all calls for a predetermined period of time
- Support of 'Caller Line Identification' for use in the contact centre.

E-mail handling will only be a requirement of the Know the Score service and emails will be managed through an email inbox(s) (with an appropriate domain name). Emails will be presented to agents as a task. Email communication will be recorded into a database and appended to a customer record.

Webchat handling will only be a requirement of the Know the Score service. It is important to ensure contacts handled via this channel are efficient – and directed to channels that are more efficient as appropriate e.g. live call in the event of an extended web chat or a suitable website. At all times operators have to be aware that they are the public face of Scottish Government.

4.8 Technology

The service provider will deploy technology, which will form an open architecture platform that best achieves contact handling effectiveness, efficiency and cost management.

Service provider will ensure:

- efficiency improvements in service delivery
- effective reporting including remote access
- anticipate future advances
- pursuit of environmentally friendly solutions

Note: Please also refer to section 4.7. (System requirements).

4.9 Data Expectations

To enable monitoring of the service, fields will as a minimum include:

- Basic demographic information
- Classification of issue(s)
- Record of information offered
- Signposting details
- Follow up actions
- Contact outcome

(This is not an exhaustive list of fields but an indication of range). The full list will be agreed at the inception meeting with the SG to be held within the first two weeks of the contract start date, as will be the process for changing the list if necessary.

4.10 Data Protection and Data Security

The service provider will ensure all information held is securely and sensitively managed at all times and adhere to and comply with data protection legislation applicable to Scottish Ministers.

The service provider will hold information about individuals in order to administer records relating to ordering Know the Score information materials through the helpline. In so doing, the service provider is committed to respecting individuals' right to privacy and to protecting personal information, following the principles laid down in the Data Protection Act 1998.

In line with these principles, the individual has a right to see what information is held by the service provider, and to have any inaccurate or out of date information corrected or deleted. The service provider must respond to data protection requests within the current legislative guidelines.

As the service provider will be processing personal data on behalf of the Scottish Government, the Data Protection Act (DPA) requires a Data Controller (the Scottish Government) / Data Processor (Supplier) Contract to be in place. The Supplier will also need to consider and comply with Privacy and Electronic Communications Regulations (2003) where these apply. Data Controller (the Scottish Government) / Data Processor (Supplier) Contract is attached at Annex B.

The service should be designed and managed in line with the Cabinet Office Cloud Security Principles. The link is provided for information only and does not form part of this contract.
<https://www.gov.uk/government/publications/cloud-service-security-principles/cloud-service-security-principles>

Additionally, the supplier must maintain compliance with the requirements of the UK Government Cyber Essentials Framework, which defines a set of basic 'cyber hygiene' controls that underpin Cyber Security for suppliers to the UK public sector:
<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>. This is attached as Annex C to this contract.

It is required that the hosting service will be within a secure data centre, subject to ISO/IEC 27001 certification and operated in compliance with ISO 27002. The service provider will take into account that SG places great emphasis on the confidentiality, integrity and availability of information, and consequently on the security provided by the service provider. Where the hosting provider is certified to ISO 27001:2005, they should also be able to provide evidence of roadmap moving towards ISO 27001:2013.

The service provider will ensure the service is protected from electronic and cyber-attack, including the following:

- Hacking;
- Denial Of Service Attacks;
- Introduction of malicious software (including worms, Trojans and executable files);
- Intrusion detection;
- Privilege escalation (e.g. an authorised user attempting to use his credentials to access other users/organisations' data)

The service provider will arrange and commission appropriate independent penetration test and vulnerability tests (IT Health Check) to be performed against the site prior to go live. These tests will be carried out by an accredited tester and must follow the requirements of the associated scheme. The scope for all tests must be validated and approved by the Scottish Government prior to commencement to ensure they are appropriately comprehensive and take into account any specific risks or areas of concern.

The service provider will address the findings of any IT Health Check prior to go live to the satisfaction of the business area and Scottish Government colleagues.

In respect of hosting within the European Economic Area (EEA), any remote system monitoring and management service must also be within the EEA, and the Supplier will not transfer data being handled under this contract outside the European Economic Area.

4.11 Knowledge and Knowledge Manager

The service provider will develop and maintain a robust and comprehensive knowledgebase that agents can use as a core part of their call handling approach. This knowledgebase will need to be updated as information changes or develops.

4.12 Telephony

A minicom / textphone service will be provided to ensure inclusivity as well as a link to the Language Line facility for non-English speakers or other provision for translation.

4.13 Answering Service

The service provider will **ensure that an automated answering service is available where callers are unable to access the Helpline** at peak times or for any other reason.

4.14 Anticipated contact volumes

The pattern of demand on these services is likely to change over time.

Scottish Government acknowledges and agrees that the service provider shall not be liable for any failure to achieve the SLA in the event that the actual contact volume received to the helpline exceeds 110% of the forecasted volume communicated by Scottish Government to the supplier and applicable at the time. Anticipated contact volumes will be agreed between SG and the service provider following the contract award.

In the event that KPI's were not being met in any one month and volumes were not in line with the quarterly forecast, discussions would take place between Serco and the Scottish Government contract manager to agree a plan of remedial action. Where an increase or decrease in demand was forecast, but was greater or less than 5% of the forecasted volume for that month, Serco would also be exempt from adhering to KPI for that month.

Where KPI performance was impacted by unplanned campaign activity or repeat hoax callers, Serco would liaise with the contract manager and endeavour to increase resource to handle the increased demand subject to approval by the contract manager but would also be exempt from KPI adherence that month.

Following this, Serco would then liaise with the Contract Manager to review forecasts for the next three months, taking into account any potential uplift in volumes and resource required to ensure KPI is achieved.

4.15 TUPE

TUPE will not apply to this Contract.

5. Quality Expectations

The service provider will ensure that Quality Control measures are in place. The service provider will monitor all calls for training and quality assurance purposes. All staff responsible for answering calls and processing emails will receive advice and guidance on the process for managing and responding to calls.

The service provider will maintain an accurate and auditable record of all calls received and the resultant outcomes.

The service provider must inform the Scottish Government Contract Manager where a third party organisation is used for the delivery of any aspect of the Helpline service. The Scottish Government Contract Manager must approve the use of any such third party.

The service provider will actively seek to evaluate, measure and improve performance through a policy of continuous improvement applied throughout the period of the contract.

5.1 Complaints

The service provider will investigate and respond to complaints received from any user of the Helpline.

The service provider will be required to register and record any complaints received. The service provider must acknowledge and advise the Scottish Government Contracts Manager of all complaints immediately. This will be followed within 2 working days by either a full response or an action plan on how the complaint will be resolved and the expected resolution date.

If resolution of a complaint is not achieved within the stated timescale the Scottish Government Contract Manager will be updated by the Supplier on a daily basis.

It will be for the Scottish Government Contracts Manager to investigate any complaint made against the Supplier in its role of managing the operation of the Helpline.

6 Contract Management

6.1 Budget

Payment of the monthly fee will be subject to the KPIs being met to the satisfaction of the Scottish Government contract manager (please see Paragraph 6.5, Performance Criteria):

- 80% of the agreed fee paid monthly in arrears
- 20% of the agree fee paid monthly in arrears subject to the KPIs being met to the satisfaction of the SG contract manager. Each KPI is allocated at 20%/3 of agreed monthly fee.

Scottish Government acknowledges and agrees that the supplier shall be eligible for exemption from performance deductions if there is a failure to achieve the SLA in the event that the actual contact volume received to the helpline exceeds 110% of the forecasted volume communicated by Scottish Government to the supplier where performance is detrimentally impacted due to the additional volume. The supplier shall be eligible for performance relief for failure to achieve the SLA if impacted by factors outside of the supplier's reasonable control.

The service provider will be required to submit a monthly monitoring report and a monthly invoice to enable SG payment of services received. Subject to KPIs being satisfactorily met, invoices will be paid.

Suppliers will be expected to maintain an escalation policy in the event of repeated failure to meet agreed KPIs. Core KPIs are outlined at paragraph 6.5 below.

6.2 Information and reporting

The dissemination, management and analysis of information input to and output from the services is a crucial requirement and includes the following:

Managing all information into and out of all systems accessed by anyone engaging with the services (customers, agents, advisors, stakeholders) which may include:

- Knowledgebase Updates
- Update data capture requirements across all channels
- Links embedded in any automated or customised response
- Daily Briefing for agents/advisors

Analysis of data captured by agents, advisors and systems to inform and provide for continuous improvement of the services.

Reporting service performance, individually and in aggregate, to programme management and stakeholders.

The service provider will provide management information reports to the Scottish Government Contract Manager. Monthly reports will be required including the following information as a minimum:

- Number and duration of contacts by channel
- Abandoned and engaged calls/contacts
- Profile of contacts
- Information requested
- Timing breakdown of calls received in hourly intervals
- Geographical spread of callers
- Number of complaints
- First contact resolution rates

In addition to the monthly management information report, the service provider will be expected to produce an Annual Contract Review. The annual review will contain both narrative and statistical data based on aggregated information and include the following.

- Progress against key milestones.
- Progress against performance indicators.
- Aggregate summary of monthly report data.
- Assessment of overall performance.
- Recommendations for improving performance

The annual review must be provided to the Scottish Government Contract Manager no later than 30 days following the end of each contract year.

6.3 Feedback loop

Feedback from customer interaction will be vital and the service provider will develop a feedback loop to refine the service using customer feedback. All feedback would need to be forwarded to SG before being used to deliver service refinements. Feedback should be reviewed, reporting from the database to identify any customer trends or patterns and fed back via monthly reporting and at quarterly review meetings. Where feedback is of an urgent nature, the Operations Manager will contact the Scottish Government immediately

The supplier will be expected to outline how they will collect feedback. Feedback should be provided by the contract manager to the Scottish Government contract manager.

6.4 Account management and administration

The service provider will ensure that effective processes and systems are in place to maximise the effectiveness of the Helpline.

The service provider will develop and maintain an Operational Plan which defines how the contract will be staffed, operated and managed to ensure their effective delivery and includes how agreed Key Performance Indicators at section 6.5 will be met.

A final operational plan based upon the operational plan provided at ITT stage will be agreed between the service provider and the SG contract manager no later than one month following the contract award.

The service provider will allocate a management resource with responsibility for the account and be named contact for liaison with the SG. Quality assurance on all aspects of the programme will be performed i.e. monitor the quality of the service provision to ensure customer satisfaction in accordance with the key performance indicators outlined in this service specification, unless otherwise approved by the SG Contract Manager.

The point of contact for the Supplier will be:

- [REDACTED] – Operations Director
- [REDACTED] – Service Delivery Director
- [REDACTED] – Service Manager

[REDACTED], Policy Manager will be the SG contract manager who will liaise with the service provider on all operational and contractual issues, including complaints and dispute resolution.

A contract inception meeting will be held with SG within four weeks of the contract award date. This will be followed by meetings every three months during the contract to discuss and review performance of the contract and then a meeting prior to the end of this contract. The service provider will liaise with SG on all aspects of service delivery, whether directly managed or sub contracted. The Supplier may also be required to attend additional ad-hoc meetings.

6.5 Performance of the services - Performance Criteria (KPIs)

The Supplier will operate the contract and monitor performance in accordance with this Statement of Requirements and agreed Key Performance Indicators. The Supplier will provide performance reports on a monthly basis. Reports will measure the Supplier's performance against agreed Key Performance Indicators.

The following levels of performance will be expected for the core KPIs listed as follows.

- On live operator services, unless otherwise agreed, there will be a target for calls to be answered at least 75% of the time by a live operator on the first attempt by the

caller, with a minimum standard of 65%. A formal performance review will be conducted following commencement of the contract to investigate the feasibility of raising the KPI from 65% to 70%.

- Appropriate call plan messaging should be put in place to ensure that anyone who is accessing the helpline, but their call cannot be answered, should receive signposts to other sources of information including in an emergency situation.
- Telephone calls to be answered within a maximum of 10 seconds
- In the normal course of events, e-mail responses to be processed on day of receipt
- Webchat standards to be agreed upon appointment.
- All caller requests for Know the Score materials to be passed on by the Supplier to the SG distributor within one working day of receipt
- Should there be any problem with data transfer the SG contract manager should be informed immediately
- Accuracy of data capture. It is expected that at least 98% of respondents will receive correct material
- Provision of reports accurately and on time. Reports will be provided to an agreed schedule
- The response to requests for ad hoc reports must be processed within a specific time agreed by SG and the Supplier. This time period is dependent on the complexity of the report required but could range from a few hours to several days
- The response to requests for system changes and the subsequent implementation of the changes must be processed within a timetable agreed SG and the Supplier
- Quick investigation of complaints and problems. Any complaints regarding the system or services must be responded to within 24 hours of the notification.

Note: compensation will not be one of the solutions available via the complaints procedure

Payment of the full monthly fee will be dependent upon KPIs being met to the satisfaction of the SG contract manager. (please refer to Paragraph 6.1, Budget).

7. External Performance Monitoring

In addition to internal monitoring, quality control, management information feedback from customers and SGs own experiences, independent evaluation may be used to ensure that the agreed performance criteria are adhered to.

Feedback from any exercise of this nature will be used both to assess service provider performance and to develop and improve on the quality of the service being offered.

8. Disaster Recovery Plan

The service provider will maintain a disaster recovery plan and back-up solutions.

The service provider will maintain a contingency plan to ensure the continuing availability of the Helpline service where unplanned or unforeseen circumstances result in the service being unavailable to callers.

The service provider must notify the Scottish Government Contract Manager within 2 hours of the known issue arising and submit a risk management plan detailing the response to remedial action taken or proposed to mitigate any loss of the helpline service.

9. Service transition timing

The Contact Centre (and related services) must be operational by 1 November 2016, in time for the closure of the existing services on 31 October 2016. To meet this timeframe, the successful supplier will need to work closely with SG and the existing provider, during set-up of the new service.

Appendices

The following appendices to this Appendix 1 provide more detail on requirements included in this service specification.

- Appendix A – Working with Government
- Appendix B – Drinkline (Scotland) Service specification
- Appendix C – Know the Score Service specification

APPENDIX A - WORKING WITH GOVERNMENT

Working with Government implies a unique set of circumstances and the need for any agency to consider a number of issues over and above the specific objectives of the brief.

Along with other key best practice public sector organisations, Government has an obligation to make sure that the communications activity it undertakes for citizens is:

- Politically appropriate
- Does not unnecessarily harm the environment
- Takes into account the diversity of the audience
- Is as accessible as possible.

It is important that SG and its agencies do more than pay lip service to these obligations as all citizens have a right to Government information.

1. Talking to the media

Government campaign activity creates a lot of interest in the general and marketing media. However, it is important that you recognise that this document is issued to you as commercial in confidence.

Agencies are therefore not authorised to communicate with the media (e.g. the Trade Press) about this document or campaign activity unless you have written permission from an authorised SG representative.

Any calls about SG campaigns that an agency receives must be referred to the SG Contract Manager.

By accepting this contract, you agree to be bound by these terms.

2. Environmental impact/sustainability

SG is committed to reducing unnecessary harm to the environment through use of environmental best practice and would expect the Supplier to give serious consideration to environmental impact.

3. Inclusivity

Around 8% of the UK population is made up of ethnic minority communities, the largest communities being South Asian (Indian, Pakistani and Bangladeshi), black (African and Caribbean) and Chinese. The Race Relations (Amendment) Act 2000, places an obligation upon the public sector to promote race equality and to ensure that information is provided to ethnic minority audiences in an accessible format.

SG advocates that all communications should be inclusive.

4. Informability

The Disability Discrimination Act 1995 prohibits discrimination against disabled people in the provision of goods and services. The Act also covers access to information and communication services. Government should be leading the way, setting out best practice.

There are:

- Over 7 million adults in the UK have literacy problems
- 1.7 million people have visual impairments
- Over 8 million people with some form of hearing disability
- 1 million with learning difficulties

Informability is the principle of ensuring that information is made accessible to as wide an audience as possible.

Not using too small a font size (at least 12 point) and emboldening key headings or information are obvious steps to take. However, many different factors can affect the accessibility of printed and other materials e.g.

- Use of certain colours in combination
- Contrast
- Use of italics
- Consistency.

1. APPENDIX B – DRINKLINE (SCOTLAND)

Policy Context

The Service provider will operate within current national policy including but not exclusively the Scottish Government's Alcohol strategy: '*Changing Scotland's Relationship with Alcohol: A Framework for Action*'

<http://www.scotland.gov.uk/Publications/2009/03/04144703/0>

Remit:

Drinkline (Scotland) is a free and confidential helpline. The service offers information, advice and support on any matters regarding alcohol for individuals based in Scotland. The overall aim of the campaign is to provide information on alcohol and to encourage those in need to contact their local alcohol treatment services. Support can also be offered to concerned others and Drinkline (Scotland) can signpost individuals to various organisations in Scotland.

Drinkline (Scotland) Service objectives

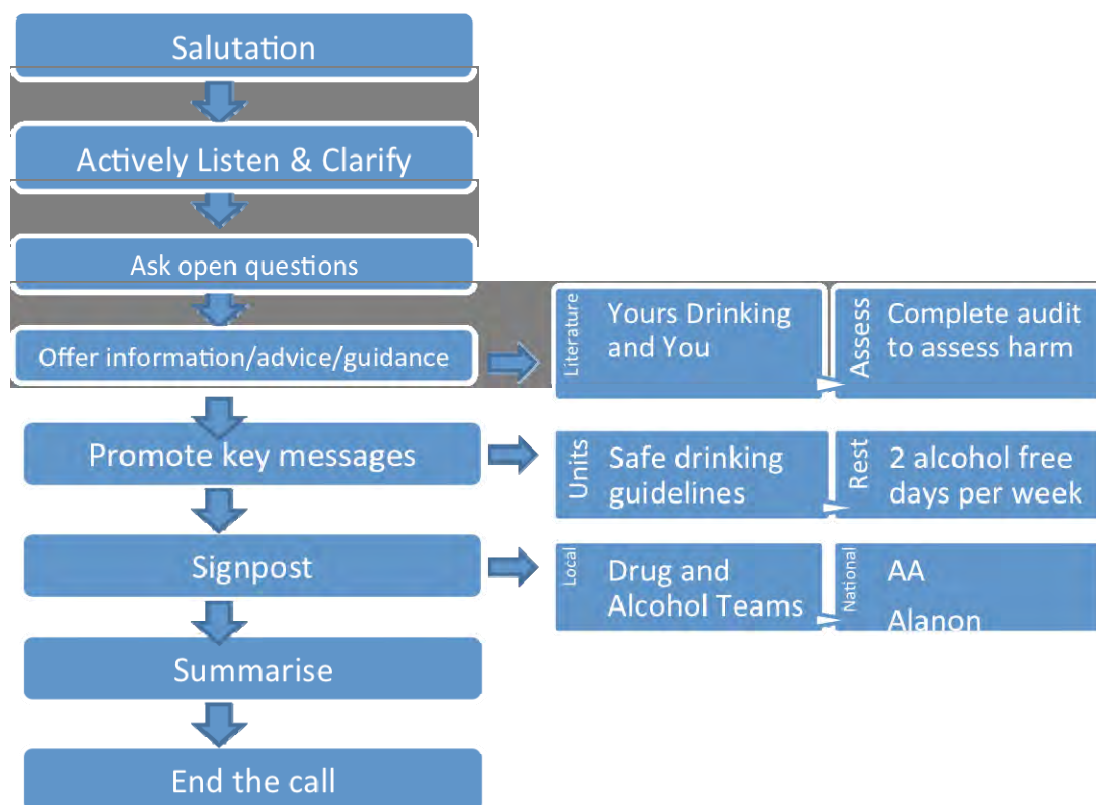
- To provide factual information on alcohol including: units, recommended daily guidelines, effects and risks
- To offer advice on the correct manner to cut down or stop drinking
- To encourage callers to undertake the alcohol audit to assess their own drinking levels
- To support all individuals with their substance misuse problems within their recovery journey
- To support concerned others and signpost where appropriate
- To supply details of local alcohol treatment services and other relevant organisations.

Required Operating Hours:

8am – 11pm, 7 days a week

Contact Outcomes

Current Contact Handling Process:



Current agent profile

Tier 1

<u>CATEGORY</u>	<u>ESSENTIAL REQUIREMENT</u>	<u>DESIRABLE REQUIREMENT</u>
EDUCATION	Standard grade English and/or a relevant HNC/HND. Relevant and equivalent work experience may be considered.	Customer Service qualifications.
EXPERIENCE	Contact Centre experience. Customer Service experience.	Counselling/Advisory Skills
SKILLS	A good standard of written and spoken English. Excellent communication skills including a confident telephone manner. The ability to adhere to a defined remit	

	<p>The ability to actively listen and ask appropriate question to understand the query and then convey information specific to caller's needs</p> <p>An understanding of professional boundaries.</p> <p>Proven IT literacy and experience of navigating various multi-channel applications and databases.</p> <p>The ability to check information to a high standard of accuracy and detail.</p> <p>The ability to work within organisational policies, procedures and guidelines.</p> <p>An understanding of confidentiality.</p> <p>Willingness to ask for support and use available information.</p> <p>Ability to deal professionally with a large number of calls</p> <p>Able to handle queries of a sensitive nature</p>	
PERSONAL QUALITIES	<ul style="list-style-type: none"> • Reliable • Committed • Positive and self-motivating • Team spirited • Approachable • Calm • Trustworthy • Flexible • Calm, Patient & Empathetic • Ability to deal with callers from a wide range of ages and backgrounds • Non-judgemental • Logical & Objective 	
OTHER COMMENTS	<ul style="list-style-type: none"> • Willing to work shifts • Commitment to ongoing personal and professional development. • Willingness & consent to apply for a CRB check 	

Tier 2

CATEGORY	ESSENTIAL REQUIREMENT	DESIRABLE REQUIREMENT
----------	-----------------------	-----------------------

EDUCATION	Higher Grade	HNC/HND/Degree Counselling qualification Drugs & Alcohol Diploma/Cert
EXPERIENCE	1 Year's experience in relevant setting: drugs/alcohol counselling, crisis intervention, addiction, Health promotion, youth work, community education, nursing, social work, counselling	Experience related to Drugs/Alcohol
KNOWLEDGE	Understanding of issues related to addiction drugs/alcohol	Knowledge of referrals/resources available
SKILLS	Excellent telephone skills Good listening skills Able to take in and retain information Able to handle difficult calls Computer literate	Counselling/Advisory skills
PERSONAL QUALITIES	Calm & Patient Ability to deal with callers from a wide range of ages and backgrounds Empathetic Logical & Objective Ability to deal professionally with a large number of calls Ability to adhere to strict guidelines Able to handle sensitive calls Comfortable with subject matter Genuine interest in Drugs/Addiction	

Current Training

Tier 1 Training

Remit

- Role and responsibility
- Triage and transfer to Tier 2

Theory

- Information and knowledge to answer helpline queries

Contact Handling- calls, communication skills, SMS, webchat, multi-channel communication skills

Safeguarding

Systems and data capture

- CRM
- Knowledge Base
- Telephony

Practical

- Role play and scenarios
- Live Listen-ins
- Buddying

Tier 2 Transfers

Campaign specific information

- Service publications and resources

Units

- Alcohol messages
- Campaign

Risks

- Sensible drinking
- Cutting down
- Risks and impact of drinking
- Audit
- Literature
- Who alcohol effects

Effects

- Alcohol and Health
- Campaigns
- Mental Health
- Sexual Problems
- Pregnancy
- Binge drinking
- Effects on Behaviour
- Unsafe Sex

Alcohol and the Law

- Drunk Driving
- Workplace
- Licensing
- Home Brewing
- Legal Age
- Penalties
- Drinking in Public

Treatment

- Withdrawals
- Delirium Tremens
- Other Health Effects
- Medication
- Detox
- Concerned Others
- Dual Diagnosis

Treatment

- Local Signposts
- National Signposts

Tier 2 Training

- Remit

- Establishing counselling and advanced communication skills
- Behaviour change
- Motivational interviewing
- Brief interventions
- Health promotion
- Supporting changes to risk taking behaviour
- Empowering and building self-confidence and self-efficacy
- Negotiating barriers
- Supporting informed choice
- Health anxiety
- Handling complex queries and scenarios
- Recognising boundaries that require medical advice/intervention or assistance beyond the remit of the service where onward signpost would be the most appropriate action
- Establishing appropriate escalation points.
- Specialist information
- Safeguarding
- Signposting callers
- Contact Handling-
- Systems training - knowledge base, team rooms and profiler
- Practical Experience

- Alcohol
 - Description, effects and risks
 - Key Messages
 - Poly drug use
 - Units and safe drinking guidelines
 - Harm reduction
 - Cycle of addiction
 - The Audit and assessment
 - Brief interventions
 - Treatment
 - Withdrawals

2. APPENDIX C – KNOW THE SCORE

Remit:

Know the Score incorporates a helpline and e-mail service that is free and confidential. The service offers information, advice and support on any matters regarding illegal drugs for those based in Scotland with the overall aim to provide factual information on drugs and to encourage those in need to contact their local drug treatment services. Support can also be offered to concerned others and Know the Score can signpost individuals to various organisations in Scotland. The service provider is also required to offer a mechanism for callers to order Know the Score Information materials and for these orders to be passed by the Supplier onto the Scottish Government distributors.

Know the Score Service objectives

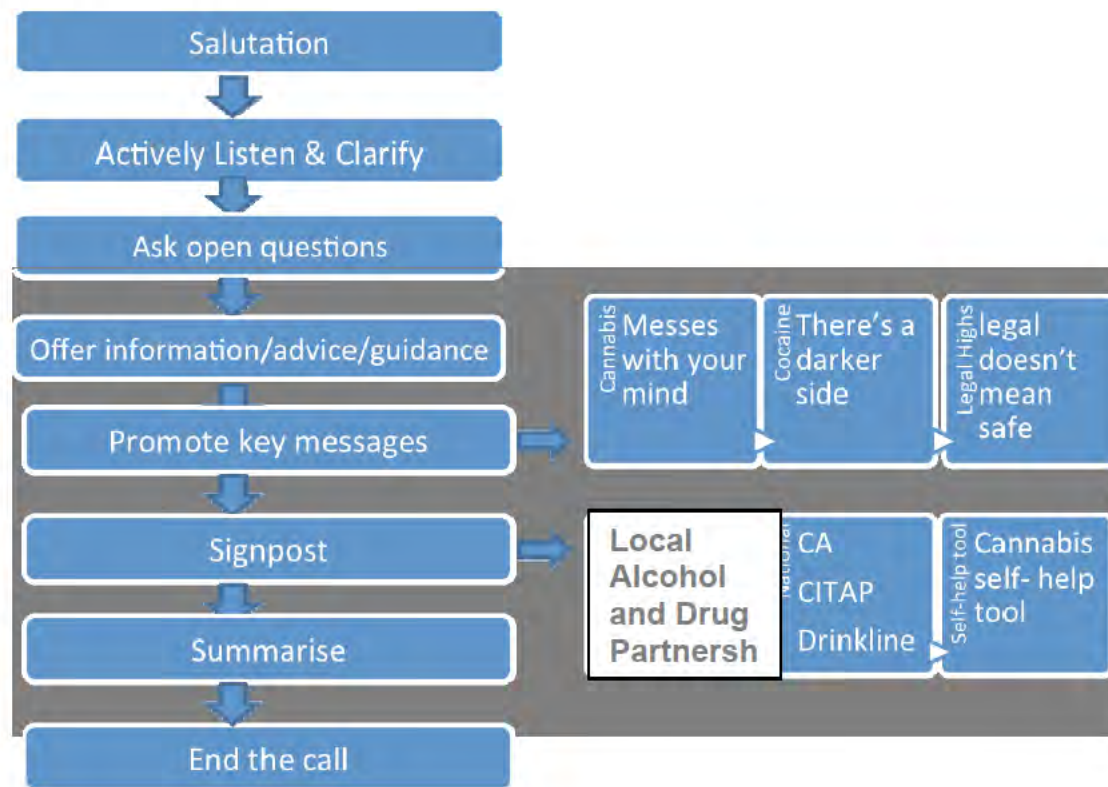
- To provide information on illegal drugs including effects and risks.
- To offer harm reduction information when appropriate.
- To support all individuals with their substance misuse problems within their recovery journey.
- To support concerned others and signpost where appropriate
- To supply details of local drug treatment services and other relevant organisations.

Website: <http://knowthescore.info/>

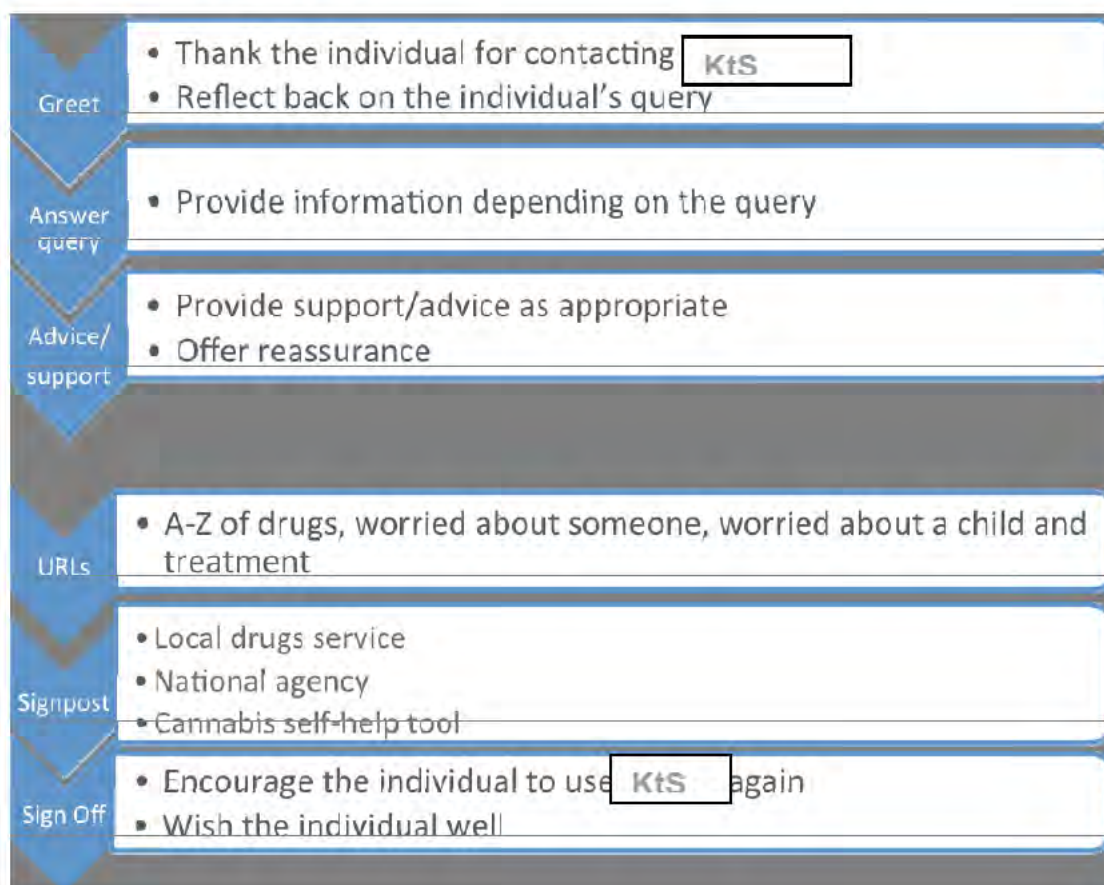
Required Operating Hours 8am – 11pm 7 days a week

Current Contact Handling Processes:

Call Process



Current Email Process



Current agent profile

Tier 1

<u>CATEGORY</u>	<u>ESSENTIAL REQUIREMENT</u>	<u>DESIRABLE REQUIREMENT</u>
EDUCATION	Standard grade English and/or a relevant HNC/HND. Relevant and equivalent work experience may be considered.	Customer Service qualifications.
EXPERIENCE	Contact Centre experience. Customer Service experience.	Counselling/Advisory Skills
SKILLS	A good standard of written and spoken English. Excellent communication skills including a confident telephone manner. The ability to adhere to a defined remit The ability to actively listen and ask appropriate question to understand the query and then convey information	

	<p>specific to caller's needs</p> <p>An understanding of professional boundaries.</p> <p>Proven IT literacy and experience of navigating various multi-channel applications and databases.</p> <p>The ability to check information to a high standard of accuracy and detail.</p> <p>The ability to work within organisational policies, procedures and guidelines.</p> <p>An understanding of confidentiality.</p> <p>Willingness to ask for support and use available information.</p> <p>Ability to deal professionally with a large number of calls</p> <p>Able to handle queries of a sensitive nature</p>	
PERSONAL QUALITIES	<ul style="list-style-type: none"> • Reliable • Committed • Positive and self-motivating • Team spirited • Approachable • Calm • Trustworthy • Flexible • Calm, Patient & Empathetic • Ability to deal with callers from a wide range of ages and backgrounds • Non-judgemental • Logical & Objective 	
OTHER COMMENTS	<ul style="list-style-type: none"> • Willing to work shifts • Commitment to ongoing personal and professional development. • Willingness & consent to apply for a CRB check 	

Tier 2

CATEGORY	ESSENTIAL REQUIREMENT	DESIRABLE REQUIREMENT
EDUCATION	Higher Grade	HNC/HND/Degree Counselling qualification

		Drugs & Alcohol Diploma/Cert
EXPERIENCE	1 Year's experience in relevant setting: drugs/alcohol counselling, crisis intervention, addiction, Health promotion, youth work, community education, nursing, social work, counselling	Experience related to Drugs/Alcohol
KNOWLEDGE	Understanding of issues related to addiction drugs/alcohol	Knowledge of referrals/resources available
SKILLS	Excellent telephone skills Good listening skills Able to take in and retain information Able to handle difficult calls Computer literate	Counselling/Advisory skills
PERSONAL QUALITIES	Calm & Patient Ability to deal with callers from a wide range of ages and backgrounds Empathetic Logical & Objective Ability to deal professionally with a large number of calls Ability to adhere to strict guidelines Able to handle sensitive calls Comfortable with subject matter Genuine interest in Drugs/Addiction	

Know the Score Tier 1 Training

Remit

- Role and responsibility
- Triage and transfer to Tier 2

Theory

- Information and knowledge to answer helpline queries

Contact Handling- calls, communication skills, SMS, webchat, multi-channel communication skills

Safeguarding

Systems and data capture

- CRM
- Knowledge Base
- Telephony

Practical

- Role play and scenarios
- Live Listen-ins
- Buddying

Campaign specific information

- Service publications and resources

Drug Categories

- Stimulants
- Depressants
- Hallucinogens

Risks and Effects
 Cannabis Campaign
 Cocaine Campaign
 Drug Issues
 Overdose and naloxone
 Terminology and paraphernalia
 Consumption
 Drugs and the Law
 New Psychoactive Substances
 Other drugs

- Steroids
- VSA

Treatment Options
 Treatment Service

Know the Score Tier 2 Training

- Remit
- Establishing counselling and advanced communication skills
- Behaviour change
- Motivational interviewing
- Brief interventions
- Health promotion
- Supporting changes to risk taking behaviour
- Empowering and building self-confidence and self-efficacy
- Negotiating barriers
- Supporting informed choice
- Health anxiety
- Handling complex queries and scenarios
- Recognising boundaries that require medical advice/intervention or assistance beyond the remit of the service where onward signpost would be the most appropriate action
- Establishing appropriate escalation points.
- Specialist information
- Safeguarding
- Signposting callers
- Contact Handling- Calls, Email and webchat
- Systems training- knowledge base, team rooms and profiler
- Practical Experience
- Drugs
- Illegal drugs: description, effects, risks and classifications
- Over the counter drugs and misused prescription drugs

- New Psychoactive Substances (previously referred to as 'legal highs')
- Poly drug use
- Drugs and young people
- Cycle of addiction
- Treatment
- Legal issues
- Key messages
- Harm Reduction
- Withdrawals
- Support
- Brief interventions

Appendix 2

Contract Charges

Know The Score And Drinkline Scotland Helplines

Pricing Schedule

The 'fixed' price (i.e. not subject to change) in pounds sterling and exclusive of any VAT for the total cost of the proposed solution to deliver the **Know the Score and Drinkline Scotland Helplines** as detailed below.

Pricing is on a fee per month basis.

Work Area	Know the Score	Drinkline Scotland
Fee per month ex VAT for the period 1/11/16 to 31/10/17	£5,000	£3,000
Total for period 1/11/16 to 31/10/17	£60,000	£36,000
Total Cost for both helplines	£96,000	

Appendix 3
Supplements to the Call-Off Terms

Clause 5.8 addition:

Any telephone number assigned to or obtained by the Supplier for the purpose of accessing the Helpline will transferred to and become the property of the Purchaser at the expiry of the Contract.

Clause 4.1 addition:

The Supplier will not be liable for losses arising from the Supplier following scripts and processes specifically approved by the Purchaser. This will amount to any potential claims from the Purchaser relating to the services or claims from service users.

Part 2 – Call-Off Terms

CONTENTS

1. DEFINITIONS AND INTERPRETATION
2. SUPPLY OF CONTRACT SERVICES
3. PAYMENT AND CHARGES
4. LIABILITY AND INSURANCE
5. INTELLECTUAL PROPERTY RIGHTS
6. PROTECTION OF INFORMATION
7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS
8. TERMINATION
9. CONSEQUENCES OF EXPIRY OR TERMINATION
10. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES
11. PREVENTION OF BRIBERY AND CORRUPTION
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13. PREVENTION OF FRAUD
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20. ENTIRE AGREEMENT
21. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT
22. NOTICES
23. DISPUTES AND LAW
24. DISASTER RECOVERY AND BUSINESS CONTINUITY
25. REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE OF THE CONTRACT SERVICES
26. RECORDS AND AUDIT ACCESS
27. VARIATION
28. MISTAKES IN INFORMATION
29. TERM
30. TUPE

SCHEDULE 1 : SERVICE LEVELS

SCHEDULE 2: NOT USED

SCHEDULE 3: DISASTER RECOVERY AND BUSINESS CONTINUITY

SCHEDULE 4: EXIT, TUPE AND PENSIONS

SCHEDULE 5: ADDITIONAL OPTIONAL CLAUSES

SCHEDULE Z: SECURITY MANAGEMENT PLAN

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the Contract, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

"Authority"	means THE MINISTER FOR THE CABINET OFFICE ("Cabinet Office") as represented by Government Procurement Service (formerly Buying Solutions), a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
"BCDR Plan"	means any plan relating to business continuity and disaster recovery as referred to in Schedule 3 (Disaster Recovery and Business Continuity);
"Call Off Commencement Date"	means the date specified as such in the Letter of Appointment;
"Confidential Information"	means the Customer's Confidential Information and/or the Supplier's Confidential Information;
"Contract"	means the written agreement between the Customer and the Supplier consisting of the Letter of Appointment, these Call-Off Terms (save to the extent varied by the Letter of Appointment) and any other documents referred to in the Letter of Appointment or these Call-Off Terms;
"Contract Charges"	means the prices (exclusive of any applicable VAT), payable to the Supplier by the Customer under the Contract for the full and proper performance by the Supplier of the Contract Services;
"Contract Mediator"	has the meaning set out in Clause 23.2.5.1;
"Contract Services"	means the services to be supplied by the Supplier to the Customer as set out in Appendix 1(Contract Services) to the Letter of Appointment;
"Customer"	means the Contracting Body that issues the Letter of

Appointment.;

"Customer's Confidential Information"

means all Customer's Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Customer, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;

"Customer Data"

means:

(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:

(i) are supplied to the Supplier by or on behalf of the Customer; or

(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; and

(b) any Personal Data for which the Customer is the Data Controller;

"Customer's Personal Data"

means the Personal Data supplied by the Customer to the Supplier and, for the purposes of or in connection with the Contract;

"Customer Pre-Existing IPR"

shall means any Intellectual Property Rights vested in or licensed to the Customer prior to or independently of the performance by the Supplier of its obligations under the Contract and including, for the avoidance of doubt, guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models and designs;

"Customer's Representative"

means the representative of the Customer appointed by the Customer from time to time in relation to the Contract

	and notified to the Supplier;
"Data Subject"	has the same meaning as set out in the Data Protection Act 1998 as amended;
"Dispute Resolution Procedure"	means the dispute resolution procedure set out in Clause 23.2;
"Expiry Date"	means the date specified as such in the Letter of Appointment;
"Goods"	means the goods to be supplied in connection with or ancillary to the supply of the Contract Services and specified within the description of services at Part 1 of Framework Schedule 1 (Services);
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the Law and the requirements of the Suppliers Regulation Authority and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in providing services similar to the Contract Services;
"Information"	has the meaning given under section 84 of the FOIA;
"Key Performance Indicators" or "KPIs"	mean the indicators, if any, set out in the Letter of Appointment;
"Key Personnel"	means any individuals identified as such in the Letter of Appointment and any replacements for such individuals that may be agreed between the Parties from time to time in accordance with Clause 2.3;
"Letter of Appointment"	means the letter from the Customer to the Supplier dated 22/09/2016 (including its appendices) containing the Order to provide the Contract Services;
"Material Breach"	means a material breach of the Contract;
"Party"	means the Customer or the Supplier and "Parties" shall mean both the Customer and the Supplier;

"Persistent Failure"	means any two (2) or more failures by the Supplier in any period of twelve (12) consecutive Months to comply with its obligations in respect of the Contract Services and under the Contract;
"Replacement Services"	means any services which are substantially similar to any of the Contract Services and which the Customer receives in substitution for any of the Contract Services following the expiry or termination of this Contract, whether those services are provided by the Customer internally and/or by any third party;
"Service Levels"	means the service levels set out in Schedule 1 (Service Levels);
"Sub-Contract"	means the Supplier's contract with a Sub-Contractor whereby the Sub-Contractor agrees to provide to the Supplier the Contract Services or any part thereof or facilities, services necessary for the provision of the Contract Services or any part thereof necessary for the management, direction or control of the Contract Services or any part thereof;
"Sub-Contractor"	means any person appointed by the Supplier to carry out any of the Supplier's obligations under the Contract;
"Supplier"	means the Supplier to whom the Letter of Appointment is addressed;
"Supplier's Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Supplier, including all IPRs, together with information derived from the foregoing, and that in any case is clearly designated as being confidential; and
"Supplier's Staff"	means all persons employed by the Supplier and/or any Sub-Contractor to perform the Supplier's obligations under the Contract together with the Supplier's and/or any Sub-Contractor's servants, consultants, agents, suppliers and Sub-Contractors used in the performance

of the Supplier's obligations under the Contract.

1.2 Interpretation

The interpretation and construction of the Contract shall be subject to the following provisions:

- 1.2.1 words importing the singular meaning include where the context so admits, the plural meaning and vice versa;
- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 the words "include", "includes", "including" "for example" and "in particular" and words of similar effect are to be construed as if they were immediately followed by the words "without limitation" and shall not limit the general effect of the words which precede them;
- 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.5 the Annex forms part of these Call-Off Terms and shall have effect as if set out in full in the body of these Call-Off Terms and any reference to these Call-Off Terms includes the Annex;
- 1.2.6 references to any statute, enactment, order, regulation, code, official guidance or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, code, official guidance or instrument as amended or replaced by any subsequent enactment, modification, order, regulation, code, official guidance or instrument (whether such amendment or replacement occurs before or after the date of the Contract);
- 1.2.7 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract;
- 1.2.8 references to "Clauses" and the "Annex" are, unless otherwise provided, references to the clauses of and the Annex to these Call-Off Terms and references to "paragraphs" are, unless otherwise provided, references to paragraphs of the Annex or Schedule in which the references are made;
- 1.2.9 terms or expressions contained in the Contract which are capitalised but which do not have an interpretation in Clause 1.1 shall be interpreted in accordance with the Framework Agreement;
- 1.2.10 a reference to a Clause is a reference to the whole of that Clause unless stated otherwise; and
- 1.2.11 in the event of and only to the extent of any conflict between the Letter of Appointment, these Call-Off Terms, any other document referred to in the Contract and the Framework Agreement, the conflict shall be resolved in accordance with the following descending order of precedence:
 - 1.2.11.1 the Framework Agreement (excluding Framework Schedule 5 (Letter of Appointment and Call-Off Terms));
 - 1.2.11.2 the Letter of Appointment;
 - 1.2.11.3 these Call-Off Terms; and

1.2.11.4 any other document referred to in the Contract.

2. SUPPLY OF CONTRACT SERVICES

2.1 Contract Services

2.1.1 The Supplier shall supply the Contract Services to the Customer in accordance with the provisions of the Contract including the Service Levels and Key Performance Indicators (if any) stipulated in the Letter of Appointment and Schedule 1 (Service Levels and Key Performance Indicators).

2.1.2 The Supplier shall:

2.1.2.1 comply with all reasonable instructions given to the Supplier and the Supplier's Staff by the Customer in relation to the Contract Services from time to time, including reasonable instructions to reschedule or alter the Contract Services;

2.1.2.2 immediately report to the Customer's Representative any matters which involve or could potentially involve a conflict of interest as referred to in Clause 2.1.3.1;

2.1.2.3 co-operate with the Customer and the Customer's other professional advisers in relation to the Contract Services as required by the Customer;

2.1.2.4 comply with the Customer's internal policies and procedures and Government codes and practices in force from time to time (including policies, procedures, codes and practices relating to staff vetting, security, equality and diversity, confidentiality undertakings and sustainability) in each case as notified to the Supplier in writing by the Customer.

2.1.3 The Supplier shall not:

2.1.3.1 knowingly act at any time during the term of the Contract in any capacity for any person, firm or company in circumstances where a conflict of interest between such person, firm or company and the Customer shall thereby exist in relation to the Contract Services; or

2.1.3.2 incur any expenditure which would result in any estimated figure for any element of the Contract Services being exceeded without the Customer's written agreement; or

2.1.3.3 without the prior written consent of the Customer, accept any commission, discount, allowance, direct or indirect payment, or any other consideration from any third party in connection with the provision of the Contract Services; or

2.1.3.4 pledge the credit of the Customer in any way; or

2.1.3.5 engage in any conduct which in the reasonable opinion of the Customer is prejudicial to the Customer.

2.1.4 Not Used

2.1.5 Not Used

2.1.6 Not Used

- 2.1.7 Not Used
- 2.1.8 Both Parties shall take all necessary measures to ensure the health and safety of the other Party's employees, consultants and agents visiting their premises.
- 2.1.9 The Supplier accepts that the Customer shall have the right after consultation with the Supplier to require the removal from involvement in the Contract Services of any person engaged in the performance of the Contract Services if in the Customer's reasonable opinion the performance or conduct of such person is or has been unsatisfactory or if it shall not be in the public interest for the person to work on the Contract Services.
- 2.1.10 Where the Supplier is more than one firm acting as a consortium, each firm that is a member of the consortium shall be jointly and severally liable for performance of the Supplier's obligations under the Contract.
- 2.1.11 Time shall not be of the essence in this contract unless stipulated by the Customer in the Letter of Appointment, in which case the provisions of Schedule 5 (Additional Further Clauses), optional Clause 34 will apply.

2.2 Variation of Contract Services

- 2.2.1 The Customer may request a variation to the Contract Services at any time provided that such variation does not amount to a material change to the Order.
- 2.2.2 Any request by the Customer for a variation to the Contract Services shall be by written notice to the Supplier:
 - 2.2.2.1 giving sufficient information for the Supplier to assess the extent of the variation and any additional costs that may be incurred; and
 - 2.2.2.2 specifying the timeframe within which the Supplier must respond to the request, which shall be reasonable,

and the Supplier shall respond to such request within such timeframe.
- 2.2.3 In the event that the Supplier and the Customer are unable to agree any change to the Contract Charges in connection with any requested variation to the Contract Services, the Customer may agree that the Supplier should continue to perform its obligations under the Contract without the variation or may terminate the Contract in accordance with Clause 8.4.1.

2.3 Key Personnel

- 2.3.1 The Supplier acknowledges that the Key Personnel are essential to the proper provision of the Contract Services to the Customer. The Key Personnel shall be responsible for performing such roles as are ascribed to them in the Letter of Appointment and such other roles as may be necessary or desirable for the purposes of the Contract or as may be agreed between the Parties from time to time.
- 2.3.2 The Key Personnel shall not be released by the Supplier from supplying the Contract Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment/partnership or other extenuating circumstances.
- 2.3.3 Any replacements to the Key Personnel shall be subject to the agreement of the Customer. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Contract.

- 2.3.4 The Customer shall not unreasonably withhold its agreement under Clauses 2.3.2 or 2.3.3. Such agreement shall be conditional on appropriate arrangements being made by the Supplier to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.
- 2.3.5 If requested by the Customer, the Supplier shall procure that Key Personnel attend transaction review meetings at no cost to the Customer during the term of the Contract and upon its conclusion.

3. PAYMENT AND CHARGES

3.1 Contract Charges and VAT

- 3.1.1 In consideration of the Supplier's performance of its obligations under the Contract, the Customer shall pay the Contract Charges in accordance with Clause 3.2 (Payment).
- 3.1.2 The Customer shall, in addition to the Contract Charges and following receipt of a valid VAT invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Contract Services supplied.
- 3.1.3 The provisions of Framework Schedule 3 (Charging Structure) of the Framework Agreement shall apply in relation to the Contract Services.
- 3.1.4 If at any time before the Contract Services have been delivered in full the Supplier reduces its Framework Prices for any Services which are provided under the Framework Agreement in accordance with the terms of the Framework Agreement with the result that the Framework Prices are lower than the Contract Charges, the Contract Charges for the Contract Services shall automatically be reduced so as to be equal to the Framework Prices.
- 3.1.5 The Supplier shall indemnify the Customer on demand and on a continuing basis against any liability, including without limitation any interest, penalties or costs, which are suffered or incurred by or levied, demanded or assessed on the Customer at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this Clause 3.1.5 shall be paid by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.

3.2 Payment

- 3.2.1 The Customer shall pay all sums properly due and payable to the Supplier in respect of the Contract Services in cleared funds by no later than thirty (30) calendar days after the date of a validly issued invoice for such sums.
- 3.2.2 The Supplier shall ensure that each invoice (whether submitted electronically or in a paper form) contains all appropriate references and a detailed breakdown of the Contract Services provided and any disbursements and that the invoice is supported by such other documentation as may reasonably be required by the Customer to substantiate the invoice.
- 3.2.3 The Supplier shall ensure that all invoices submitted to the Customer for the Contract Services are exclusive of the Management Charge payable to the Authority in respect of the Contract Services. The Supplier shall not be entitled to increase the Contract Charges by an amount equal to such Management Charge or to recover such Management Charge as a surcharge or disbursement.
- 3.2.4 The Supplier shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or

otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Supplier.

- 3.2.5 Subject always to the provisions of Clause 14, if the Supplier enters into a Sub-Contract in respect of the Contract Services, it shall ensure that a provision is included in such Sub-Contract which requires payment to be made of all sums due by the Supplier to the Sub-Contractor within a specified period not exceeding thirty (30) calendar days from the receipt of a validly issued invoice, in accordance with the terms of the Sub-Contract.
- 3.2.6 The Supplier shall not suspend the supply of the Contract Services unless the Supplier is entitled to terminate the Contract under Clause 8.2.2 on the grounds of the Customer's failure to pay undisputed sums of money. Interest shall be payable by the Customer in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on the late payment of any undisputed sums of money properly invoiced by the Supplier in respect of the Contract Services.
- 3.2.7 The Supplier shall accept the Government Procurement Card as a means of payment for the Contract Services where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 3.2.8 All payments due shall be made in cleared funds to such bank or building society account as the recipient Party may from time to time direct in writing.

3.3 Recovery of Sums Due

- 3.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Supplier under the Contract
- 3.3.2 Any overpayment by either Party, whether of the Contract Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

4. LIABILITY AND INSURANCE

4.1 Liability

- 4.1.1 Neither Party excludes or limits its liability for:
 - 4.1.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or
 - 4.1.1.2 fraud or fraudulent misrepresentation by it or its employees.
- 4.1.2 No individual nor any service company of the Supplier employing that individual shall have any personal liability to the Customer for the Contract Services supplied by that individual on behalf of the Supplier and the Customer shall not bring any claim under the Contract against that individual or such service company in respect of the Contract Services save in the case of Fraud or any liability for death or personal injury. Nothing in this Clause 4.1.2 shall in any way limit the liability of the Supplier in respect of the Contract Services, which such liability shall be uncapped unless otherwise specified in the Letter of Appointment.

- 4.1.3 The Supplier shall fully indemnify and keep indemnified the Customer on demand in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with, the supply, purported supply or late supply of the Contract Services or the performance or non-performance by the Supplier of its obligations under the Framework Agreement and the Customer's financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused by any act or omission of the Supplier.
- 4.1.4 Subject to Clauses 4.1.1 and 4.1.5, in no event shall either Party be liable to the other for any:
- 4.1.4.1 loss of profits;
 - 4.1.4.2 loss of business;
 - 4.1.4.3 loss of revenue;
 - 4.1.4.4 loss of or damage to goodwill;
 - 4.1.4.5 loss of savings (whether anticipated or otherwise); and/or
 - 4.1.4.6 any indirect, special or consequential loss or damage.
- 4.1.5 The Supplier shall be liable for the following types of loss, damage, cost or expense which shall be regarded as direct and shall (without in any way, limiting other categories of loss, damage, cost or expense which may be recoverable by the Customer) be recoverable by the Customer:
- 4.1.5.1 the additional operational and/or administrative costs and expenses arising from any Material Breach;
 - 4.1.5.2 the cost of procuring, implementing and operating any alternative or Replacement Services to the Contract Services; and
 - 4.1.5.3 any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Laws.
- 4.1.6 No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by or on behalf of the Customer in respect of any document or information provided by the Supplier in its provision of the Contract Services, and no failure of the Customer to discern any defect in or omission from any such document or information shall operate to exclude or limit the obligation of the Supplier to exercise all the obligations of a professional supplier employed in a customer/supplier relationship.
- 4.1.7 Save as otherwise expressly provided, the obligations of the Customer under the Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Customer in any other capacity, nor shall the exercise by the Customer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Customer to the Supplier.

4.2 Insurance

- 4.2.1 The Supplier shall effect and maintain with a reputable insurance company a policy or policies of insurance providing and subject to the minimum levels of insurance cover which are referred to in Clause 4.2.7, an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the

Supplier's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policy or policies shall include professional indemnity cover in respect of any financial loss to the Customer arising from any advice given or omitted to be given by the Supplier under the Contract or otherwise in connection with the provision of the Contract Services. Such insurance shall be maintained for so long as the Supplier may have any liability to the Customer.

- 4.2.2 It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability arising in respect of the risks referred to in Clause 4.2.1.
- 4.2.3 If, for whatever reason, the Supplier fails to give effect to and maintain the insurances required by Clause 4.2.1, the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 4.2.4 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Customer as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds for the relevant insurer to give notice to cancel, rescind, suspend or avoid any insurance, or any cover or claim under any insurance in whole or in part.
- 4.2.5 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- 4.2.6 Where there are goods supplied, in connection with the supply of the Contract Services, the minimum insurance period shall be six (6) years following the expiration or earlier termination of this Contract.
- 4.2.7 The standard minimum levels of insurance cover have been set out in the Framework Agreement. Any variation to those levels are set out in the Letter of Appointment.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 All Intellectual Property Rights ("IPR") created in connection with the supply of the Contract Services shall vest in the Supplier who shall grant to the Customer a non-exclusive, unlimited, irrevocable licence to use and exploit the same, without further payment to the Supplier.
- 5.2 The Supplier shall grant a licence, for the benefit of the Customer and the Authority, to permit them to use and/or exploit the IPR created in connection with the supply of the Contract Services, for the benefit of all Contracting Bodies, without further payment to the Supplier.
- 5.3 Nothing in this contract shall interfere with the rights and responsibilities of the Supplier of any Customer Pre-Existing IPR.
- 5.4 Subject to Clause 5.1 and save as expressly granted elsewhere under the Contract, the Customer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors and the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors.
- 5.5 The Supplier shall on demand fully indemnify and keep fully indemnified and hold the Customer and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Customer and

or the Crown may suffer or incur as a result of any claim that the performance by the Supplier of the Contract Services infringes or allegedly infringes a third party's Intellectual Property Rights (any such claim being a "**Claim**").

5.6 If a Claim arises, the Customer shall notify the Supplier in writing of the Claim and the Customer shall not make any admissions which may be prejudicial to the defence or settlement of the Claim. The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with the Claim provided always that the Supplier:

5.6.1 shall consult the Customer on all substantive issues which arise during the conduct of such litigation and negotiations;

5.6.2 shall take due and proper account of the interests of the Customer;

5.6.3 shall consider and defend the Claim diligently using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute; and

5.6.4 shall not settle or compromise the Claim without the prior written approval of the Customer (not to be unreasonably withheld or delayed).

5.7 The Supplier shall have no rights to use any of the Customer's names, logos or trademarks without the prior written approval of the Customer.

6. PROTECTION OF INFORMATION

6.1 Protection of Personal Data

6.1.1 With respect to the Parties' rights and obligations under the Contract, the Parties agree that the Customer is the Data Controller and that the Supplier is the Data Processor in relation to the Customer's Personal Data.

6.1.2 The Supplier shall:

6.1.2.1 Process the Customer's Personal Data only in accordance with instructions from the Customer (which may be specific instructions or instructions of a general nature as set out in the Contract or as otherwise notified by the Customer to the Supplier during the term of the Contract);

6.1.2.2 Process the Customer's Personal Data only to the extent, and in such manner, as is necessary for the provision of the Contract Services or as is required by Law or any Regulatory Body;

6.1.2.3 implement appropriate technical and organisational measures to protect the Customer's Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Customer's Personal Data and having regard to the nature of the Customer's Personal Data which is to be protected;

6.1.2.4 take reasonable steps to ensure the reliability of all members of the Supplier's Staff who have access to the Customer's Personal Data;

6.1.2.5 obtain the Customer's prior written approval in order to transfer all or any of the Customer's Personal Data to any Sub-Contractors for the provision of the Contract Services;

- 6.1.2.6 ensure that all members of the Supplier's Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 6.1;
- 6.1.2.7 ensure that none of the Supplier's Staff publish, disclose or divulge any of the Customer's Personal Data to any third party unless directed in writing to do so by the Customer;
- 6.1.2.8 notify the Customer within five (5) Working Days if the Supplier receives:
 - 6.1.2.8.1 a request from a Data Subject to have access to the Customer's Personal Data relating to that person; or
 - 6.1.2.8.2 a complaint or request relating to the Customer's obligations under the Data Protection Legislation;
- 6.1.2.9 provide the Customer with full cooperation and assistance in relation to any complaint or request made relating to the Customer's Personal Data, including by:
 - 6.1.2.9.1 providing the Customer with full details of the complaint or request;
 - 6.1.2.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customer's instructions;
 - 6.1.2.9.3 providing the Customer with any Customer's Personal Data which the Supplier holds in relation to a Data Subject (within the timescales required by the Customer); and
 - 6.1.2.9.4 providing the Customer with any information requested by the Customer;
- 6.1.2.10 permit or procure permission for the Customer or the Customer's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, the Supplier's data Processing activities (and/or those of its agents and Sub-Contractors) and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that the Supplier is in full compliance with its obligations under the Contract;
- 6.1.2.11 provide a written description of the technical and organisational methods employed by the Supplier for Processing the Customer's Personal Data (within the timescales required by the Customer); and
- 6.1.2.12 not Process or otherwise transfer any Customer's Personal Data outside the European Economic Area without the prior written consent of the Customer which may be given on such terms as the Customer in its discretion thinks fit.
- 6.1.3 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under the Contract in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.
- 6.1.4 The Supplier acknowledges that, in the event that it breaches (or attempts or threatens to breach) its obligations relating to the Customer's Personal Data that the Customer may be irreparably harmed (including harm to its reputation). In such circumstances, the Customer may proceed directly to court and seek

injunctive or other equitable relief to remedy or prevent any further breach (or attempted or threatened breach).

- 6.1.5 In the event that through any failure by the Supplier to comply with its obligations under the Contract, the Customer's Personal Data that is transmitted or Processed in connection with the Contract is either lost or sufficiently degraded so as to be unusable, the Supplier shall be liable for the cost of reconstitution of that data and shall reimburse the Customer in respect of any charge levied for its transmission and any other costs charged in connection with such failure by the Supplier.

6.2 Confidentiality

- 6.2.1 Except to the extent set out in this Clause 6.2 or where disclosure is expressly permitted elsewhere in the Contract, each Party shall:
- 6.2.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - 6.2.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 6.2.2 Clause 6.2.1 shall not apply to the extent that:
- 6.2.2.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 6.4 (Freedom of Information); or
 - 6.2.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner; or
 - 6.2.2.3 such information was obtained from a third party without obligation of confidentiality; or
 - 6.2.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - 6.2.2.5 it is independently developed without access to the other Party's Confidential Information.
- 6.2.3 The Supplier may only disclose the Customer's Confidential Information to those members of the Supplier's Staff who are directly involved in the provision of the Contract Services and who need to know the information, and shall ensure that such individuals are aware of and shall comply with the Supplier's obligations as to confidentiality as set out in the Contract.
- 6.2.4 The Supplier shall not, and shall procure that the Supplier's Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of the Contract.
- 6.2.5 At the written request of the Customer, the Supplier shall procure that those members of the Supplier's Staff identified in the Customer's request sign a confidentiality undertaking prior to commencing any work in accordance with the Contract.

6.2.6 Nothing in the Contract shall prevent the Customer from disclosing the Supplier's Confidential Information (including the Management Information obtained pursuant to clause 15 of the Framework Agreement):

6.2.6.1 to any Crown body or any other Contracting Body on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any Contracting Body save as required by Law;

6.2.6.2 to any consultant, contractor or other person engaged by the Customer for any purpose relating to or connected with the Contract or the Framework Agreement (on the basis that the information shall be held by such consultant, contractor or other person in confidence and is not to be disclosed to any third party) or any person conducting an Office of Government Commerce gateway review or any additional assurance programme;

6.2.6.3 for the purpose of the examination and certification of the Customer's accounts; or

6.2.6.4 for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources.

6.2.7 The Customer shall use all reasonable endeavours to ensure that any government department, customer, employee, third party or contractor to whom the Supplier's Confidential Information is disclosed pursuant to Clause 6.2.6 is made aware of the Customer's obligations of confidentiality under this Contract.

6.2.8 Nothing in this Clause 6.2 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.

6.2.9 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of the Contract, the Supplier undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.

6.2.10 The Supplier shall, at all times during and after the term of the Contract, indemnify the Customer and keep the Customer fully indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Customer arising from any breach of the Supplier's obligations under this Clause 6.2 except and to the extent that such liabilities have resulted directly from the Customer's instructions.

6.3 Official Secrets Acts 1911 to 1989; section 182 of the Finance Act 1989

6.3.1 The Supplier shall comply with and shall ensure that all members of the Supplier's Staff comply with, the provisions of:

6.3.1.1 the Official Secrets Acts 1911 to 1989; and

6.3.1.2 section 182 of the Finance Act 1989.

6.4 Freedom of Information

6.4.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and

cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.

6.4.2 The Supplier shall and shall procure that its Sub-Contractors shall:

6.4.2.1 transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;

6.4.2.2 provide the Customer with a copy of all Information relating to a Request for Information in its possession, or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request; and

6.4.2.3 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

6.4.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in the Contract or any other contract whether the Commercially Sensitive Information and/or any other Information including the Supplier's Confidential Information, is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

6.4.4 In no event shall the Supplier respond directly to a Request for Information unless authorised in writing to do so by the Customer.

6.4.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 6.2) the Customer may, acting in accordance with the Ministry of Justice Codes, be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Supplier or the Contract Services:

6.4.5.1 in certain circumstances without consulting the Supplier; or

6.4.5.2 following consultation with the Supplier and having taken the Supplier's views into account,

provided always that where Clause 6.4.5 applies the Customer shall, in accordance with any recommendations of the Ministry of Justice Codes, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

6.4.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with the provisions of the Contract and in any event in accordance with the requirements of Good Industry Practice and shall permit the Customer on reasonable notice to inspect such records as requested from time to time.

6.4.7 The Supplier acknowledges that the Commercially Sensitive Information is of an indicative nature only and that the Customer may be obliged to disclose it in accordance with Clause 6.4.5.

6.5 Transparency

6.5.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Contract is not Confidential Information. The Customer shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

- 6.5.2 Notwithstanding any other term of the Contract, the Supplier hereby gives consent to the Customer to publish the Contract to the general public in its entirety (subject only to redaction of any information which is exempt from disclosure in accordance with the provisions of the FOIA), including any changes to the Contract agreed from time to time.
- 6.5.3 The Customer may consult with the Supplier to inform its decision regarding any redactions but the Customer shall have the final decision in its absolute discretion.
- 6.5.4 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish the Contract.

7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- 7.1 The Supplier warrants, represents and undertakes to the Customer that:
- 7.1.1 it has full capacity and authority and all necessary consents, licences and permissions (statutory, regulatory, contractual or otherwise) to enter into and perform its obligations under the Contract;
 - 7.1.2 the Contract is executed by a duly authorised representative of the Supplier;
 - 7.1.3 in entering the Contract it has not committed any Fraud;
 - 7.1.4 it has not committed any offence under Bribery Act 2010;
 - 7.1.5 all information, statements and representations contained in the Supplier's tender or other submission to the Customer for the award of the Contract Services are true, accurate and not misleading save as specifically disclosed in writing to the Customer prior to execution of the Contract and it will advise the Customer of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;
 - 7.1.6 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against the Supplier or its assets which will or might affect its ability to perform its obligations under the Contract;
 - 7.1.7 it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under the Contract;
 - 7.1.8 it has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
 - 7.1.9 no proceedings or other steps have been taken and not discharged or dismissed (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
 - 7.1.10 it has taken and shall continue to take all steps, in accordance with Good Industry Practice, to prevent the unauthorised use of, modification, access, introduction, creation or propagation of any disruptive element, virus, worms and/or trojans, spyware or other malware into the computing environment (including the hardware, software and/or telecommunications networks or equipment), data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Customer; and

- 7.1.11 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract and shall maintain the same in full force and effect for so long as is necessary for the proper provision of the Contract Services.
- 7.2 The Supplier warrants, represents and undertakes to the Customer that:
- 7.2.1 it has read and fully understood the Letter of Appointment and these Call-Off Terms and is capable of performing the Contract Services in all respects in accordance with the Contract;
- 7.2.2 the Supplier and each of its Sub-Contractors has all staff, equipment and experience necessary for the proper performance of the Contract Services; and
- 7.2.3 it will at all times perform its obligations under the Contract with all reasonable care, skill and diligence and in accordance with Good Industry Practice;
- 7.2.4 where goods are supplied in connection with or ancillary to the Contract Services, those Goods are and will continue to be, throughout the anticipated or stipulated lifetime of the same:
- 7.2.4.1 of satisfactory quality and fit for purpose;
- 7.2.4.2 in conformance with the relevant specifications set out in the relevant Letter of Appointment and (if applicable) the manufacturer's specifications and documentation;
- 7.2.4.3 free from material programming errors and material defects in design, manufacture or materials throughout the applicable warranty period;
- 7.2.4.4 supplied with full title guarantee;
- 7.2.4.5 consistent with any requirements set out or referred to in any Letter of Appointment relating to quality and security and the Supplier shall ensure that all aspects of the said goods are the subject of quality management systems and risk mitigation measures; and
- 7.2.4.6 serviceable (and, in this connection, that sufficient spare parts shall be readily available for the said anticipated or stipulated lifetime in conformance with the relevant specifications set out in the relevant Letter of Appointment and (if applicable) the manufacturer's specifications and documentation).
- 7.2.5 it shall comply with all the KPIs and meet or exceed the Service Levels;
- 7.2.6 it shall carry out the Contract Services within the timeframe agreed with the Customer; and
- 7.2.7 without prejudice to its obligations under Clause 2.3 (Key Personnel), the Supplier shall ensure to the satisfaction of the Customer that the Contract Services are provided and carried out by such appropriately qualified, skilled and experienced suppliers and/or other staff as shall be necessary for the proper performance of the Contract Services.
- 7.3 The Supplier shall promptly notify the Customer in writing:

- 7.3.1 of any material detrimental change in the financial standing and/or credit rating of the Supplier;
 - 7.3.2 if the Supplier undergoes a Change of Control; and
 - 7.3.3 provided this does not contravene any Law, of any circumstances suggesting that a Change of Control is planned or in contemplation.
- 7.4 For the avoidance of doubt, the fact that any provision within the Contract is expressed as a warranty shall not preclude any right of termination the Customer would have in respect of breach of that provision by the Supplier if that provision had not been so expressed.
- 7.5 The Supplier acknowledges and agrees that:
- 7.5.1 the warranties, representations and undertakings contained in the Contract are material and are designed to induce the Customer into entering into the Contract; and
 - 7.5.2 the Customer has been induced into entering into the Contract and in doing so has relied upon the warranties, representations and undertakings contained in the Contract.

8. TERMINATION

8.1 Termination on Insolvency

- 8.1.1 The Customer may terminate the Contract with immediate effect by giving notice in writing to the Supplier if:
 - 8.1.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, the Supplier's creditors; or
 - 8.1.1.2 a shareholders', members' or partners' meeting is convened for the purpose of considering a resolution that the Supplier be wound up or a resolution for the winding-up of the Supplier is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
 - 8.1.1.3 a petition is presented for the winding-up of the Supplier (which is not dismissed within five (5) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened in respect of the Supplier pursuant to section 98 of the Insolvency Act 1986; or
 - 8.1.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of the Supplier's business or assets; or
 - 8.1.1.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within ten (10) Working Days; or
 - 8.1.1.6 an application is made in respect of the Supplier either for the appointment of an administrator or for an administration order and an administrator is appointed, or notice of intention to appoint an administrator is given; or

- 8.1.1.7 if the Supplier is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- 8.1.1.8 the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- 8.1.1.9 in the reasonable opinion of the Customer, there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
 - 8.1.1.9.1 adversely impacts on the Supplier's ability to supply the Contract Services in accordance with the Contract; or
 - 8.1.1.9.2 could reasonably be expected to have an adverse impact on the Supplier's ability to supply the Contract Services in accordance with the Contract; or
- 8.1.1.10 the Supplier demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the new entity has or could reasonably be expected to have a materially less good financial standing or weaker credit rating than the Supplier; or
- 8.1.1.11 being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium in respect of the Supplier comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- 8.1.1.12 the Supplier being an individual dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
- 8.1.1.13 the Supplier being an individual or any partner or partners in the Supplier who together are able to exercise control of the Supplier where the Supplier is a firm shall at any time become bankrupt or shall have a receiving order or administration order made against him or them, or shall make any composition or arrangement with or for the benefit for his or their creditors, or shall make any conveyance or assignment for the benefit of his or their creditors, or shall purport to do any of these things, or appears or appear unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of section 268 of the Insolvency Act 1986, or he or they shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985, or any application shall be made under any bankruptcy or insolvency act for the time being in force for sequestration of his or their estate(s) or a trust deed shall be granted by him or them on behalf of his or their creditors; or
- 8.1.2 any event similar to those listed in Clauses 8.1.1.1 to 8.1.1.13 occurs under the law of any other jurisdiction which the Supplier is subject to.

8.2 Termination on Material Breach, Persistent Failure or Grave Misconduct etc

- 8.2.1 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
 - 8.2.1.1 the Supplier commits a Material Breach and if:
 - 8.2.1.1.1 the Supplier has not within ten (10) Working Days or such other longer period as may be specified by the Customer, after issue of a written notice to the Supplier

specifying the Material Breach and requesting it to be remedied:

- 8.2.1.1.1 remedied the Material Breach; and
 - 8.2.1.1.2 put in place measures to ensure that such Material Breach does not recur,
 - in each case to the satisfaction of the Customer; or
 - 8.2.1.1.4 the Material Breach is not, in the opinion of the Customer, capable of remedy; or
 - 8.2.1.2 a Persistent Failure has occurred; or
 - 8.2.1.3 Grave Misconduct has occurred; or
 - 8.2.1.4 the Supplier breaches any of Clause 6.1 (Protection of Personal Data), Clause 6.2 (Confidentiality), Clause 6.3 (Official Secrets Acts 1911 to 1989; section 182 of the Finance Act 1989), Clause 7 (Warranties, Representations and Undertakings), Clause 11 (Prevention of Bribery and Corruption), Clause 12 (Non-Discrimination), Clause 13 (Prevention of Fraud) and Clause 14 (Transfer and Sub-Contracting); or
 - 8.2.1.5 in the event of conviction for dishonesty of the Supplier (if an individual) or any one or more of the Supplier's directors, partners or members (if the Supplier is a firm or firms), which conviction might reasonably be expected to lead to the striking off from the roll maintained by the Suppliers Regulation Authority of the individual(s) concerned.
- 8.2.2 If the Customer fails to pay the Supplier undisputed sums of money when due, the Supplier shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within five (5) calendar days from the receipt of such notice, the Supplier may terminate the Contract by ten (10) Working Days' written notice to the Customer.

8.3 Termination on Change of Control

- 8.3.1 The Customer may terminate the Contract by notice in writing with immediate effect within six (6) Months of:
 - 8.3.1.1 being notified in writing that a Change of Control has occurred or is planned or in contemplation; or
 - 8.3.1.2 where no notification has been made, the date that the Customer becomes aware of the Change of Control,
- but shall not be permitted to terminate where the Customer's written consent to the continuation of the Contract was granted prior to the Change of Control.

8.4 Termination on Notice

- 8.4.1 The Customer shall have the right to suspend the Contract with immediate effect at any time by giving written notice to the Supplier and to terminate the Contract with immediate effect by giving written notice to the Supplier at any time.

8.5 Termination of Framework Agreement

- 8.5.1 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.

8.6 Partial Termination

- 8.6.1 Where the Customer is entitled to terminate the Contract pursuant to this Clause 8, the Customer shall be entitled to terminate all or part of the Contract provided always that the parts of the Contract not terminated can operate effectively to deliver the intended purpose of the Contract or a part thereof.

9. CONSEQUENCES OF EXPIRY OR TERMINATION

- 9.1 Subject to Clause 9.2, where the Customer terminates the Contract pursuant to Clause 8 (Termination) and then makes other arrangements for the supply of the Contract Services:
- 9.1.1 the Customer may recover from the Supplier the cost reasonably incurred in making those other arrangements and any additional expenditure incurred by the Customer in securing the Contract Services in accordance with the requirements of the Contract;
- 9.1.2 the Customer shall take all reasonable steps to mitigate such additional expenditure; and
- 9.1.3 no further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements, whereupon the Customer shall be entitled to deduct an amount equal to the final cost of such other arrangements from the further payments then due to the Supplier.
- 9.2 Clause 9.1 shall not apply where the Customer terminates the Contract:
- 9.2.1 solely pursuant to Clause 8.3 (Termination on Change of Control) or Clause 8.4 (Termination on Notice); or
- 9.2.2 solely pursuant to Clause 8.5 (Termination of the Framework Agreement) if termination pursuant to Clause 8.5 occurs as a result of termination of the Framework Agreement pursuant to the provisions of clauses 25.6, 25.11, 25.12 or 25.13 thereof.
- 9.3 On the termination of the Contract for any reason, the Supplier shall, at the request of the Customer and at the Supplier's cost:
- 9.3.1 immediately return to the Customer all Confidential Information and the Customer's Personal Data in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Contract Services;
- 9.3.2 except where the retention of Customer's Personal Data is required by Law, promptly destroy all copies of the Customer Data and provide written confirmation to the Customer that the data has been destroyed;
- 9.3.3 immediately deliver to the Customer in good working order (but subject to allowance for reasonable wear and tear) all the property (including materials, documents, information and access keys but excluding real property and IPR) issued or made available to the Supplier by the Customer in connection with the Contract;
- 9.3.4 vacate, and procure that the Supplier's Staff vacate, any premises of the Customer occupied for the purposes of providing the Contract Services;
- 9.3.5 return to the Customer any sums prepaid in respect of the Contract Services not provided by the date of expiry or termination (howsoever arising); and
- 9.3.6 promptly provide all information concerning the provision of the Contract Services which may reasonably be requested by the Customer for the purposes of

adequately understanding the manner in which the Contract Services have been provided or for the purpose of allowing the Customer or any Replacement Supplier to conduct due diligence.

9.4 Without prejudice to any other right or remedy which the Customer may have, if any Contract Services are not supplied in accordance with, or if the Supplier fails to comply with, any of the terms of the Contract then the Customer may (whether or not any part of the Contract Services have been delivered) do any one or more of the following:

9.4.1 at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy any failure in the performance of the Contract Services together with any damage resulting from such defect or failure (and where such defect or failure is capable of remedy) and carry out any other necessary work to ensure that the terms of the Contract are fulfilled, in accordance with the Customer's instructions;

9.4.2 without terminating the Contract, itself supply or procure the supply of all or part of the Contract Services until such time as the Supplier shall have demonstrated to the reasonable satisfaction of the Customer that the Supplier will once more be able to supply all or such part of the Contract Services in accordance with the Contract;

9.4.3 without terminating the whole of the Contract, terminate the Contract in respect of part of the Contract Services only and thereafter itself supply or procure a third party to supply such part of the Contract Services; and/or

9.4.4 charge the Supplier for, whereupon the Supplier shall on demand pay, any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Contract Services by the Customer or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Supplier for such part of the Contract Services and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Contract Services.

9.5 Save as otherwise expressly provided in the Contract:

9.5.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and

9.5.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under the following Clauses: Clause 3 (Payment and Charges); Clause 4 (Liability and Insurance); Clause 5 (Intellectual Property Rights); Clause 6.1 (Protection of Personal Data); Clause 6.2 (Confidentiality); Clause 6.3 (Official Secrets Acts 1911 to 1989; section 182 of the Finance Act 1989); Clause 6.4 (Freedom of Information); Clause 11 (Prevention of Bribery and Corruption); Clause 13 (Prevention of Fraud); Clause 21 (Contracts (Rights of Third Parties) Act); Clause 23.1 (Governing Law and Jurisdiction) and, without limitation to the foregoing, any other provision of the Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the termination or expiry of the Contract.

10. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

10.1 The Supplier shall not, and shall procure that its Sub-Contractors shall not, make any press announcements or publicise the Contract in any way without the Customer's prior written approval and shall take reasonable steps to ensure that the Supplier's Staff and professional advisors comply with this Clause 10. Any such press announcements or publicity proposed

under this Clause 10 shall remain subject to the rights relating to Confidential Information and Commercially Sensitive Information.

10.2 Subject to the rights in relation to Confidential Information and Commercially Sensitive Information, the Customer shall be entitled to publicise the Contract in accordance with any legal obligation upon the Customer including any examination of the Contract by the Auditors.

10.3 The Supplier shall not do anything or permit to cause anything to be done which may damage the reputation of the Customer or bring the Customer into disrepute.

11. PREVENTION OF BRIBERY AND CORRUPTION

11.1 The Supplier shall not:

11.1.1 offer or give, or agree to give, to any employee, agent, servant or representative of the Customer, any Contracting Body or any other public body or any person employed by or on behalf of the Customer any gift or other consideration of any kind which could act as an inducement or a reward for any act or failure to act in relation to the Contract; or

11.1.2 engage in, and shall procure that all the Supplier's Staff or any person acting on the Supplier's behalf shall not commit, in connection with the Contract, a Prohibited Act under the Bribery Act 2010, or any other relevant laws, statutes, regulations or codes in relation to bribery and anti-corruption.

11.2 The Supplier warrants, represents and undertakes that it has not:

11.2.1 paid commission or agreed to pay commission to the Customer, any Contracting Body or any other public body or any person employed by or on behalf of the Customer in connection with the Contract; and

11.2.2 entered into the Contract with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Customer or any other public body or any person employed by or on behalf of the Customer in connection with the Contract, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Customer and the Authority before execution of the Contract.

11.3 The Supplier shall:

11.3.1 in relation to the Contract, act in accordance with the Ministry of Justice Guidance;

11.3.2 immediately notify the Customer if it suspects or becomes aware of any breach of this Clause 11;

11.3.3 respond promptly to any of the Customer's enquiries regarding any breach, potential breach or suspected breach of this Clause 11 and the Supplier shall co-operate with any investigation and allow the Customer to audit Supplier's books, records and any other relevant documentation in connection with the breach;

11.3.4 if so required by the Customer, within twenty (20) Working Days of the Call Off Commencement Date, and annually thereafter, certify to the Customer in writing of the compliance with this Clause 11 by the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Contract Services. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and

11.3.5 have, maintain and enforce an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent the Supplier and any of the Supplier's Staff or

any person acting on the Supplier's behalf from committing a Prohibited Act and shall enforce it where appropriate.

11.4 If the Supplier, any member of the Supplier's Staff or any person acting on the Supplier's behalf, in all cases whether or not acting with the Supplier's knowledge breaches:

11.4.1 this Clause 11; or

11.4.2 the Bribery Act 2010 in relation to the Contract or any other contract with the Customer or any other public body or any person employed by or on behalf of the Customer or a public body in connection with the Contract,

the Customer shall be entitled to terminate the Contract by written notice with immediate effect.

11.5 Without prejudice to its other rights and remedies under this Clause 11, the Customer shall be entitled to recover in full from the Supplier and the Supplier shall on demand indemnify the Customer in full from and against:

11.5.1 the amount of value of any such gift, consideration or commission; and

11.5.2 any other loss sustained by the Customer in consequence of any breach of this Clause 11.

12. NON-DISCRIMINATION

12.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

12.2 The Supplier shall take all reasonable steps to secure the observance of Clause 12.1 by all the Supplier's Staff employed in the execution of the Contract.

13. PREVENTION OF FRAUD

13.1 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any Fraud by the Supplier and any member of the Supplier's Staff.

13.2 The Supplier shall notify the Customer immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur save where complying with this provision would cause the Supplier or any member of the Supplier's Staff to commit an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

13.3 If:

13.3.1 the Supplier breaches any of its obligations under Clause 13.1 and Clause 13.2; or

13.3.2 the Supplier or any member of the Supplier's Staff commits any Fraud in relation to the Contract or any other contract with the Customer or any other person,

the Customer may recover in full from the Supplier and the Supplier shall on demand indemnify the Customer in full against any and all losses sustained by the Customer in consequence of the relevant breach or commission of Fraud, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Contract Services and any additional expenditure incurred by the Customer in relation thereto.

14. TRANSFER AND SUB-CONTRACTING

- 14.1 The Supplier shall not assign, novate, enter into a Sub-Contract in respect of, or in any other way dispose of, the Contract or any part of it without the Customer's prior written consent. The Customer has consented to the engagement of any Sub-Contractors specifically identified in the Letter of Appointment.
- 14.2 The Supplier shall be responsible for all acts and omissions of its Sub-Contractors and those employed or engaged by the Sub-Contractors as though they are its own.
- 14.3 The Customer may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- 14.3.1 any other Contracting Body; or
 - 14.3.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
 - 14.3.3 any private sector body which substantially performs the functions of the Customer.
- provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier's obligations under the Contract.
- 14.4 [The Customer may, if it so chooses, nominate the sub-contractors to be used for bought in services or contract them directly. The Customer will consult fully with the Supplier before exercising this right.]
- 14.5 [The Customer may, if it chooses, use its in-house resources, business units and other framework agreements to deliver specific services. The Customer will consult fully with the Supplier before exercising this right.]
- 14.6 Any change in the legal status of the Customer such that it ceases to be a Contracting Body shall not, subject to Clause 14.7, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Customer.
- 14.7 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Clause 14.3 to a body which is not a Contracting Body or if there is a change in the legal status of the Customer such that it ceases to be a Contracting Body (in the remainder of this Clause any such body being referred to as a "**Transferee**"):
- 14.7.1 the rights of termination of the Customer in Clause 8 shall be available to the Supplier in the event of, respectively, the bankruptcy or insolvency, or default of the Transferee; and
 - 14.7.2 the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the previous consent in writing of the Supplier.
- 14.8 The Customer may disclose to any Transferee any of the Supplier's Confidential Information which relates to the performance of the Supplier's obligations under the Contract. In such circumstances the Customer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purposes and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.
- 14.9 For the purposes of Clause 14.7 each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time

to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

15. WAIVER

- 15.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- 15.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 22.
- 15.3 A waiver by either Party of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

16. CUMULATIVE REMEDIES

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

17. FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of the Contract.

18. SEVERABILITY

- 18.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.
- 18.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Customer and the Supplier shall immediately commence good faith negotiations to remedy such invalidity.

19. SUPPLIER'S STATUS

At all times during the term of the Contract the Supplier shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

20. ENTIRE AGREEMENT

- 20.1 The Contract, together with a completed, signed and dated Framework Agreement and the other documents referred to in them constitute the entire agreement and understanding between the Parties in respect of the matters dealt with in them and supersede, cancel and nullify any previous agreement between the Parties in relation to such matters.
- 20.2 Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or

undertaking (whether negligently or innocently made) other than as expressly set out in the Contract.

20.3 The Supplier acknowledges that it has:

20.3.1 entered into the Contract in reliance on its own due diligence alone; and

20.3.2 received sufficient information required by it in order to determine whether it is able to provide the Contract Services in accordance with the terms of the Contract.

20.4 Nothing in Clauses 20.1 and 20.2 shall operate:

20.4.1 to exclude Fraud or fraudulent misrepresentation; or

20.4.2 to limit the rights of the Customer pursuant to clause 34 of the Framework Agreement (Rights of Third Parties).

20.5 The Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

21. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

21.1 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties, provided that this Clause 21.1 does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

21.2 No consent of any third party is necessary for any rescission, variation (including any release or compromise in whole or in part of liability) or termination of the Contract or any one or more Clauses of it.

21.3 Without prejudice to the Customer's rights as a Contracting Body under clause 34 of the Framework Agreement, the Supplier agrees that the Customer may enforce any of the provisions of the Framework Agreement referred to in clause 34.2 (with the exception of clauses 33 and 34 of the Framework Agreement) as if they were terms of the Contract (reading references in those provisions to Contracting Bodies and the Supplier as references to the Customer and the Supplier respectively).

22. NOTICES

22.1 Except as otherwise expressly provided in the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless given or made in writing by or on behalf of the Party sending the communication.

22.2 Any notice or other communication given or made by either Party to the other shall:

22.2.1 be given by letter (sent by hand, post or a recorded signed for delivery service), facsimile or electronic mail confirmed by letter; and

22.2.2 unless the other Party acknowledges receipt of such communication at an earlier time, be deemed to have been given:

22.2.2.1 if delivered personally, at the time of delivery;

- 22.2.2.2 if sent by pre-paid post or a recorded signed for service two (2) Working Days after the day on which the letter was posted provided the relevant communication is not returned as undelivered;
 - 22.2.2.3 if sent by electronic mail, two (2) Working Days after posting of a confirmation letter; and
 - 22.2.2.4 if sent by facsimile, on the day of transmission if sent before 16:00 hours on any Working Day and otherwise at 09:00 hours on the next Working Day and provided that at time of transmission of the facsimile an error-free transmission report is received by the Party sending the communication.
- 22.3 For the purposes of Clause 22.2, the address, email address and fax number of each Party shall be the address, email address and fax number specified in the Letter of Appointment.
- 22.4 Either Party may change its address for service by serving a notice in accordance with this Clause 22.
- 22.5 For the avoidance of doubt, any notice given under the Contract shall not be validly served if sent by electronic mail (email) and not confirmed by a letter.

23. DISPUTES AND LAW

23.1 Governing Law and Jurisdiction

The Contract shall be governed by and interpreted in accordance with the Laws of England and Wales and the Parties agree to submit to the exclusive jurisdiction of the English courts any dispute that arises in connection with the Contract.

23.2 Dispute Resolution

- 23.2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the level of representative of each Party specified in the Letter of Appointment.
- 23.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 23.2.3 If the dispute cannot be resolved by the Parties pursuant to Clause 23.2.1, the Parties shall refer it to mediation pursuant to the procedure set out in Clause 23.2.5 unless:
 - 23.2.3.1 the Customer considers that the dispute is not suitable for resolution by mediation; or
 - 23.2.3.2 the Supplier does not agree to mediation.
- 23.2.4 The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Supplier and the Supplier's Staff shall comply fully with the requirements of the Contract at all times.
- 23.2.5 The procedure for mediation is as follows:

- 23.2.5.1 a neutral adviser or mediator (the **“Contract Mediator”**) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Contract Mediator within ten (10) Working Days after a request by one Party to the other or if the Contract Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Contract Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the CEDR to appoint a Contract Mediator;
- 23.2.5.2 the Parties shall within ten (10) Working Days of the appointment of the Contract Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;
- 23.2.5.3 unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- 23.2.5.4 if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- 23.2.5.5 failing agreement, either of the Parties may invite the Contract Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
- 23.2.5.6 if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Contract Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

24. DISASTER RECOVERY AND BUSINESS CONTINUITY

The Parties shall comply with the provisions of Schedule 3 (Disaster Recovery and Business Continuity).

25. REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE OF THE CONTRACT SERVICES

- 25.1 Without prejudice to any other right or remedy which the Customer may have, if any of the Contract Services are not supplied in accordance with, or the Supplier fails to comply with any of the terms of the Contract then the Customer may (whether or not any part of the Contract Services have been supplied) do any of the following:
 - 25.1.1 at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy any failure in the performance of the Contract Services together with any damage resulting from such defect or failure (and where such defect or failure is capable of remedy) or to supply Replacement Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled, in accordance with the Customer's instructions;
 - 25.1.2 if appendix 1 of the Letter of Appointment provides for the payment of delay payments, then the Supplier shall pay such amounts (as stipulated in the Letter of Appointment) on demand. The delay payments will accrue on a daily basis from

the relevant milestone date and will continue to accrue until the date when the milestone is achieved;

- 25.1.3 carry out, at the Supplier's expense, any work necessary to make the Contract Services comply with the Contract;
- 25.1.4 without terminating the Contract, itself supply or procure the supply of all or part of the Contract Services until such time as the Supplier shall have demonstrated to the reasonable satisfaction of the Customer that the Supplier will once more be able to supply all or such part of the Contract Services in accordance with the Contract;
- 25.1.5 without terminating the whole of the Contract, terminate the Contract in respect of part of the Contract Services only (whereupon a corresponding reduction in the Contract Charges shall be made) and thereafter itself supply or procure a third party to supply such part of the Contract Services; and/or
- 25.1.6 charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Contract Services by the Customer or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Supplier for such part of the Contract Services and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Contract Services.

25.2 In the event that the Supplier:

- 25.2.1 fails to comply with Clause 2.1 and the failure is materially adverse to the interests of the Customer or prevents the Customer from discharging a statutory duty; or
- 25.2.2 persistently fails to comply with Clause 2.1,

the Customer may terminate the Contract with immediate effect by giving the Supplier notice in writing.

26. RECORDS AND AUDIT ACCESS

- 26.1 The Supplier shall keep and maintain for seven (7) Years after the date of termination or expiry (whichever is the earlier) of the Contract (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of the Contract including the Contract Services provided under it, and the amounts paid by the Customer.
- 26.2 The Supplier shall keep the records and accounts referred to in Clause 26.1 above in accordance with Good Industry Practice and generally accepted accounting principles.
- 26.3 The Supplier shall afford the Customer and the Auditors access to the records and accounts referred to in Clause 26.2 at the Supplier's premises and/or provide copies of such records and accounts, as may be required by the Customer and/or the Auditors from time to time, in order that the Customer and/or the Auditors may carry out an inspection including for the following purposes:
 - 26.3.1 to verify the accuracy of the Contract Charges (and proposed or actual variations to them in accordance with this Contract), and/or the costs of all Supplier (including Sub-Contractors) of the Contract Services;
 - 26.3.2 to review the integrity, confidentiality and security of the Customer Data held or used by the Supplier;

- 26.3.3 to review the Supplier's compliance with the DPA in accordance with this Contract and any other Laws;
 - 26.3.4 to review the Supplier's compliance with its continuous improvement and benchmarking obligations set out in Schedule 7 of the Framework Agreement;
 - 26.3.5 to review the Supplier's compliance with its security obligations set out, if appropriate, in Clause 36 and Schedule Z;
 - 26.3.6 to review any books of account kept by the Supplier in connection with the provision of the Contract Services;
 - 26.3.7 to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
 - 26.3.8 to inspect the Customer's assets, including the Intellectual Property Rights, equipment, facilities and maintenance, for the purposes of ensuring that the Customer's assets are secure and that any register of assets is up to date; and/or
 - 26.3.9 to ensure that the Supplier is complying with its obligations under this Contract.
- 26.4 The Supplier shall on request afford the Customer, the Customer's representatives and/or the Auditor access to such records and accounts as may be required by the Customer from time to time.
- 26.5 The Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) on request during the term of the Contract and for the period specified in Letter of Appointment after the date of termination or expiry of the term of the Contract to the Customer and/or the Auditors.
- 26.6 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Contract Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor is outside of the control of the Customer.
- 26.7 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in:
- 26.7.1 all reasonable information requested by the Customer within the scope of the audit;
 - 26.7.2 reasonable access to sites controlled by the Supplier and to equipment used in the provision of the Contract Services; and
 - 26.7.3 access to the Supplier's Staff.
- 26.8 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 26, unless the audit reveals a Material Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

27. VARIATION

- 27.1 Subject to the provisions of this Clause 27, the Customer may request a variation to the Contract Services ordered provided that such variation does not amount to a material change to the Order. Such a change is hereinafter called a "**Variation**",

- 27.2 The Customer may request a Variation by completing and sending the form set out in Schedule 2 (Variation Form) ("**Variation Form**") to the Supplier giving sufficient information for the Supplier to assess the extent of the Variation and any additional cost that may be incurred. The Supplier shall respond to a request for a Variation within the time limits specified in the Variation Form. Such time limits shall be reasonable having regard to the nature of the Order.
- 27.3 In the event that the Supplier is unable to provide the Variation to the Contract Services or where the Parties are unable to agree a change to the Contract Charges, the Customer may:
- 27.3.1 agree to continue to perform their obligations under the Contract without the Variation; or
 - 27.3.2 terminate the Contract with immediate effect, except where the Supplier has already delivered part or all of the Order in accordance with the Order Form or where the Supplier can show evidence of substantial work being carried out to fulfil the Order, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.
- 27.4 If the Parties agree the Variation and any variation in the Contract Charges, the Supplier shall carry out such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.

28. MISTAKES IN INFORMATION

The Supplier shall be responsible for the accuracy of all drawings, documentation and information supplied to the Customer by the Supplier in connection with the supply of the Contract Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein, except where such mistakes are the fault of the Customer.

29. TERM

- 29.1 This Contract shall take effect on the Call Off Commencement Date and shall expire on the Expiry Date unless it is terminated earlier in accordance with its terms or otherwise by operation of Law.

30. TUPE

- 30.1 Please refer to Schedule 4

SCHEDULE 1 : SERVICE LEVELS

1. SCOPE

This Schedule sets out the Service Levels which the Supplier is required to achieve when delivering the Contract Services.

2. SERVICE LEVELS

2.1 The objectives of the Service Levels are to ensure that the Contract Services are of a consistently high quality and meet the requirements of the Customer. Service levels are outlined at Appendix 1 which will take precedence in the event of any conflict with the service levels outlined below.

2.2 The Service Levels are as follows:

Performance Criteria	Service Level	Performance Guidance
1. Requirement	1.1 Supplier did have the necessary understanding and expertise to meet Customer expectations.	The Supplier has a good knowledge of the subject and the environment in which the Customer operates - Customer expectations of Supplier expertise are met
	1.2 Supplier is open and proactive in optimising costs	Efforts made to minimise expenses - prices are in line with market expectations - Supplier is open in explaining price breakdown and working with the Customer to identify opportunities to reduce cost – accurate and timely billing of Customer and invoices provided in line with Customer requirements
	1.3 Supplier is proactive in identifying and managing risks	Supplier is proactive in identifying and allocating risk ownership - Supplier supports Customer in assigning and managing risks - Supplier is proactive in assessing impact of risks in the course of performing the Contract and raising issues as appropriate
2. Quality of advice	2.1 Supplier provides good advice provided within timescale and covers all issues requested appropriately.	Advice is technically sound and clearly expressed – Supplier adheres to timelines and shows right focus – Supplier strikes appropriate balance between covering issues thoroughly and providing unnecessary detail
3. Engagement & Relationship	3.1 Supplier engagement with the Customer is appropriate and focused on Contract Services delivery	Supplier uses the right channels within the department - Customer is able to distinguish between business development activity/roles and delivery activity/role - Supplier does not exploit its position/ relationship with the Customer
	3.2 Supplier establishes effective working relationships with the Customer	Supplier integrates well with Customer staff and other advisers- Supplier is flexible in its approach to the Customer - demonstrates a knowledge of Customer culture - manages engagement issues well and does not let them impact on delivery - Supplier builds good relationships with internal staff with the Customer - Supplier does not take advantage of its position / relationship with the Customer

4. Project Management	4.1 Supplier resources are deployed in the right way to deliver value.	Staff are consistent throughout the duration of the Contract Services - the Supplier explains how project team has been put together to deliver the Contract Services - resource requirement remains in line with that included in the proposal - focus on Contract Services delivery is maintained
	4.2 Roles and responsibilities of the legal team are clear	Supplier provides clarity as to the roles and responsibilities of each member of the legal team engaged
	4.3 Supplier governance and project management is effective in ensuring the assignment is successful	Issues were raised as soon as possible and solutions offered - delivery plan was developed and agreed with the Customer at the outset - progress against milestones was reported regularly and in line with Customer requirements - Customer satisfaction with delivery was monitored by the Supplier
	4.4 Original scoping was robust	The scope and resource requirement remained in line with initial proposal - initial proposal was accurate and did not need to be amended
5. Value for Money	5.1 Delivery on time	As per Supplier proposal
	5.2 Delivery on budget	As per Supplier proposal
	5.3 Value for Money	Extent to which the benefits - as outlined in the assignment proposal – were delivered
6. Skills Transfer	6.1 Skills transfer	Supplier identified opportunities for skills and knowledge transfer - Supplier delivered transfer within original time and budget
7. Exit Strategy	7.1 Project closure	Supplier reflected any exit strategy requirements in their proposal - the project was closed off with no outstanding dependencies On completion of each project, or at the end of key stages within a project if the Customer so requests, the Supplier will provide a summary of the work carried out to include his assessment of successes/failures and potential improvements that could be made
	7.2 Completion reports	

SCHEDULE 2: VARIATION FORM

Not Used



SCHEDULE 3: DISASTER RECOVERY AND BUSINESS CONTINUITY

1. PURPOSE OF THIS SCHEDULE

1.1. The following definitions shall apply to this Schedule:

“Disaster” shall have the meaning given to it in the letter of appointment;

“Related Supplier” means any person who provides services to the Customer which are related to the Contract Services from time to time;

“Disaster Recovery System” means the system identified by the Supplier which shall be used for the purpose of delivering the Disaster Recovery Services; and

“Disaster Recovery Services” means the disaster recovery and/or business continuity services (as the context may require) to be provided by the Supplier.

1.2. This Schedule sets out the Customer's requirements for ensuring continuity of the business processes and operations supported by the Contract Services in circumstances of service disruption or failure and for restoring the Contract Services through business continuity and as necessary disaster recovery procedures. It also includes the requirement on the Supplier to develop, review, test, change and maintain a BCDR Plan in respect of the Contract Services.

1.3. The BCDR Plan shall be divided into three parts:

1.3.1. Part A which shall set out general principles applicable to the BCDR Plan;

1.3.2. Part B which shall relate to business continuity (**“Business Continuity Plan”**); and

1.3.3. Part C which shall relate to disaster recovery (**“Disaster Recovery Plan”**).

1.4. The BCDR Plan shall detail the processes and arrangements which the Supplier shall follow to ensure continuity of the business processes and operations supported by the Contract Services following any failure or disruption of any element of the Contract Services and the recovery of the Contract Services in the event of a Disaster.

2. DEVELOPMENT OF BCDR PLAN

2.1. The BCDR Plan shall unless otherwise required by the Customer in writing, be based upon and be consistent with the provisions of paragraphs 3 to 5 of this Schedule.

2.2. The Supplier shall ensure that its Sub-Contractors' disaster recovery and business continuity plans are integrated with the BCDR Plan.

3. PART A - GENERAL PRINCIPLES AND REQUIREMENTS

3.1. The BCDR Plan shall:

3.1.1. set out how its business continuity and disaster recovery elements link to each other;

3.1.2. provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the Contract Services;

- 3.1.3. contain an obligation upon the Supplier to liaise with the Customer and (at the Customer's request) any Related Supplier with respect to issues concerning business continuity and disaster recovery where applicable;
- 3.1.4. detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer and any of its other Related Suppliers as notified to the Supplier by the Customer 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 multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Customer;
- 3.1.6. contain a risk analysis, including:
 - 3.1.6.1. failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - 3.1.6.2. identification of any single points of failure within the Contract Services and processes for managing the risks arising therefrom;
 - 3.1.6.3. identification of risks arising from the interaction of the Contract Services with the services provided by a Related Supplier; and
 - 3.1.6.4. a business impact analysis (detailing the impact on business processes and operations) 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 (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Customer;
- 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 ensure that there is no more than 0% of data loss and to preserve data integrity;
- 3.1.11. identify the responsibilities (if any) that the Customer 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 advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer's business continuity plans.
- 3.2. The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1. the Contract Services are provided in accordance with the Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2. the adverse impact of any Disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 3.2.3. it aligns with the relevant provisions of ISO/IEC17799:2000, BS15000 (as amended) and all other industry standards from time to time in force; and

3.2.4. there is a process for the management of disaster recovery testing detailed in the BCDR Plan.

3.3. The BCDR Plan must be upgradeable and sufficiently flexible to support any changes to the Contract Services or to the business processes facilitated by and the business operations supported by the Contract Services.

3.4. The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Contract Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. PART B - BUSINESS CONTINUITY ELEMENT - PRINCIPLES AND CONTENTS

4.1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Contract Services remain supported and to ensure continuity of the business operations supported by the Contract Services including but not limited to and unless the Customer expressly states otherwise in writing:

4.1.1. the alternative processes, (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Contract Services; and

4.1.2. the steps to be taken by the Supplier upon resumption of the Contract Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.

4.2. The Business Continuity Plan shall address the various possible levels of failures of or disruptions to the Contract Services and the services to be provided and the steps to be taken to remedy the different levels of failure and disruption. The Business Continuity Plan shall also clearly set out the conditions and/or circumstances under which the Disaster Recovery Plan is invoked.

5. PART C - DISASTER RECOVERY ELEMENT - PRINCIPLES AND CONTENTS

5.1. The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Contract 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 Disaster Recovery Plan shall only be invoked upon the occurrence of a Disaster.

5.3. The Disaster Recovery Plan shall include the following:

5.3.1. the technical design and build specification of the Disaster Recovery System;

5.3.2. details of the procedures and processes to be put in place by the Supplier and any Sub-Contractor in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:

5.3.2.1. data centre and disaster recovery site audits;

5.3.2.2. backup methodology and details of the Supplier's approach to data back-up and data verification;

5.3.2.3. identification of all potential disaster scenarios;

- 5.3.2.4. risk analysis;
- 5.3.2.5. documentation of processes and procedures;
- 5.3.2.6. hardware configuration details;
- 5.3.2.7. network planning including details of all relevant data networks and communication links;
- 5.3.2.8. invocation rules;
- 5.3.2.9. Contract Services recovery procedures;
- 5.3.2.10. steps to be taken upon Contract Services resumption to address any prevailing effect of the Contract Services failure or disruption;
- 5.3.3.any applicable Service Levels with respect to the provision of Disaster Recovery Services and details of any agreed relaxation upon the Service Levels during any period of invocation of the Disaster Recovery Plan;
- 5.3.4.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;
- 5.3.5.access controls (to any disaster recovery sites used by the Supplier or any Sub-Contractor in relation to its obligations pursuant to this Schedule 3); and
- 5.3.6.testing and management arrangements.

6. PROVISION, REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1. The Supplier shall provide a draft of the BCDR Plan within twenty (20) Working Days following the Call Off Commencement Date.
- 6.2. The Supplier shall review part or all of the BCDR Plan (and the risk analysis on which it is based):
 - 6.2.1.on a regular basis and as a minimum once every six (6) Months;
 - 6.2.2.within three (3) Months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 8 of this Schedule; and
 - 6.2.3.where the Customer requests any additional reviews (over and above those provided for in paragraphs 6.2.1 and 6.2.2 of this Schedule) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Customer's written requirements. The costs of both Parties for any such additional reviews will be met by the Customer.
- 6.3. Each review pursuant to paragraph 6.1 of the BCDR Plan shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Contract Services or any underlying business processes and operations facilitated by or supported by the Contract 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 the 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 the period required by the BCDR Plan or if no such period is required within such period as the

Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report ("**Review Report**") setting out:

6.3.1.the findings of the review;

6.3.2.any changes in the risk profile associated with the Contract Services; and

6.3.3.the Supplier's proposals ("**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.

6.4. The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) 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 project's risk profile.

7. TESTING OF THE BCDR PLAN

7.1. The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every year during the term of the Contract). Subject to paragraph 7.2, the Customer may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Customer considers it necessary, including where there has been any change to the Contract Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.

7.2. If the Customer 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 Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer 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. Following each test, the Supplier shall send to the Customer a written report summarising the results of the test and shall promptly implement any actions or remedial measures which the Customer considers to be necessary as a result of those tests.

7.4. The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Where required by the Customer, each test shall be carried out under the supervision of the Customer or its nominee.

7.5. The Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Customer. Copies of live test data used in any such testing shall be (if so required by the Customer) destroyed or returned to the Customer on completion of the test.

7.6. The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Customer a report setting out:

7.6.1.the outcome of the test;

7.6.2.any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and

7.6.3.the Supplier's proposals for remedying any such failures.

7.7. Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.

7.8. For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Schedule or otherwise.

7.9. The Supplier shall also perform a test of the BCDR Plan as part of the commissioning of the Contract Services.

8. INVOCATION OF THE BUSINESS CONTINUITY AND DISASTER RECOVERY 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 Customer promptly of such invocation). In all other instances the Supplier shall only invoke or test the BCDR Plan with the prior consent of the Customer.

9. Following a request from the Customer, the Supplier shall provide a written incident report and the BCDR Plan review following a plan invocation, but in any event within twenty (20) Working Days of full business recovery

SCHEDULE 4: OPTIONAL CLAUSES – EXIT, TUPE AND PENSIONS

1 ASSISTANCE ON EXPIRY OR TERMINATION

In the event that this Contract expires or is terminated the Supplier shall, where so requested by the Customer, provide assistance to the Customer to migrate the provision of the Contract Services to a Replacement Supplier including as set out in the Exit Plan.

2 TUPE & PENSIONS

TUPE & PENSIONS

DEFINITIONS FOR TUPE MATTERS

The following definitions shall apply in addition to the definitions contained in Annex (Definitions) to the Call Off Terms:

“Acquired Rights Directive”	means 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;
“CRITPA”	means the Contracts (Rights of Third Parties) Act 1999;
“Employment Liabilities”	<p>means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none">a. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;b. unfair, wrongful or constructive dismissal compensation;c. compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;d. compensation for less favourable treatment of part-time workers or fixed term employees;e. outstanding debts and unlawful deduction of wages, including any PAYE and National Insurance Contributions;f. claims whether in tort, contract or statute or otherwise;g. any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation);
“Former Supplier”	means the party providing goods and/or services to the Customer similar or the same as the Goods and/or Services

	and which is being replaced by the Supplier;
"Relevant Transfer"	means a transfer of employment to which TUPE applies;
"Relevant Transfer Date"	means the date upon which the Relevant Transfer takes place;
"Second Generation Fair Deal Employee"	NOT USED
"Service Transfer"	means any Relevant Transfer of the Services (or any part), subsequent to the commencement of performance of the Services by the Supplier for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier;
"Service Transfer Date"	means the date of a Service Transfer;
"Staff"	means all persons employed by the Supplier and/or any Sub-Contractor to perform its obligations under this Contract together with the Supplier's and/or any Sub-Contractor's servants, consultants, agents, suppliers and Sub-Contractors used in the performance of its obligations under this Contract (or any Sub-Contract);
"Staffing Information"	means written information about each of the Supplier or its Sub-Contractor's Staff including in particular: the percentage of working time spent by each of them in the provision of the Services, job title, remuneration (meaning salary and benefits and any enhanced redundancy terms), age, length of service, notice period, particulars of employment in accordance with section 1 of the Employment Rights Act 1996, the applicability of any collective agreement to such staff, any disciplinary action taken against any of them in the preceding two (2) Years, details of any grievances raised by any of them in the preceding two (2) Years, any Court or employment tribunal proceedings brought by any of them in the preceding two (2) Years, any potential proceedings which the Supplier or its Sub-Contractor reasonably considers may be raised by any of them, and information about any of them who have been absent from work for one (1) month or more regardless of the reason at the time the staffing information is requested;
"Supplier's Final Staff List"	means the relevant list of all Supplier Staff engaged in or wholly or mainly assigned to, the provision of the Services or any relevant part of the Services which is ceasing to be provided by the Supplier at the Transfer Date;
"Supplier's Provisional Staff List"	means a list prepared and updated by the Supplier of all Supplier Staff who are engaged in or wholly or mainly assigned to, the provision of the Services (or any relevant part of the Services which it is envisaged will no longer be provided by the Supplier) as at the date of such list;
"Transferring Customer Employees"	NOT USED;
"Transferring Former Supplier Employees"	means those employees of the Former Supplier to which TUPE will apply on the Relevant Transfer Date ;
"Transferring Supplier Employees"	means those employees of the Supplier to which TUPE will apply on the Relevant Transfer Date.

PART A

NOT USED

PART B

NOT USED

PART C

1. The Customer and the Supplier shall proceed on the basis that the commencement of the provision of the Services by the Supplier under this Call Off Contract will not be the Relevant Transfer to which TUPE will apply in relation to any employees of the Customer.
2. If any employee of the Customer and/or the Former Supplier claims or it is determined that his/her contract of employment has been transferred from the Customer and/or the Former Supplier to the Supplier pursuant to TUPE or the Acquired Rights Directive then:
 - 2.1 the Supplier shall , within five (5) Working Days of becoming aware of that fact, give notice in writing to the Customer (and/or at the Customer's option, the Former Supplier);
 - 2.2 the Customer and/or the Former Supplier may offer employment to such person within fifteen (15) Working Days of the notification by the Supplier or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
 - 2.3 if such offer is accepted (or if the situation has otherwise been resolved by the Customer and/or the Former Supplier), the Supplier shall immediately release the person from his/her employment or alleged employment;
 - 2.4 if after the fifteen (15) Working Day period has elapsed, no such offer of employment has been made or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Supplier may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
3. Subject to the Supplier acting in accordance with the provisions of paragraph 2 and in accordance with all applicable proper employment procedures set out in Law and subject also to paragraph 6 below, the Customer shall indemnify the Supplier against all reasonable costs arising out of the termination of the employment of any employees of the Customer referred to in paragraph 2 made pursuant to the provisions of paragraph 2.4 and shall use reasonable endeavours to procure (to the extent that it is contractually entitled to do so) that the Former Supplier indemnifies the Supplier against all Employment Liabilities arising out of termination of the employment of the employees of the Former Supplier made pursuant to the provisions of paragraph 2.4.
4. If any such person as is described in paragraph 2 is neither re employed by the Customer and/or the Former Supplier nor dismissed by the Supplier within the time scales set out in paragraph 2 such person will be treated as having transferred to the Supplier and the Supplier shall comply with such obligations as may be imposed upon it under Law.
5. Where in accordance with paragraph 4, any person remains employed by the Supplier (or the relevant Sub-Contractor, as the case may be) all Employment Liabilities in relation to such employee shall remain with the Supplier or the relevant Sub-Contractor and the Supplier shall indemnify the Customer and any Former Supplier against any Employment Liabilities that either of them may incur in respect of any such employees of the Supplier or the relevant Sub-Contractor.

6. The indemnity in paragraph 3 above:
- 6.1 shall not apply:
- 6.1.1 to any claim for discrimination, including but not limited to sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or claims for equal pay, or compensation for less favourable treatment of part-time workers or fixed term employees in relation to any alleged act or omission of the Supplier and/or the Sub-Contractor or to any claim that the termination of employment was unfair because the Supplier neglected to follow a fair dismissal procedure; and
- 6.1.2 shall only apply where the notification referred to in paragraph 2.1 is made by the Supplier to the Customer and Former Supplier within six (6) Months of the Call Off Commencement Date.
7. If the Parties cannot agree whether or not based upon a reasonable assessment of the facts that the transfer of the services from the Customer and/or Former Supplier to the Supplier is a situation to which TUPE and/or the Acquired Rights Directive may apply, the Customer shall based on a reasonable assessment of the evidence available to it make such determination. In assisting the Customer to make such determination, the Supplier and the Former Supplier shall be permitted to make representations to the Customer within such time period as the Customer may reasonably specify.
8. CRiTPA will apply to paragraph 5 so that any Former Supplier shall have the right to enforce the obligations owed and the indemnities given to it pursuant to Paragraph 5 in its own right pursuant to Section 1(1) of CRiTPA.

PART D

Applies on the termination of the Call Off Contract

PRE-SERVICE TRANSFER OBLIGATIONS

9. The Supplier agrees that, subject to compliance with the DPA within twenty (20) Working Days of the earliest of:
- 9.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer; or
 - 9.2 receipt of the giving of notice of early termination of this Call Off Contract or any part thereof;
 - 9.3 the date which is twelve (12) Months before the Call-Off Expiry Date; or
 - 9.4 receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any six (6) Month period),
- it shall provide the Supplier's Provisional Staff List of those Transferring Supplier Employees which the Supplier believes will transfer to a Replacement Supplier (as the case may be), together with Staffing Information in relation to such employees and it will provide an updated Supplier's Provisional Staff List at such intervals as are reasonably requested by the Customer;
10. At least twenty eight (28) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer for itself or on behalf of any Replacement Supplier (as the case may be):
- 10.1 a final list of Transferring Supplier Employees which shall transfer under TUPE (the "Supplier's Final Staff List"); and
 - 10.2 the Customer shall be permitted to use and disclose information provided by the Supplier under paragraphs 9 and 10 of this Schedule 9 (TUPE and Pensions) for informing any tenderer or prospective Replacement Supplier for any services which are substantially the same type of services (or any part thereof) as the Services (subject always to compliance with the DPA).
11. The Supplier's Final Staff List will identify the Transferring Supplier Employees.
12. The Supplier warrants, for the benefit of the Customer and any Replacement Supplier, that the information provided under paragraphs 9 and 10 shall be true and accurate in all material respects.
13. From the date of the earliest event referred to in paragraphs 9.1 to 9.3 (inclusive), the Supplier agrees, that it shall not, and agrees to procure that its Sub-Contractors shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Staff List and shall not without Approval(not to be unreasonably withheld or delayed):

- 13.1 replace or re-deploy any Supplier's Staff listed on the Supplier Provisional Staff List other than where any replacement is of equivalent grade, skills, experience and expertise;
- 13.2 make, promise, propose or permit any changes to their terms and conditions of employment (including any payments connected with the termination of employment);
- 13.3 increase the proportion of working time spent on the Services (or the relevant part) by any of the Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 13.4 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 Staff List; and
- 13.5 increase or reduce the total number of employees so engaged;
- 13.6 replace any Staff listed on the Supplier's Provisional Staff List or deploy any other person to perform the Services (or the relevant part) or terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Staff List save for:
 - 13.6.1 the execution of assigned operations as detailed in 13.3; and/or
 - 13.6.2 replacing voluntary resignations, Staff absence due to maternity leave, death, retirement or ill-health or Staff terminated by due disciplinary process to satisfy the fulfilment of previously agreed work streams provided that any replacement is employed on the same terms and conditions of employment as the person he/she replaces; and
- 13.7 the Supplier shall promptly notify or as appropriate will procure that the Sub-Contractor shall promptly notify the Customer or, at the direction of the Customer, the Replacement Supplier of any notice to terminate employment given by the Supplier or any Sub-Contractor or received from any persons listed on the Supplier's Provisional Staff List regardless of when such notice takes effect.
- 14. During the Call Off Contract Period, the Supplier shall provide to the Customer any information the Customer may reasonably require relating to any individual employed, assigned or engaged in providing the Services (subject to any limitations imposed by the DPA) including without limitation the Staffing Information and, upon reasonable request by the Customer and subject only to any limitation imposed by the DPA, the Supplier shall provide, and will procure that its Sub-Contractors will provide, the Customer or at the request of the Customer, the Replacement Supplier, with access (on reasonable notice and during normal working hours) to such employment records as the Customer reasonably requests and will allow the Customer or the Replacement Supplier to have copies of any such documents.
- 15. Within seven (7) Working Days following the Service Transfer Date, the Supplier shall provide to the Customer or any Replacement Supplier, in respect of each person on the Supplier's Final Staff List who is a Transferring Supplier Employee:
 - 15.1 the most recent Month's copy pay slip data;
 - 15.2 details of cumulative pay for tax and pension purposes;
 - 15.3 details of cumulative tax paid;

- 15.4 tax code;
- 15.5 details of any voluntary deductions from pay; and
- 15.6 bank/building society account details for payroll purposes.

TUPE EXIT PROVISIONS

- 16. The Customer and the Supplier agree that where the commencement of the provision of the Services (or part thereof) by the Replacement Supplier constitutes a Relevant Transfer, the contracts of employment between the Supplier and the Transferring Supplier Employees (save insofar as such contracts relate to benefits for old age, invalidity or survivors under any occupational pension scheme) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and each such Transferring Supplier Employee.
- 17. The Supplier shall, and shall procure that any Sub-Contractor shall, comply with all its obligations in respect of all the Transferring Supplier Employees prior to the Service Transfer Date under TUPE and will perform and discharge all its obligations in respect of all the Transferring Supplier Employees up to and including the Service Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and any necessary apportionments in respect of any periodic payments will be made.
- 18. Subject to paragraph 19 below, the Supplier shall indemnify the Replacement Supplier against any Employment Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in TUPE) arising from or as a result of:
 - 18.1 any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;
 - 18.1.1 arising out of the resignation of any Transferring Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier to occur in the period on or after the Relevant Transfer Date);
 - 18.1.2 arising from the Customer's and/or Replacement Supplier's failure to comply with its obligations under TUPE);
 - 18.2 the breach or non-observance by the Supplier or any Sub-Contractor on or before the Service Transfer Date of any collective agreement or other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employee;
 - 18.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - 18.3.1 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 or prior to the Service Transfer Date; and
 - 18.3.2 in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from Supplier to the Customer and/or Replacement Supplier, to the extent that the proceeding, claim or demand by

HMRC or other statutory authority relates to financial obligations arising on or prior to the Service Transfer Date.

- 18.4 a failure of the Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and National Insurance contributions relating to the Transferring Supplier Employees in respect of the period on or before the Service Transfer Date);
 - 18.5 any claim made by or in respect of any person employed or formerly employed by the Supplier other than a Transferring Supplier Employee for which it is alleged the Customer and/or the Replacement Supplier may be liable by virtue of this Call Off Contract and/or TUPE and/or the Acquired Rights Directive
 - 18.6 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Supplier Employee relating to any act or omission of the Supplier in relation to its obligations under Regulation 13 of TUPE, except to the extent that the liability arises from the Customer's and/or Replacement Supplier's failure to comply with Regulation 13(4) of TUPE.
19. The indemnities in paragraph 18 will not apply to the extent that the Employment Liabilities arise or are attributable to an act or omission of the Replacement Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employment Liabilities:
- 19.1 arising out of the resignation of any Transferring Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier to occur in the period on or after the Service Transfer Date); or
 - 19.2 arising from the Replacement Supplier's failure to comply with its obligations under TUPE.
20. If any person who is not a Transferring Supplier Employee claims, or it is determined, that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier pursuant to TUPE or the Acquired Rights Directive, then:
- 20.1 the Customer shall and shall use its reasonable endeavours to procure that the Replacement Supplier shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 20.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Customer or the Replacement Supplier or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
21. If such offer is accepted, or if the situation has otherwise been resolved by the Supplier, the Customer shall and shall use its reasonable endeavours to procure (to the extent that it is contractually entitled to do so) that the Replacement Supplier shall immediately release the person from his/her employment or alleged employment.
22. If, after the fifteen (15) Working Day period specified in paragraph 20.2 has elapsed:
- 22.1 no such offer of employment has been made; or
 - 22.2 such offer has been made but not accepted; or

22.3 the situation has not otherwise been resolved,

the Customer may and shall advise the Replacement Supplier that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

23. Subject to the Customer or the Replacement Supplier acting in accordance with the provisions of paragraphs 20 to 22 and in accordance with all applicable proper employment procedures set out in Law, the Supplier shall indemnify the Customer and the Replacement Supplier against all Employment Liabilities arising out of the termination pursuant to the provisions of paragraph 22.
24. The indemnity in paragraph 23 above shall:
- 24.1 not apply to any claim for discrimination, including but not limited to sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or claims for equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or Sub-Contractor or to any claim that the termination of employment was unfair because the Supplier neglected to follow a fair dismissal procedure; and
- 24.2 shall only apply where the notification referred to in paragraph 20.1 is made by the Customer or the Replacement Supplier (as the case may be) to the Supplier within six (6) Months of the Call Off Commencement Date.
25. If any such person as is described in paragraph 19 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Customer or Replacement Supplier within the time scales set out in paragraphs 20 to 22, such person will be treated as a Transferring Supplier Employee and the Supplier shall comply with such obligations as may be imposed upon it under the Law.
26. The Supplier shall comply, and shall procure that any Sub-Contractor shall comply, with all its obligations under TUPE and will perform and discharge all its obligations in respect of all the Transferring Supplier Employees, prior to the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions, and any necessary apportionments in respect of any periodic payments will be made.
27. The Supplier shall, promptly provide and the Customer shall use reasonable endeavours to procure (to the extent that it is contractually entitled to do so) that the Replacement Supplier shall promptly provide to each other in writing such information as is necessary to carry out their respective duties under Regulation 13 of TUPE.
28. Subject to paragraph 29, the Customer shall use its reasonable endeavours to procure to the extent that it is contractually entitled to do so that the Replacement Supplier indemnifies the Supplier against any Employment Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative (as defined in TUPE) of any Transferring Supplier Employee) arising from or as a result of:
- 28.1 any act or omission of the Replacement Supplier;
- 28.2 the breach or non-observance by the Customer or any Replacement Supplier on or after the Relevant Transfer Date of any collective agreement or other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employee;

- 28.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- 28.3.1 in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - 28.3.2 in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Supplier, to the Replacement Supplier 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.
- 28.4 arising out of the resignation of any Transferring Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Sub-Contractor to occur in the period on or after the Service Transfer Date;
- 28.5 any statement communicated to or action undertaken by the Customer and/or any Replacement Supplier to, or in respect of, any Transferring Supplier Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 28.6 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Supplier Employee relating to any act or omission of the Customer and/or Replacement Supplier in relation to its obligations under Regulation 13 of TUPE.
29. The indemnities in paragraph 28 will not apply to the extent that the Employment Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as appropriate) whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employment Liabilities arising from the Supplier's and/or any Sub-Contractor's (as appropriate) failure to comply with its obligations under TUPE).
30. In the event of a Service Transfer to which TUPE or the Acquired Rights Directive does not apply the following provisions shall apply:
- 30.1 The Supplier shall provide a list to the Replacement Supplier (as appropriate), detailing all those employees who immediately before the date on which the Replacement Supplier started to perform the Services, had as their primary purpose the performing of the Service for the Customer.
 - 30.2 The Customer can and shall advise the Replacement Supplier that it can, in its discretion, make to any of the employees identified on the list provided by the Supplier under paragraph 30.1, an offer, in writing, to employ that employee under a new contract of employment.
 - 30.3 When the offer has been made by the Replacement Supplier and accepted by any employee or worker, the Supplier shall and shall procure that any Sub-Contractor shall permit the employee or worker to leave its employment, as soon as practicable depending on the business needs of the Supplier, which could be without the employee or worker having worked his full notice period, if the employee so requests.

- 30.4 If the employee does not accept an offer of employment made by the Replacement Supplier, or no such offer is made, the employee shall remain employed by the Supplier (or the relevant Sub-Contractor, as the case may be) and all Employment Liabilities in relation to the employee shall remain with the Supplier or the relevant Sub-Contractor and the Supplier shall indemnify the Customer for itself and on behalf of any Replacement Supplier against any Employment Liabilities that either of them may incur in respect of any such employees of the Supplier or the relevant Sub-Contractor.
31. CRiTPA will apply to Paragraphs 18, 23 and 30.4 so that any Former Supplier shall have the right to enforce the obligations owed and the indemnities given to it pursuant to those Paragraphs in its own right pursuant to Section 1(1) of CRiTPA.

PART E

CONDUCT OF CLAIMS

32. This paragraph 32 shall apply to the conduct, by a Party from whom an indemnity is sought under this Schedule, of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity. The Party having, or claiming to have, the benefit of the indemnity is referred to as the "Beneficiary" and the party giving the indemnity is referred to as the "Indemnifier".
33. If the Beneficiary receives any notice, demand, letter or other document concerning any claim for which it appears that the Beneficiary is, or may become entitled to, indemnification under this Schedule ("Claim"), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within ten (10) Working Days of receipt of the same.
34. Subject to paragraphs 36 and 37 below, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to paragraph 36 below, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.
35. With respect to any Claim conducted by the Indemnifier pursuant to paragraph 34 above:
- 35.1 the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
- 35.2 the Indemnifier shall not bring the name of the Beneficiary into disrepute;
- 35.3 the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and
- 35.4 the Indemnifier shall conduct the Claim with all due diligence.
36. The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:

- 36.1 the Indemnifier is not entitled to take conduct of the Claim in accordance with paragraph 34 above;
- 36.2 the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within ten (10) Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or
- 36.3 the Indemnifier fails to comply in any material respect with the provisions of paragraph 35 above.

SENSITIVE CLAIMS

37. With respect to any Claim for which the Customer or the Supplier are the Beneficiary and the conduct of which the Customer or the Supplier acting reasonably, considers is likely to have an adverse impact on the general public's perception of the Customer or the Supplier ("Sensitive Claim"), the Indemnifier shall only be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim with the Beneficiary's prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.
38. The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which paragraph 37 above applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

RECOVERY OF SUMS

39. If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:
- 39.1 an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and
- 39.2 the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

MITIGATION

40. Each of the Customer and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

SUB-CONTRACTORS

41. References in this Schedule to the Supplier shall include any relevant Supplier party providing any of the Services.
42. Where a provision in this Schedule imposes an obligation on the Supplier and/or where Supplier provides an indemnity, undertaking or warranty in this Schedule, the Contractor

shall procure that each of its Sub-Contractors or other agents and contractors shall comply with such obligation and/or provide such indemnity, undertaking or warranty to the Customer, Former Supplier or the Replacement Supplier as the case may be.

43. References in this Schedule to the Former Suppliers shall include any of their relevant sub-contractors providing any of the services which are the same as or similar to the Services which are provided by the Supplier in replacement of those services.

ANNEX 1: PENSIONS

PURPOSE AND STRUCTURE OF THIS ANNEX

This Annex 1 sets out the pension arrangements for employees whose employment is transferred from the Customer or a Former Supplier to the Supplier through a Relevant Transfer with effect on and from the Transfer Date.

This Annex 1 comprises five (5) sections:

- Section A contains definitions which apply for the purposes of this Annex 1 only;
- Section B contains provisions governing the pensions aspects of any Relevant Transfer of any Transferring Pensionable Customer Employee;
- Section C contains provisions governing the pensions aspects of any Relevant Transfer of any Second Generation Fair Deal Employee to the Supplier from any Former Supplier;
- Section D contains provisions governing the resolution of any dispute relating to actuarial calculations required under this Annex 1; and
- Section E contains provisions governing the pensions aspects of the termination of the Services or any part of them.

SECTION A – DEFINITIONS FOR PENSIONS MATTERS

For the purposes of this Annex 1, the following terms have the following meanings

“Actuary”	a Fellow of either the Institute of Actuaries or Faculty of Actuaries or any successor to such a body;
“Broadly Comparable”	NOT USED
“Customer’s Actuary”	the Government Actuary’s;
“Employee”	any Transferring Pensionable Customer Employee or Second Generation Fair Deal Employee;
“Former Supplier’s Actuary”	an Actuary employed by Serco Ltd who is advising the Former Supplier in relation to pension aspects of this Agreement or its contract with the Customer, as appropriate;
“Former Supplier’s Actuary’s Letter”	the letter in the agreed form signed by the Former Supplier’s Actuary and the Customer’s Actuary, a copy of which is attached to this Annex 1 and identified as Former Supplier’s Actuary’s Letter;
“Former Supplier’s	NOT USED;

Scheme”	
“Payment Date”	as appropriate, the first Working Day more than twenty eight (28) days after the date when the last of the Paragraph Error! Reference source not found. Provisos and/or the Paragraph Error! Reference source not found. Provisos of this Annex 1 has been satisfied;
“Pension Service Credit”	a period of pensionable service under the Supplier’s Scheme credited to any Employee in respect of the rights accrued by the Employee under, the Former Supplier’s Scheme calculated on a day for day, year for year basis;
“Required Transfer Amount One”	the amount calculated in accordance with the assumptions, NOT USED;
“Required Transfer Amount Two”	NOT USED;
“Second Generation Fair Deal Employee”	NOT USED;
“Supplier’s Actuary”	an Actuary employed by Serco Ltd who is advising the Supplier in relation to the pensions aspects of this Agreement;
“Supplier’s Actuary’s Letter One”	NOT USED;
“Supplier’s Actuary’s Letter Two”	the letter in the agreed form signed by the Supplier’s Actuary and the Former Supplier’s Actuary, a copy of which is attached to this Annex 1 and identified as Supplier’s Actuary’s Letter Two;
“Supplier’s Scheme”	a pension scheme established or nominated by the Supplier which is Broadly Comparable at the effective date of the Relevant Transfer of employment of any Employee to the Supplier;
“Top Up One”	the amount calculated in accordance with Paragraph Error! Reference source not found. of this Annex 1;
“Top Up Two”	the amount calculated in accordance with Paragraph Error! Reference source not found. of this Annex 1;
“Transfer Amount One”	NOT USED
“Transfer Amount Two”	NOT USED;
“Transfer Date”	the date on which the Transferring Pensionable Customer Employee and/or the date on which the Second Generation Fair Deal Employee transfers to the Supplier;
“Transfer Option One”	NOT USED;
“Transfer Option Two”	NOT USED;
“Transfer Deadline” Option	the first Working Day to fall at least three (3) months after Transfer Option One or Transfer Option Two has been sent to each Employee, as applicable;
“Transferee Employer”	any employer of Transferring Former Supplier Employees immediately after a transfer which is a Relevant Transfer (to which the Employment Regulations [shall] apply) of any

	Service; and
“Transferring Pensionable Customer Employee”	NOT USED

Note: any Top Up One or Top Up Two payment risk (where reference is made) is to be allocated to the Supplier.

SECTION B – PENSIONS ON A TRANSFER OF ANY TRANSFERRING PENSIONABLE CUSTOMER EMPLOYEE

NOT USED

SECTION C – PENSIONS ON TRANSFER OF ANY SECOND GENERATION FAIR DEAL EMPLOYEE

NOT USED

SECTION D – DISPUTE RESOLUTION OF PENSIONS MATTERS

91. DISPUTE RESOLUTION

- 91.1 In the event of dispute between, as appropriate, the Customer’s Actuary and/or the Supplier’s Actuary which cannot be resolved within fourteen (14) days of such dispute arising, either the Customer or the Supplier may request that the matter is referred to an independent Actuary.
- 91.2 If the Parties fail to agree on the identity of the independent Actuary within a reasonable period of time, he shall be appointed by the President for the time being of the Institute of Actuaries, or such equivalent officer of any successor organisation, for definitive determination of the disputed matter.
- 91.3 The independent Actuary shall determine the dispute by acting as an expert and not an arbitrator and his decision and directions shall be binding upon the Customer and the Supplier.
- 91.4 The charges and expenses incurred pursuant to this provision shall be paid one-half by the Customer and one-half by the Supplier unless the independent Actuary determines otherwise.

SECTION E – PENSIONS ON TERMINATION OF THE CONTRACT

92. THE SUPPLIER’S OBLIGATIONS ON ANY FUTURE TRANSFER

- 92.1 The Supplier shall, and shall use all reasonable efforts to procure that the trustees of the Supplier’s Scheme, do and/or provide all such acts and things as may, in the reasonable opinion of the Customer, be necessary or desirable to enable the Customer, and/or a Transferee Employer, to achieve the following objectives:
 - 92.1.1 to maintain ongoing pension accrual for any Employee whose employment is compulsorily transferred at the termination of the Services or any part of them in a pension arrangement where the benefits are Broadly Comparable;
 - 92.1.2 NOT USED

and

- 92.1.3 to ensure that each Employee whose employment is so compulsorily transferred is given the Pension Transfer Rights.
 - 92.1.4 NOT USED;
 - 92.1.5 provide for Transferring Former Supplier Employees who are not subject to "Fair Deal" as described in 92.1.3 above, defined benefits or defined contribution terms for service from the Transfer Date which comply with s.257 of the Pensions Act 2004 and, if relevant, Part I of the Pensions Act 2008;
- 92.2 Paragraph 92 of this Annex 1 shall only apply to the extent that the relevant benefit shall not be provided under the Former Supplier's Scheme.

SCHEDULE 5: ADDITIONAL OPTIONAL CLAUSES

Supplier's Staff
Protection of Information
Schedule Z Security Management Plan



93. **SUPPLIER'S STAFF**

93.1 The Customer may, by written notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Customer's Premises:

93.1.1 any member of the Supplier's Staff; or

93.1.2 any person employed or engaged by any member of the Supplier's Staff,

whose admission or continued presence would, in the reasonable opinion of the Customer, be undesirable.

93.2 At the Customer's written request, the Supplier shall provide a list of the names and addresses of all persons who may require admission to the Customer's Premises in connection with the Contract, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Customer may reasonably request.

93.3 Members of the Supplier's Staff engaged within the boundaries of the Customer's Premises shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or within the boundaries of those Customer's Premises.

93.4 If the Supplier fails to comply with Clause 35.2 within [three (3)] weeks of the date of the request, the Customer may terminate the Contract, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

93.5 The decision of the Customer as to whether any person is to be refused access to the Premises and as to whether the Supplier has failed to comply with Clause 93.2 shall be final and conclusive.

Relevant Convictions

93.6 The Supplier shall ensure that no person who discloses that he has a Relevant Conviction, or who is found by the Supplier to have any Relevant Convictions (whether as a result of a police check or through the Criminal Records Bureau procedures or otherwise), is employed or engaged in any part of the provision of the Contract Services without Customer approval.

93.7 For each member of the Supplier's Staff who, in providing the Contract Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Customer owes a special duty of care, the Supplier shall (and shall procure that the relevant Sub-Contractor shall):

93.7.1 carry out a check with the records held by DfE;

93.7.2 conduct thorough questioning regarding any Relevant Convictions; and

93.7.3 ensure a police check is completed and such other checks as may be carried out through the Criminal Records Bureau,

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Contract Services any person who has a Relevant Conviction or an inappropriate record.]

94. PROTECTION OF INFORMATION

94.1 Security Requirements

- 94.1.1 The Supplier shall comply, and shall procure the compliance of the Supplier's Staff, with the Security Policy and the Security Management Plan and the Supplier shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 94.1.2 The Customer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 94.1.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Contract Services it may notify the Customer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs.
- 94.1.4 Until and/or unless a change to the Contract Charges is agreed by the Customer pursuant to Clause 27 the Supplier shall continue to perform the Contract Services in accordance with its existing obligations.

94.2 Malicious Software

- 94.2.1 The Supplier shall, as an enduring obligation throughout the term of the Contract, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software in the ICT Environment (or as otherwise agreed between the Parties).
- 94.2.2 Notwithstanding Clause 94.2.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Customer Data, assist each other to mitigate any losses and to restore the Contract Services to their desired operating efficiency.
- 94.2.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 94.2.1 shall be borne by the Parties as follows:
 - 94.2.3.1 by the Supplier, where the Malicious Software originates from the Supplier Software or the Customer Data (whilst the Customer Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Customer when provided to the Supplier; and
 - 94.2.3.2 by the Customer if the Malicious Software originates from the Customer Software or the Customer Data (whilst the Customer Data was under the control of the Customer).

94.3 Security of Premises

- 94.3.1 The Customer shall be responsible for maintaining the security of the Customer's Premises in accordance with its standard security requirements. The Supplier shall comply with all reasonable security requirements of the

Customer while on the Customer's Premises and shall ensure that all members of the Supplier's Staff comply with such requirements.

- 94.3.2 The Customer shall provide the Supplier upon request copies of its written security procedures and shall afford the Supplier upon request an opportunity to inspect its physical security arrangements.

94.4 **Customer Data**

- 94.4.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- 94.4.2 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly approved by the Customer.
- 94.4.3 To the extent that the Customer Data is held and/or processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format specified in this Contract (if any) and in any event as specified by the Customer from time to time in writing.
- 94.4.4 To the extent that Customer Data is held and/or processed by the Supplier, the Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- 94.4.5 The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the Security Policy.
- 94.4.6 Not Used
- 94.4.7 If the Customer Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Customer may:
- 94.4.7.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of the Customer Data to the extent and in accordance with the BCDR Plan and the Supplier shall do so as soon as practicable but in accordance with the time period notified by the Customer; and/or
 - 94.4.7.2 itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the BCDR Plan.
 - 94.4.7.3 If at any time the Supplier suspects or has reason to believe that the Customer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.

94.5 **Protection of Personal Data**

- 94.5.1 With respect to the Parties' rights and obligations under this Contract, the Parties agree that the Customer is the Data Controller and that the Supplier is the Data Processor.

94.5.2 The Supplier shall:

- 94.5.2.1 Process the Personal Data only in accordance with instructions from the Customer (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Customer to the Supplier during the term of the Contract);
- 94.5.3 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Contract Services or as is required by Law or any Regulatory Body;
- 94.5.4 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- 94.5.5 take reasonable steps to ensure the reliability of all members of the Supplier's Staff who have access to the Personal Data;
- 94.5.6 obtain prior written approval from the Customer in order to transfer the Personal Data to any Sub-Contractors for the provision of the Contract Services;
- 94.5.7 ensure that all members of the Supplier's Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 6.14;
- 94.5.8 ensure that none of the Supplier's Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer;
- 94.5.9 notify the Customer (within five (5) Working Days) if it receives:
 - 94.5.9.1 a request from a Data Subject to have access to that person's Personal Data; or
 - 94.5.9.2 a complaint or request relating to the Customer's obligations under the Data Protection Legislation;
- 94.5.10 provide the Customer with full cooperation and assistance in relation to any complaint or request made, including by:
 - 94.5.10.1 providing the Customer with full details of the complaint or request;
 - 94.5.10.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customer's instructions;
 - 94.5.10.3 providing the Customer with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Customer); and

- 94.5.10.4 providing the Customer with any information requested by the Customer;
- 94.5.11 permit the Customer or the Customer's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, the Supplier's data Processing activities (and/or those of its agents, subsidiaries and Sub-Contractors) and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract;
- 94.5.12 provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by the Customer); and
- 94.5.13 [not Process or otherwise transfer any Personal Data outside the European Economic Area. If, after the Commencement Date, the Supplier (or any Sub-Contractor) wishes to Process and/or transfer any Personal Data outside the European Economic Area, the following provisions shall apply:
- 94.5.13.1 the Supplier shall submit a request for Variation to the Customer which shall be dealt with in accordance with the Variation procedure and paragraph (b) to (d) below;
- 94.5.13.2 the Supplier shall set out in its request for a Variation details of the following:
- 94.5.13.2.1 the Personal Data which will be Processed and/or transferred outside the European Economic Area;
- 94.5.13.2.2 the country or countries in which the Personal Data will be Processed and/or to which the Personal Data will be transferred outside the European Economic Area;
- 94.5.13.2.3 any Sub-Contractors or other third parties who will be Processing and/or transferring Personal Data outside the European Economic Area; and
- 94.5.13.2.4 how the Supplier will ensure an adequate level of protection and adequate safeguards (in accordance with the Data Protection Legislation and in particular so as to ensure the Customer's compliance with the Data Protection Legislation) in respect of the Personal Data that will be Processed and/or transferred outside the European Economic Area;
- 94.5.13.3 in providing and evaluating the request for Variation, the Parties shall ensure that they have regard to and comply with then-current Customer, Government and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing and/or transfers of Personal Data outside the European Economic Area and/or overseas generally but, for the avoidance of doubt, the Customer may, in its absolute discretion, refuse to grant Approval of such Process and/or transfer any Personal Data outside the European Economic Area; and

94.5.13.4 the Supplier shall comply with such other instructions and shall carry out such other actions as the Customer may notify in writing, including:

94.5.13.4.1 incorporating standard and/or model Clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) in this Contract or a separate data processing agreement between the parties; and

94.5.13.4.2 procuring that any Sub-Contractor or other third party who will be Processing and/or transferring the Personal Data outside the European Economic Area enters into a direct data processing agreement with the Customer on such terms as may be required by the Customer, which the Supplier acknowledges may include the incorporation of standard and/or model Clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation).]

94.5.14 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.

94.5.15 The Supplier acknowledges that, in the event that it breaches (or attempts or threatens to breach) its obligations relating to Personal Data that the Customer may be irreparably harmed (including harm to its reputation). In such circumstances, the Customer may proceed directly to court and seek injunctive or other equitable relief to remedy or prevent any further breach (or attempted or threatened breach).

94.5.16 The Supplier shall, at all times during and after the term of the Contract, indemnify the Customer and keep the Customer fully indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Customer arising from any breach of the Supplier's obligations under this Clause 94.5 except and to the extent that such liabilities have resulted directly from the Customer's instructions.

94.6 Confidentiality

94.6.1 Except to the extent set out in this Clause 94.6 or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

94.6.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

94.6.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

94.6.2 Clause 94.6.1 shall not apply to the extent that:

94.6.2.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 94.8 (Freedom of Information);

- 94.6.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- 94.6.2.3 such information was obtained from a third party without obligation of confidentiality;
- 94.6.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- 94.6.2.5 it is independently developed without access to the other Party's Confidential Information.
- 94.6.3 The Supplier may only disclose the Customer's Confidential Information to those members of the Supplier's Staff who are directly involved in the provision of the Contract Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- 94.6.4 The Supplier shall not, and shall procure that the Supplier's Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of this Contract.
- 94.6.5 At the written request of the Customer, the Supplier shall procure that those members of the Supplier's Staff identified in the Customer's notice sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- 94.6.6 In the event that any default, act or omission of any member of the Supplier's Staff causes or contributes (or could cause or contribute) to the Supplier breaching its obligations as to confidentiality under or in connection with this Contract, the Supplier shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any member of the Supplier's Staff, the Supplier shall provide such evidence to the Customer as the Customer may reasonably require (though not so as to risk compromising or prejudicing any disciplinary or other proceedings to demonstrate that the Supplier is taking appropriate steps to comply with this Clause, including copies of any written communications to and/or from members of the Supplier's Staff, and any minutes of meeting and any other records which provide an audit trail of any discussions or exchanges with members of the Supplier's Staff in connection with obligations as to confidentiality.
- 94.6.7 Nothing in this Contract shall prevent the Customer from disclosing the Supplier's Confidential Information (including the Management Information obtained under of the Framework Agreement):
- 94.6.7.1 to any Crown body or any other Contracting Body. All Crown bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any Contracting Body;

- 94.6.7.2 to any consultant, contractor or other person engaged by the Customer or any person conducting an Office of Government Commerce gateway review;
 - 94.6.7.3 for the purpose of the examination and certification of the Customer's accounts; or
 - 94.6.7.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources.
- 94.6.8 The Customer shall use all reasonable endeavours to ensure that any government department, Contracting Body, employee, third party or contractor to whom the Supplier's Confidential Information is disclosed pursuant to Clause 36.5.7 is made aware of the Customer's obligations of confidentiality.
- 94.6.9 Nothing in this Clause 94.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.
- 94.6.10 In the event that the Supplier fails to comply with Clause 94.6.1 to Clause 94.6.6, the Customer reserves the right to terminate this Contract with immediate effect by notice in writing.
- 94.6.11 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of this Contract, the Supplier undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.

94.7 Official Secrets Acts 1911 to 1989, section 182 of the Finance Act 1989

- 94.7.1 The Supplier shall comply with and shall ensure that all members of the Supplier's Staff comply with, the provisions of:
- 94.7.1.1 the Official Secrets Acts 1911 to 1989; and
 - 94.7.1.2 Section 182 of the Finance Act 1989.
- 94.7.2 In the event that the Supplier or its Staff fail to comply with this Clause 94.7 the Customer reserves the right to terminate the Contract by giving notice in writing to the Supplier.

94.8 Freedom of Information

- 94.8.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- 94.8.2 The Supplier shall and shall procure that its Sub-Contractors shall:
- 94.8.2.1 transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;

- 94.8.2.2 provide the Customer with a copy of all Information in its possession, or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request; and
- 94.8.2.3 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 94.8.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other contract whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 94.8.4 In no event shall the Supplier respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 94.8.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 94.6) the Customer may, acting in accordance with the Ministry of Justice Codes, be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Contract Services:
- 94.8.5.1 in certain circumstances without consulting the Supplier; or
- 94.8.5.2 following consultation with the Supplier and having taken their views into account,
- provided always that where Clause 94.8.5 applies the Customer shall, in accordance with any recommendations of the Ministry of Justice Codes, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 94.8.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with the provisions of this Contract and in any event in accordance with the requirements of Good Industry Practice and shall permit the Customer to inspect such records as requested from time to time.
- 94.8.7 The Supplier acknowledges that the Commercially Sensitive Information is of indicative nature only and that the Customer may be obliged to disclose it in accordance with Clause 94.8.5.

94.9 Transparency

- 94.9.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Customer shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 94.9.2 Notwithstanding any other term of this Contract, the Supplier hereby gives his consent for the Customer to publish the Contract in its entirety (but with any information which is exempt from disclosure in accordance with the

provisions of the FOIA redacted), including from time to time agreed changes to the Contract, to the general public.

- 94.9.3 The Customer may consult with the Supplier to inform its decision regarding any redactions but the Customer shall have the final decision in its absolute discretion.
- 94.9.4 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Contract.

SCHEDULE Z: SECURITY MANAGEMENT PLAN

In this Schedule the following provisions shall have the meanings given to them below:

"Breach of Security"	in accordance with the security requirements in the Letter of Appointment and the Security Policy, the occurrence of: (a) any unauthorised access to or use of the Contract Services, the Premises, the Sites, the Supplier System and/or any ICT, information or data (including the Confidential Information and the Customer Data) used by the Customer and/or the Supplier in connection with this Contract; and/or (b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Customer Data), including any copies of such information or data, used by the Customer and/or the Supplier in connection with this Contract;
"ISMS"	The Information Security Management System as defined by ISO/IEC 27001. The scope of the ISMS will be as agreed by the Parties and will directly reflect the scope of the Contract Services;
"Protectively Marked"	shall have the meaning as set out in the Security Policy Framework;
"Security Policy Framework"	means the Cabinet Office Security Policy Framework (available from the Cabinet Office Security Policy Division);
"Security Tests"	shall have the meaning set out in paragraph 7 of this Schedule Z;
"Statement of Applicability"	shall have the meaning set out in ISO/IEC 27001 and as agreed by the Parties during the procurement phase.

1. Not used.
2. Not used.
3. Not used.

4. INTRODUCTION

4.1 This Schedule covers:

- 4.1.1 principles of protective security to be applied in delivering the Contract Services;
- 4.1.2 wider aspects of security relating to the Contract Services;
- 4.1.3 the development, implementation, operation, maintenance and continual improvement of an ISMS;

- 4.1.4 the creation and maintenance of the Security Management Plan;
- 4.1.5 audit and testing of ISMS compliance with the security requirements (as set out in Letter of Appointment);
- 4.1.6 conformance to ISO/IEC 27001 (Information Security Requirements Specification) and ISO/IEC27002 (Information Security Code of Practice); and
- 4.1.7 obligations in the event of actual, potential or attempted breaches of security.

5. PRINCIPLES OF SECURITY

- 5.1 The Supplier acknowledges that the Customer places great emphasis on the confidentiality, integrity and availability of information and consequently on the security provided by the ISMS.
- 5.2 The Supplier shall be responsible for the effective performance of the ISMS and shall at all times provide a level of security which:
 - 5.2.1 is in accordance with Good Industry Practice, Law and this Contract;
 - 5.2.2 complies with the Security Policy;
 - 5.2.3 complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4) available from the Cabinet Office Security Policy Division (COSPD);
 - 5.2.4 meets any specific security threats to the ISMS;
 - 5.2.5 complies with ISO/IEC27001 and ISO/IEC27002 in accordance with paragraph 6 of this Schedule;
 - 5.2.6 complies with the security requirements as set out in the Letter of Appointment; and
 - 5.2.7 complies with the Customer's ICT standards.
- 5.3 The references to standards, guidance and policies set out in paragraph 5.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, from time to time.
- 5.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Customer's Representative of such inconsistency immediately upon becoming aware of the same, and the Customer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

6. ISMS AND SECURITY MANAGEMENT PLAN

6.1 Introduction

- 6.1.1 The Supplier shall develop, implement, operate, maintain and continuously improve and maintain (and ensure that all Supplier's Staff and Sub-Contractors implement and comply with) an ISMS which will, without prejudice to paragraph 5.2, be approved, by the Customer, tested periodically updated and audited in accordance with ISO/IEC 27001.

- 6.1.2 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule to apply during the term of the Contract.
- 6.1.3 The Supplier shall comply with its obligations set out in the Security Management Plan and any other provision of the Framework Agreement relevant to security.
- 6.1.4 Both the ISMS and the Security Management Plan shall, unless otherwise specified by the Customer, aim to protect all aspects of the Contract Services and all processes associated with the delivery of the Contract Services, including the Premises, the Sites, the Supplier System and any ICT, information and data (including the Customer Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Contract.
- 6.1.5 The Supplier is responsible for monitoring and ensuring that it is aware of changes to the Security Policy. The Supplier shall keep the Security Management Plan up-to-date with the Security Policy as amended from time to time.

6.2 Development of the Security Management Plan

- 6.2.1 Within [twenty (20)] Working Days after the Commencement Date (or such other period specified in the Implementation Plan or as otherwise agreed by the Parties in writing) and in accordance with paragraph 6.4 (Amendment and Revision of the ISMS and Security Management Plan), the Supplier will prepare and deliver to the Customer for approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 6.2.2 If the Security Management Plan, or any subsequent revision to it in accordance with paragraph 6.4 (Amendment and Revision of the ISMS and Security Management Plan), is approved by the Customer it will be adopted immediately and will replace the previous version of the Security Management Plan. If the Security Management Plan is not approved by the Customer the Supplier shall amend it within ten (10) Working Days or such other period as the Parties may agree in writing of a notice of non-approval from the Customer and re-submit to the Customer for approval. The parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the parties may agree in writing) from the date of its first submission to the Customer. If the Customer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure. No approval to be given by the Customer pursuant to this paragraph 6.2.2 may be unreasonably withheld or delayed. However a refusal by the Customer to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 6.3 shall be deemed to be reasonable.

6.3 Content of the Security Management Plan

- 6.3.1 The Security Management Plan will set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Contract Services and all processes associated with the delivery of the Contract Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Contract Services comply with the provisions of this Contract (including this Schedule, the principles set out in paragraph 5.2 and any other elements of this Contract relevant to security or any data protection guidance produced by the Customer);
- 6.3.2 The Security Management Plan (including the draft version) should also set out the plans for transiting all security arrangements and responsibilities from those in

place at the Commencement Date to those incorporated in the Supplier's ISMS at the date set out in the Implementation Plan for the Supplier to meet the full obligations of the security requirements set out in this Contract and in the Letter of Appointment.

- 6.3.3 The Security Management Plan will be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules of this Contract which cover specific areas included within that standard.
- 6.3.4 The Security Management Plan shall be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Customer engaged in the Contract Services and shall only reference documents which are in the possession of the Customer or whose location is otherwise specified in this Schedule.

6.4 Amendment and Revision of the ISMS and Security Management Plan

- 6.4.1 The ISMS and Security Management Plan will be fully reviewed and updated by the Supplier annually, or from time to time to reflect:
 - 6.4.1.1 emerging changes in Good Industry Practice;
 - 6.4.1.2 any change or proposed change to the Supplier System, the Contract Services and/or associated processes;
 - 6.4.1.3 any new perceived or changed security threats;
 - 6.4.1.4 any reasonable request by the Customer.
- 6.4.2 The Supplier will provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the ISMS and Security Management Plan at no additional cost to the Customer. The results of the review should include, without limitation:
 - 6.4.2.1 suggested improvements to the effectiveness of the ISMS;
 - 6.4.2.2 updates to the risk assessments;
 - 6.4.2.3 proposed modifications to the procedures and controls that effect information security to respond to events that may impact on the ISMS; and
 - 6.4.2.4 suggested improvements in measuring the effectiveness of controls.
- 6.4.3 On receipt of the results of such reviews, the Customer will approve any amendments or revisions to the ISMS or Security Management Plan in accordance with the process set out at paragraph 6.2.2.
- 6.4.4 Any change or amendment which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a Customer request or change to the requirement set out in the Letter of Appointment or otherwise) shall be subject to the Variation Procedure and shall not be implemented until approved in writing by the Customer.

7. TESTING

- 7.1 The Supplier shall conduct tests of the ISMS ("**Security Tests**") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Customer.
- 7.2 The Customer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Customer with the results of such tests (in a form approved by the Customer in advance) as soon as practicable after completion of each Security Test.
- 7.3 Without prejudice to any other right of audit or access granted to the Customer pursuant to this Contract, the Customer and/or its authorised representatives shall be entitled, at any time and without giving notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Customer may notify the Supplier of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery of the Contract Services. If such tests adversely affect the Supplier's ability to deliver the Contract Services to the agreed Service Levels, the Supplier shall be granted relief against any resultant under-performance for the period of the tests.
- 7.4 Where any Security Test carried out pursuant to paragraphs 7.1 and 7.2 above reveals any actual or potential Breach of Security and/or security failure or weaknesses, the Supplier shall promptly notify the Customer in writing of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Customer's approval in accordance with paragraph 6.2.2, the Supplier shall implement such changes to the ISMS and the Security Management Plan in accordance with the timetable agreed with the Customer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan to address a non-compliance with the Security Policy or security requirements (as set out in the Letter of Appointment), the change to the ISMS or Security Management Plan shall be at no cost to the Customer. For the purposes of this paragraph 8, weaknesses means a vulnerability in security and failure means a possible breach of the Security Management Plan or security requirements.

8. COMPLIANCE WITH ISO/IEC 27001

- 8.1 Where the Customer requests, the Supplier shall obtain independent certification of the ISMS to ISO/IEC 27001 within twelve (12) Months of the Commencement Date or such reasonable time period as to be agreed with the Customer and shall maintain such certification for the duration of the Contract.
- 8.2 [If certain parts of the ISMS do not conform to Good Industry Practice, or controls as described in ISO/IEC 27002 are not consistent with the Security Policy, and, as a result, the Supplier reasonably believes that it is not compliant with ISO/IEC 27001, the Supplier shall promptly notify the Customer of this and the Customer in its absolute discretion may waive the requirement for certification in respect of the relevant parts.]
- 8.3 The Customer shall be entitled to carry out such regular security audits as may be required, and in accordance with Good Industry Practice, in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001.
- 8.4 If, on the basis of evidence provided by such audits, it is the Customer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 is not being achieved by the Supplier, then the Customer shall notify the Supplier of the same and give the Supplier a

reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO/IEC 27001. If the Supplier does not become compliant within the required time then the Customer has the right to obtain an independent audit against these standards in whole or in part.

- 8.5 If, as a result of any such independent audit as described in paragraph 8.3 the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Customer in obtaining such audit.

9. BREACH OF SECURITY

- 9.1 Either party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

- 9.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 9.1, the Supplier shall:

- 9.2.1 immediately take all reasonable steps necessary to:

9.2.1.1 remedy such breach or protect the integrity of the ISMS against any such potential or attempted breach or threat; and

9.2.1.2 prevent an equivalent breach in the future.

Such steps shall include any action or changes reasonably required by the Customer. In the event that such action is taken in response to a breach that is determined by the Customer acting reasonably not to be covered by the obligations of the Supplier under this Contract, then the Supplier shall be entitled to refer the matter to the Variation Procedure; and

- 9.2.2 as soon as reasonably practicable provide to the Customer full details (using such reporting mechanism as defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security.

Model Contract

Annex B

STANDARD FORM CONTRACT TO ASSIST COMPLIANCE WITH OBLIGATIONS IMPOSED BY
ARTICLE 17 OF THE DATA PROTECTION DIRECTIVE 95/46/EC

FOR USE BY DATA CONTROLLERS AND DATA PROCESSORS LOCATED WITHIN THE EUROPEAN
ECONOMIC AREA WHERE THE PARTIES HAVE ENTERED INTO A SEPARATE DATA PROCESSING
AGREEMENT

THIS AGREEMENT is made on the last date of execution hereof.

BETWEEN:

(1) **THE SCOTTISH MINISTERS** (the "Controller"); and

(2) **SERCO LTD**, (*incorporated in, or existing and established under the laws of the United Kingdom, whose registered office is at Serco House, Bartley Wood Business Park, 16 Bartley Way, Hook, Hampshire RG27 9UY* (the "Processor").

BACKGROUND

(A) The Controller processes Personal Data in connection with its business activities;

(B) The Processor processes Personal Data on behalf of other businesses and organisations;

(C) The Controller wishes to engage the services of the Processor to process personal data on its Behalf in relation to the Know the Score and Drinkline Scotland Helplines provision.

(D) Article 17(2) of the Data Protection Directive 95/46/EC (as hereinafter defined) provides that, where processing of personal data is carried out by a processor on behalf of a data controller the controller must choose a processor providing sufficient guarantees in respect of the technical security measures and organisational measures governing the processing to be carried out, and must ensure compliance with those measures;

(E) Articles 17(3) and 17(4) of the Data Protection Directive require that where processing is carried out by a processor on behalf of a controller such processing shall be governed by a contract or legal act binding the processor to the controller stipulating, in particular, that the processor shall act only on instructions from the controller and shall comply with the technical and organisational measures required under the appropriate national law to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against all other unlawful forms of processing;

(F) In compliance with the above-mentioned provisions of Article 17 of the Data Protection Directive the Controller and Processor wish to enter into this processing security Agreement.

THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words and phrases shall have the following meanings, unless inconsistent with the context or as otherwise specified:

"Data Protection Directive" shall mean Directive 95/46/EC of the European Parliament and Council of 24th October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

"national law" shall mean the law of the Member State in which the Processor is established;

"personal data" shall mean any information relating to an identified or identifiable natural person

Scottish Procurement, Atlantic Quay
150 Broomielaw, Glasgow G2 8LU
www.scotland.gov.uk



('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic cultural or social identity;

"**processing of personal data**" shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alternation, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

"**sub-contract**" and "**sub-contracting**" shall mean the process by which either party arranges for a third party to carry out its obligations under this Agreement and "Sub Contractor" shall mean the party to whom the obligations are subcontracted; and

"**Technical and organisational security measures**" shall mean measures to protect personal data against accidental or unlawful destruction or accidental loss, alternation, unauthorised disclosure or access and against all other unlawful forms of processing.

2. CONSIDERATION

2.1 In consideration of the Controller engaging the services of the processor to process personal data on its behalf the Processor shall comply with the security, confidentiality and other obligations imposed on it under this Agreement.

3. SECURITY OBLIGATIONS OF THE PROCESSOR

3.1 The Processor shall only carry out those actions in respect of the personal data processed on behalf of the Controller as are expressly authorised by the Controller.

3.2 The Processor shall take such Technical and Organisational Security Measures as are required under its own national law to protect personal data processed by the Processor on behalf of the Controller against unlawful forms of processing. Such Technical and Organisational measures shall include, as a minimum standard of protection, compliance with the legal and practical security requirements set out in Appendix 1 of this Agreement.

4. CONFIDENTIALITY

4.1 The Processor agrees that it shall maintain the personal data processed by the Processor on behalf of the Controller in confidence. In particular, the Processor agrees that, save with the prior written consent of the Controller, it shall not disclose any personal data supplied to the Processor by, for, or on behalf of, the Controller to any third party.

4.2 The Processor shall not make any use of any personal data supplied to it by the Controller otherwise than in connection with the provision of services to the Controller.

4.3 Nothing in this agreement shall prevent either party from complying with any legal obligation imposed by a regulator or court. Both parties shall however, where possible, discuss together the appropriate response to any request from a regulator or court for disclosure of information.

4.4 Notwithstanding the provisions of clause 6.1 hereof, the provisions of this clause 4 shall survive termination of this Agreement.

5. SUB-CONTRACTING

5.1 The Processor shall not sub-contract any of its rights or obligations under this Agreement without the prior written consent of the Controller.

5.2 Where the Processor, with the consent of the Controller, sub-contracts its obligations under this agreement it shall do so only by way of a written agreement with the Sub-Contractor which imposes the same obligations in relation to the security of the processing on the Sub-Contractor as are imposed on the Processor under this Agreement.

5.3 For the avoidance of doubt, where the Sub-Contractor fails to fulfil its obligations under any sub-processing agreement, the Processor shall remain fully liable to the Controller for the fulfilment of its obligations under this Agreement

6. TERM AND TERMINATION

6.1 This Agreement shall continue in full force and effect for so long as the Processor is processing personal data on behalf of the Controller.

6.2 Within 20 days following termination of this Agreement the Processor shall, at the direction of the Controller, (a) comply with any other agreement made between the parties concerning the return or destruction of data, or (b) return all personal data passed to the Processor by the Controller for processing, or (c) on receipt of instructions from the Controller, destroy all such data unless prohibited from doing so by any applicable law.

7. ARBITRATION

All disputes, differences or questions between the parties to the Agreement with respect to any matter or thing arising out of or relating to the Agreement, other than a matter or thing as to which the decision of the Controller is under the Agreement to be final and conclusive, shall be referred to a sole arbiter mutually chose by the parties or, failing agreement (within 28 days of either party requesting the other to do so), nominated by the President of the Law Society of Scotland for the time being on the application of either party. The arbitration shall be seated in Scotland and the Arbitration (Scotland) Act 2010 shall apply.

8. GOVERNING LAW

8.1 This Agreement shall be governed by and construed in accordance with the national law of the Member state in which the Controller is established.

IN WITNESS WHEREOF this Agreement comprising this and the proceeding 2 pages and Appendix 1 annexed hereto has been signed on behalf of each of the parties by its duly authorised representative as follows:

SIGNED on behalf of the Controller (Scottish Ministers)..... [REDACTED]

(position)..... *POLICY MANAGER*

(Print name and title)..... [REDACTED]

(Witness)..... [REDACTED]

(Witness' full name and address)..... [REDACTED]

Date..... *1.11.16*

Place (town)..... *EDINBURGH*

SIGNED on behalf of the Processor (Name of Processor)..... [REDACTED]

(position)..... *Customer Services Director*

(Print name and title)..... [REDACTED]

(Witness)..... [REDACTED]

(Witness' full name and address).

Date..... 28.10.16

Place (town)..... NEWCASTLE

Annex C

HM Government Cyber Essentials Scheme Summary

This will form an attachment to this contract and forms part of the Terms and Conditions of this contract.

**This is Appendix 1 referred to in the foregoing Agreement between the Scottish Ministers and
SERCO LTD**

APPENDIX 11

1. Legal requirements

1.1 The Processor shall, in respect of the processing of personal data on behalf of the Controller, identify and comply with any specific security provisions imposed by its national law.

2. Practical security measures

2.1 In compliance with its obligations under clause 3.2 with regard to the processing of personal data on behalf of the Controller, the Processor, as a minimum requirement, shall give due consideration to the following types of security measures:

2.1.1 Information Security Management Systems;

2.1.2 Physical Security;

2.1.3 Access Control;

2.1.4 Security and Privacy Enhancing Technologies;

2.1.5 Awareness, training and security checks in relation to personnel;

2.1.6 Incident/Response Management/Business Continuity; and

2.1.7 Audit Controls/Due Diligence;

1 The Practical Security Measures outlined in Schedule 1 are taken from the OECD Working Party on Information Security and Privacy's draft paper of 30-31 March 2004 entitled "Information Security Issues and Resources for Small and Entrepreneurial Companies – A business companion to the 2002 OECD Guidelines for the Security of Networks and Information systems: Towards a Culture of Security"



HM Government Cyber Essentials Scheme Summary

This will form an attachment to this contract and forms part of the Terms and Conditions of this contract.



HM Government



**CYBER
ESSENTIALS**

Cyber Essentials Scheme

Summary

June 2014

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Introduction

The Cyber Essentials scheme has been developed by Government and industry to fulfil two functions. It provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats, within the context of the Government's [10 Steps to Cyber Security](#). And through the Assurance Framework it offers a mechanism for organisations to demonstrate to customers, investors, insurers and others that they have taken these essential precautions.

Cyber Essentials offers a sound foundation of basic hygiene measures that all types of organisations can implement and potentially build upon. Government believes that implementing these measures can significantly reduce an organisation's vulnerability. However, it does not offer a silver bullet to remove all cyber security risk; for example, it is not designed to address more advanced, targeted attacks and hence organisations facing these threats will need to implement additional measures as part of their security strategy. What Cyber Essentials does do is define a focused set of controls which will provide cost-effective, basic cyber security for organisations of all sizes.

The [Assurance Framework](#), leading to the awarding of Cyber Essentials and Cyber Essentials Plus certificates for organisations, has been designed in consultation with SMEs to be light-touch and achievable at low cost. The two options give organisations a choice over the level of assurance they wish to gain and the cost of doing so. It is important to recognise that certification only provides a snapshot of the cyber security practices of the organisation at the time of assessment, while maintaining a robust cyber security stance requires additional measures such as a sound risk management approach, as well as on-going updates to the Cyber Essentials control themes, such as patching. But we believe this scheme offers the right balance between providing additional assurance of an organisation's commitment to implementing cyber security to third parties, while retaining a simple and low cost mechanism for doing so.

Addressing the Threat

Cyber Essentials defines a set of controls which, when properly implemented, will provide organisations with basic protection from the most prevalent forms of threats coming from the Internet. In particular, it focuses on threats which require low levels of attacker skill, and which are widely available online.

Risk management is the fundamental starting point for organisations to take action to protect their information. However, given the nature of the threat, Government believes that action should begin with a core set of security controls which all organisations – large and small – should implement. Cyber Essentials defines what these controls are.

Background

In 2012 Government launched its [10 Steps to Cyber Security](#) and subsequently [Small Businesses: What you need to know about cyber security](#) guidance to encourage organisations to consider whether they were managing their cyber risks. Government emphasised the need for company Boards and senior executives to take ownership of these risks and enshrine them within their overall corporate risk management regime. These initiatives continue to gain traction. However, government analysis of continuing attacks and feedback from industry vulnerability testers has identified that a number of security controls are still not being applied, leaving organisations vulnerable to threat actors with low levels of technical capability.

We view the adoption of an organisational standard for cyber security as the next stage on from the 10 Steps to Cyber Security guidance. This will enable organisations, and their customers and partners, to have greater confidence in their ability to reduce the risk posed by threat actors with low levels of technical capability, independently tested where necessary.

The Cyber Essentials Scheme follows on from a call for evidence on a preferred organisational standard in cyber security carried out by Government together with industry, which concluded in November 2013. Information about this call for evidence, including the outcome document, can be found [here](#).

The feedback we received from industry through the call for evidence was that none of the existing organisational standards for cyber security met our requirements, but that industry was keen to help us develop something new.

Government has therefore worked with industry to develop new requirements. This is the Cyber Essentials Scheme, which focuses on basic cyber hygiene. Information Assurance for Small & Medium Enterprises, ([IASME](#)), Information Security Forum ([ISF](#)), and the British Standards Institution ([BSI](#)) have collaborated on the project. Other organisations, including professional bodies and individual businesses, have provided technical advice.

Scope

The Cyber Essentials Scheme covers the basics of cyber security in an organisation's enterprise or corporate IT system. Implementation of these controls can significantly reduce the risk of prevalent but unskilled cyber-attack. For many organisations, especially those with significant information assets or who are exposed to a wider range of threats, Cyber Essentials will become a practical component of a wider ranging cyber security posture – for example, as described in the Government's '[10 Steps to Cyber Security](#)' and '[Cyber Security: what small businesses need to know](#)'.

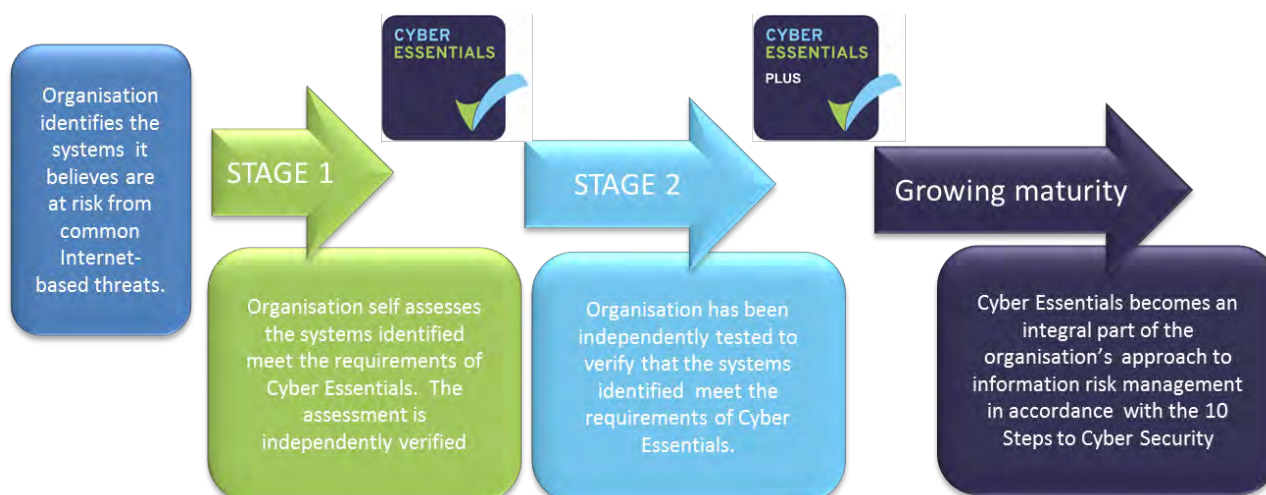


Figure 1 - Cyber Essentials Scheme: overview

The Scheme [Requirements Document](#) focuses on Internet-originated attacks against an organisation's IT system. Many organisations will have particular additional services, e.g. web applications, that will require additional and specific controls beyond those provided by Cyber Essentials. Cyber Essentials concentrates on five key controls. These are:

1. **Boundary firewalls and internet gateways** - these are devices designed to prevent unauthorised access to or from private networks, but good setup of these devices either in hardware or software form is important for them to be fully effective.
2. **Secure configuration** – ensuring that systems are configured in the most secure way for the needs of the organisation
3. **Access control** – Ensuring only those who should have access to systems to have access and at the appropriate level.
4. **Malware protection** – ensuring that virus and malware protection is installed and is it up to date
5. **Patch management** – ensuring the latest supported version of applications is used and all the necessary patches supplied by the vendor been applied.

Assurance Framework

As stories of organisations exposing customers' information to cyber threats continue to create headlines in the media, it is becoming increasingly important for organisations to not only maintain a robust cyber security stance but also demonstrate this to clients. The Assurance Framework is designed to provide a simple means for third parties to distinguish between organisations that are implementing basic cyber security controls from those that are not. This can be used in a number of ways; an organisation may undergo certification to mark them out from their competitors; they may require certification from partners where contractual relationships expose them to wider cyber risk (for example where information is shared); and insurers, investors and auditors may take certification into account when assessing an organisation's risk profile.

The two levels of certification, Cyber Essentials, and Cyber Essentials Plus are set out in Figure 1 above.

- **Cyber Essentials** certification is awarded on the basis of a verified self-assessment. An organisation undertakes their own assessment of their implementation of the Cyber Essentials control themes via a questionnaire, which is approved by a senior executive such as the CEO. This questionnaire is then verified by an independent Certification Body to assess whether an appropriate standard has been achieved, and certification can be awarded. This option offers a basic level of assurance and can be achieved at low cost.
- **Cyber Essentials Plus** offers a higher level of assurance through the external testing of the organisation's cyber security approach. Given the more resource intensive nature of this process, we anticipate that Cyber Essentials Plus will cost more than the foundation Cyber Essentials certification.

On successful completion a certificate will be awarded. Organisations who receive a certificate will be able to display the appropriate Cyber Essentials or Cyber Essentials Plus badge.

Next steps

Organisations wishing to be assessed should contact one of the [Cyber Essentials Accreditation Bodies](#) to discuss their requirements and identify a Certification Body.

For further information about how to become certified, see: www.cyberessentials.org.uk

If you would like to become a Certification Body, see www.cyberessentials.org.uk where links to the Accreditation Bodies can be found.

If you would like to become an Accreditation Body, please contact cyberessentials@cesg.gsi.gov.uk.

Questions about the scheme?

1. Who is 'Cyber Essentials' for?

Cyber Essentials is applicable to all organisations, of all sizes, and in all sectors. We encourage all organisations to look at the requirements and to adopt them. This is not limited to companies in the private sector, but is applicable to universities, charities, public sector and not-for-profit organisations.

2. What are the benefits of the scheme?

The Cyber Essentials scheme provides organisations with clarity on what essential security controls they need to have in place to reduce the risk posed by threats on the Internet with low levels of technical capability. Organisations that are good at cyber security can make this a selling point – demonstrating to their customers through the Cyber Essentials badge that they take cyber security seriously.

3. When can I apply to this scheme?

The scheme is open now and is available to all organisations. Those interested in assessment should in the first instance contact one of the [Accreditation Bodies](#) to identify a suitable Certification Body.

4. How much will it cost to be certified?

Our intention is that the scheme will be affordable to the greatest possible number of organisations. Costs will be set by the individual Certification Bodies who will work in competition with each other, allowing market forces to set rates. The cost will depend on size of your organisation and the level of rigour you need to demonstrate. The Assurance Framework proposes two stages reflecting different levels of assurance: Cyber Essentials and Cyber Essentials Plus.

5. How will I show that I have been certified?

Organisations that have successfully been assessed against the scheme will be able to use the appropriate Cyber Essentials badge to publicise this fact. Being able to advertise that you have met a Government approved cyber security scheme will give you an edge over competitors in the same market.

6. Will there be a time limit on the badge?

The assessment process is a 'snap shot' in time and it can only be sure to be effective on the day of assessment, similar to an MoT on a car. As with the MoT the car will not remain roadworthy without regular maintenance. New vulnerabilities are continually being identified. We therefore recommend that organisations maintain the principles of the Scheme on an on-going basis (for example, ensuring that patching always occurs in a timely fashion and that malware protection is kept up to date) and not just prepare for assessment. As a minimum, to retain the badge organisations must recertify at least once a year.

7. My organisation already complies with a standard in cyber or information security – for example, ISO 27001. Am I supposed to get us assessed against Cyber Essentials as well?

Yes. You can gain the badge in addition to other schemes. The process of meeting the requirements of other standards may have included work which meets or partially meets the Cyber Essentials Requirements. Your Certification Body will be able to advise you

further. It is intended that compliance with Cyber Essentials will add value to the majority of organisations and demonstrate to customers, partners and stakeholders that you take information security seriously.

8. Is implementing just the Cyber Essentials controls enough?

Cyber Essentials aims to describe the small number of fundamental mitigations that will stop the majority of internet based cyber-attacks to your IT system. It is important that you think about your own organisation and risk as set out in the '[10 Steps to Cyber Security](#)' guidance to determine if implementing the Cyber Essentials alone is enough for you. Many organisations will need to have in place far more controls and procedures to manage the risks they face. Cyber Essentials can be seen as a first, vital step.

9. Why does the profile focus on five controls and how were they chosen?

CESG (the information security arm of GCHQ) has carried out an analysis of successful Cyber Attacks on a wide range of organisations. This analysis has helped identify the basic technical controls which most effectively mitigate cyber attacks by unsophisticated attackers using attack tools that are widely available on the internet. Cyber Essentials comprises the core actions necessary to mitigate the majority of these threats.

10. Where does Cyber Essentials fit with Cyber Streetwise, Get Safe Online and existing Government guidance on cyber security?

These initiatives provide advice and guidance for the general public and SMEs. Links to government guidance are provided above, and Cyber Streetwise can be accessed [here](#) for advice on protecting your business. 10 Steps to Cyber Security is designed to assist boards in assessing whether their approach to corporate risk is taking adequate account of cyber security.

11. Will this be mandated by government?

Government will require all suppliers bidding for certain contracts which are assessed as higher risk to be Cyber Essentials certified. This is likely to include ICT and personal and sensitive information handling contracts.

12. I have a secure website; do I still need to use Cyber Essentials?

A secure website may provide a secure link between you and your customer. Cyber Essentials aims to protect the data once it is stored within your systems. Again, whether you need certification by the scheme or not is your business decision.

13. Will Cyber Essentials stop me getting hacked?

Cyber Essentials offers a sound foundation of basic hygiene measures that all types of organisations can implement and potentially build upon. We believe that implementing these measures can significantly reduce an organisation's vulnerability. However, it does not offer a silver bullet to remove all cyber security risk; for example, it is not designed to address more advanced, targeted attacks and hence organisations facing these threats will need to implement additional measures as part of their security strategy.

14. I believe my company has the skills to carry out assessment, how do I get a licence to do so?

The Assurance Framework accompanying this document contains details of how you can find out more about this.

15. What do I need to do if my service is outsourced?

What may be in or out of scope of certification is detailed in the Assurance Framework.

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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