

**SP- 18 - 042**

**-between-**

**(1) THE SCOTTISH MINISTERS (THE “PURCHASER”)**

**-and-**

**(2) Deloitte LLP (THE “SERVICE PROVIDER”)**

**-relating to the supply of-**

**The Provision of The Service Design of Social Security Scotland’s Desk-Based and Face-to-Fact Healthcare Professional Assessments**

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**PREAMBLE:**

- ONE The Purchaser requires the provision of services;
- TWO On 11 February 2019 the Purchaser issued its ITT to potential Service Providers (including the Service Provider) in respect of the provision of services;
- FIVE On 11 March 2019 the Service Provider submitted its Tender;
- SIX On the basis of the Tender, the Purchaser has selected the Service Provider to supply the Services under the Contract;
- SEVEN The Contract establishes standard terms of supply for the provision of services;
- EIGHT The Contract also includes:
- a Specification setting out the Services that the Service Provider has undertaken to provide : including Service Levels setting out particular levels of service that the Service Provider has undertaken to meet;
  - a Pricing Schedule setting out details of the pricing of the Services;
  - details of Key Individuals involved in the provision of the Services
  - details of approved sub-contractors as at Contract award;
  - details of the Service Provider's information which is deemed to be Service Provider Sensitive Information;
  - Ordering Procedures prescribing the procedures for ordering particular Services; and
  - Management Arrangements for the strategic management of the relationship between the Parties.

**SUBSTANTIVE PROVISIONS:**

**SECTION A: INTRODUCTORY PROVISIONS**

**1. Definitions and Interpretation**

- 1.1. In the Contract, unless the context otherwise requires, the following terms have the meanings given to them below:

**"Assignee"** has the meaning given in clause 32.2 (Assignment).

**"Baseline Personnel Security Standard"** means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

**"Commencement Date"** has the meaning given in clause 4.1 (Period).

**"Contract"** means this Contract between the Parties consisting of clauses and 11 Schedules.

**"Contracting Authority"** has the meaning given in regulation 2 of the Public Contracts (Scotland) Regulations 2015;

**"Control"** has the meaning given in section 450 of the Corporation Tax Act 2010.

**"Data Controller", "Data Processor", "Data Subject" and "Data Subject Access Request"** have the meanings given in the Data Protection Laws.

**"Data Protection Laws"** means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR.

**"Default"** means any breach of the obligations of a Party (including material breach) or any negligent act, omission or statement of a Party in connection with or in relation to the Contract.

**"Deliverable"** means any thing to be delivered by the Service Provider to the Purchaser and identified as a deliverable in accordance with the Ordering Procedures.

**"Environmental Information Regulations"** means the Environmental Information (Scotland) Regulations 2004 (and any subordinate regulations made under them from time to time or any superseding or amending regulations) together with any guidance and/or codes or practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such regulations.

**"Equipment"** means equipment, plant, tackle, materials and other items supplied and used by the Service Provider's Representatives in the performance of the Service Provider's obligations under the Contract.

**"ESPD"** means the European Single Procurement Document completed by the Service Provider and sent to the Purchaser (if applicable)

**"Exit Management"** means the obligations and rights of the Parties to ensure a smooth transition of the Contract from the Service Provider to the Purchaser or any Replacement Service Provider as set out in Clause 59 (Exit Management) and Schedule 11 (Exit Management).

**"Exit Plan"** means the exit management plan developed by the Service Provider and approved by the Purchaser in accordance with Clause 58 (Exit Management).

**"Exit Management Date"** means each of the following:

- (a) the date of a Termination Notice; and
- (b) if no Termination Notice has been served in relation to this Contract except for any Partial Termination, the expiry of the later of the Initial Term and any extension of the Contract agreed in writing.

**"FOISA"** means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under this Act from time to time or any superseding or amending enactments or regulations, together with any guidance and/or codes of practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such legislation.

**"Force Majeure"** means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made.

**"GDPR"** means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

**"Good Industry Practice"** means standards, practices, methods and procedures conforming to legal and regulatory requirements 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 a similar type of undertaking as the Service Provider under the same or similar circumstances.

**"Incoming Employees"** means individuals whose employment transfers to the Service Provider on the commencement of the provision of the Services by operation of TUPE.

**"Initial Term"** means from Contract Award for a period of two years.

**"Intellectual Property Rights"** means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**"ITT"** means the Purchaser's invitation to tender dated 11 February 2019.

**"Judicial Order"** means an ineffectiveness order or an order shortening the duration of the contract made in relation to the Contract under Chapter 6 of the Public Contracts (Scotland) Regulations 2015.

**"Key Individuals"** means the Service Provider Representatives identified as being key individuals for the provision of the Services as set out in Schedule 5.

**"Management Arrangements"** means the arrangements for the strategic management of the relationship between the Parties, including arrangements for monitoring of the Service Provider's compliance with the Specification, the Service Levels, the Ordering Procedures and the terms of the Contract, set out in Schedule 4.

**"Milestone"** means any event or task which must be completed by a particular date, such as the delivery of a Deliverable, identified as a milestone in accordance with the Ordering Procedures.

**"Order"** means an order for particular Services placed in accordance with the Ordering Procedures.

**"Ordering Procedures"** means the procedures for ordering particular Services set out at Schedule 3.

**"Outgoing Employees"** means individuals whose employment transfers from the Service Provider on the ceasing of the provision of the Services by the Service Provider by operation of TUPE.

**"Party"** means either of the Purchaser or the Service Provider.

**"Personal Data"** has the meaning given in the Data Protection Laws.

**"Pricing Schedule"** means the details of the pricing of the Services set out in Schedule 2.

**"Processing"** has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly.

**"Purchaser"** means the Scottish Ministers

**"Purchaser Property"** means any corporeal moveable property issued or made available to the Service Provider by the Purchaser in connection with the Contract.

**"Purchaser Protected Information"** means any information provided by the Purchaser to the Service Provider which:

- carries a protective marking such as "Official", "Secret" or "Top Secret"; or
- is exempt information as set out in Part 2 of FOISA (disregarding for that purpose whether a provision of Part 2 does not confer absolute exemption within the meaning of section 2(2) of FOISA).

**"Relevant Transfer"** has the meaning given in regulation 2(1) of TUPE.

**"Replacement Service Provider"** means any third party service provider appointed to perform the Services by the Purchaser from time to time.

**"Request for Information"** means a request for information within the meaning of section 8 of FOISA or the Environmental Information Regulations and any attempted or apparent such request.

**"Schedule"** means a schedule annexed to, and forming part of, the Contract.

**"Service Credits"** means the service credits payable to the Purchaser by the Service Provider in the event that the Service Levels are not met and identified as service credits in the Pricing Schedule.

**"Service Levels"** means the Service Levels identified as such in the Specification.

**"Service Provider"** means Service Provider legal name and details.

**"Service Provider Representatives"** means all persons engaged by the Service Provider in the performance of its obligations under the Contract including:

- its employees and workers (including persons employed by a third party but working for and under the control of the Service Provider);
- its agents, Service Providers and carriers; and
- any sub-contractors of the Service Provider (whether approved under clause 34 (Sub-contracting) or otherwise).

**"Service Provider Sensitive Information"** means any information provided by the Service Provider to the Purchaser (disregarding any protective marking or assertion of confidentiality) which:

- is specified as Service Provider Sensitive Information in Schedule 7 and has not lost its sensitivity according to the justifications and durations set out in that Schedule;
- is exempt information pursuant to sections 33(1) or 36, 38 or 39 of FOISA (having regard for that purpose to the public interest there might be in disclosing such information as referred to in section 2(1)(b) of FOISA).

**"Services"** means the Services as are to be supplied by the Service Provider to the Purchaser as set out in the Specification and as may be ordered in accordance with the Ordering Procedures.

**"Specification"** means the Purchaser's general requirements for the provision of services including Service Levels, set out in Schedule 1.

**"Supervisory Authority"** has the meaning given in Data Protection Laws.

**"Tender"** means the tender submitted by the Service Provider to the Purchaser in response to the ITT dated 11 February 2019.

**"Transparency Information"** means the Transparency Reports and the content of this Contract.

**"Transparency Reports"** means a report in accordance with Schedule 7 Part 1 (Transparency Reports) containing the contract information as set out in the table for that Part for publication by the Purchaser in the interests of transparency

**"TUPE"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**"Working Day"** means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971.

**"Working Hour"** means an hour between 0900 hours and 1700 hours on a Working Day.

1.2. The interpretation and construction of the Contract is subject to the following provisions:

- 1.2.1. words importing the singular meaning include, where the context so admits, the plural and vice versa;
- 1.2.2. words importing the masculine include the feminine and neuter;
- 1.2.3. reference to a clause is a reference to the whole of that clause unless stated otherwise;



- 1.2.4. references to any statute, enactment, order, regulation or other similar instrument are construed as a reference to the instrument as amended by any subsequent instrument or re-enacted;
- 1.2.5. references to any person 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 assignees or transferees;
- 1.2.6. reference to "expiry or termination" of the Contract includes the making of a Judicial Order;
- 1.2.7. the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation"; and
- 1.2.8. headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract.

**2. Condition Precedent: Requirement for a Parent Company Guarantee**

It shall be a condition of this Contract that, if required by the Purchaser, the Service Provider shall deliver a validly executed parent company guarantee in the form set out in Schedule 8 to this Contract. The rights and obligations of the Parties shall have no force or effect unless the parent company guarantee has been properly executed and delivered to the Purchaser. The parties acknowledge that if this condition has not been fulfilled any performance of this Contract by the Service Provider shall be at the risk of the Service Provider and the Purchaser shall not be liable for and the Service Provider irrevocably waives any entitlement to payment of any fees, expenses or other payments in relation to such performance. Where the Service Provider has failed to fulfil this condition within 14 days of the date of last subscription of the Contract the Purchaser shall have the right to terminate the Contract by notice in writing to the Service Provider.

**3. Nature of the Contract**

- 3.1. The Contract is a public services contract within the meaning of regulation 2(1) of the Public Contracts (Scotland) Regulations 2015.
- 3.2. The Service Provider acknowledges that it is not the exclusive Service Provider of the Services to the Purchaser and as such no guarantee of work or volume of work has been granted by the Purchaser.

**4. Period**

- 4.1. The period of the Contract is from and including 2 May 2019 (the "**Commencement Date**") to and including 1 May 2021, unless it is terminated earlier or extended under clause 4.2.
- 4.2. The Purchaser may, by giving notice to the Service Provider, extend the period of the Contract to a date falling no later than 1 May 2022. Subject to that constraint, the Purchaser may extend the period of the Contract on more than one occasion.

**5. Break**

The Purchaser may terminate the Contract at any time by giving not less than 3 months' notice to the Service Provider.

**6. Specification and Service Levels**

The Service Provider must comply with the Specification. In particular, the Service Provider must meet or exceed the Service Levels.

**7. Pricing Schedule**

**7.1.** The Pricing Schedule sets out details of the pricing of the Services.

**7.2.** The prices in the Pricing Schedule are not to be increased for the period of the Contract.

**7.3.** Accordingly, the Service Provider may not unilaterally increase the prices in the Pricing Schedule. But nothing in the Contract prevents the Service Provider from improving on the prices in the Pricing Schedule for the purposes of a particular Order.

**8. Ordering Procedures and Management Arrangements**

**8.1.** The Ordering Procedures may be invoked by the Purchaser at any time during the period of the Contract.

**8.2.** The Parties must comply with the Ordering Procedures.

**8.3.** The Service Provider must maintain the capacity to supply the Services throughout the period of the Contract.

**8.4.** The Parties must comply with the Management Arrangements.

**SECTION B: MISCELLANEOUS PROVISIONS INCLUDING THOSE RELATING TO PRICE, PAYMENT AND INFORMATION**

**9. Service Provider's Status**

At all times during the period the Service Provider is an independent service provider and nothing in the Contract establishes a contract of employment, a relationship of agency or partnership or a joint venture between the Parties or between the Purchaser and any Service Provider Representative. Accordingly, neither Party is 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.

**10. Notices**

10.1. Any notice or other communication which is to be given by a Party to the other under the Contract must be:

10.1.1. given in writing;

10.1.2. addressed in accordance with clause 10.3; and

10.1.3. sent by letter (delivered by hand, first class post or by recorded delivery or special delivery), fax or e-mail.

10.2. Provided the relevant communication is not returned or rejected as undelivered, the notice or communication is deemed to have been given:

10.2.1. 2 Working Days after the day on which the letter was posted; or

10.2.2. 4 Working Hours after the communication was sent, in the case of fax or email.

10.3. For the purposes of this clause, the address of each Party is:

10.3.1. For the Purchaser:

Scottish Government Procurement Division  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

For the attention of: Head of More Powers Implementation Procurement Team  
E-mail: [MorePowersProcurement@gov.scot](mailto:MorePowersProcurement@gov.scot)

10.3.2. For the Service Provider:

Deloitte LLP  
1 New Street Square  
London  
EC4A 3HQ

**[Redacted: Exempt under 38(1)(b) FOISA]**

10.4. Either Party may change its address details by serving a notice in accordance with this clause.

10.5. Notices under clause 58.1 (Termination on Insolvency or Change of Control) may be sent to the Purchaser's trustee, receiver, liquidator or administrator, as appropriate.

**11. Price**

- 11.1. In consideration of the Service Provider's performance of its obligations relating to an Order, the Purchaser must pay:
  - 11.1.1. the price due in accordance with the Pricing Schedule and the Ordering Procedures; and
  - 11.1.2. a sum equal to the value added tax chargeable at the prevailing rate.
- 11.2. The Service Provider must automatically credit the Purchaser with Service Credits in accordance with the Pricing Schedule.
- 11.3. The Service Provider may not suspend the provision of services if it considers that the Purchaser has failed to pay the price due.

**12. Payment and Invoicing**

- 12.1. The Purchaser must pay all sums due to the Service Provider within 30 days of receipt of a valid invoice.
- 12.2. The Service Provider must render invoices monthly in arrears.
- 12.3. The Service Provider must ensure that each invoice contains appropriate Contract and Order references and a detailed breakdown of the Services provided. The Service Provider must supply such other documentation reasonably required by the Purchaser to substantiate any invoice.
- 12.4. Value added tax, where applicable, must be shown separately on all invoices as a strictly net extra charge.
- 12.5. Where any Service Credits have been credited to the Purchaser they must be applied against the next invoice rendered by the Service Provider. Where no invoice is due or likely to be rendered for a period exceeding 2 months, the Service Provider must promptly issue a credit note and pay the credited sum to the Purchaser within 30 days of issue.
- 12.6. Interest is payable on the late payment of any undisputed sums of money in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. In the case of sums due by the Purchaser, the sums referred to in this clause must be properly invoiced by the Service Provider.

**13. Recovery of Sums Due**

- 13.1. Wherever under the Contract any sum of money is recoverable from or payable by the Service Provider to the Purchaser, the Purchaser may deduct that sum from any sum due to the Service Provider whether under the Contract or otherwise.
- 13.2. The Service Provider must make any payments due to the Purchaser without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Service Provider has a valid court order requiring an amount equal to such deduction to be paid by the Purchaser to the Service Provider.

**14. Data Protection**

- 14.1. The Service Provider acknowledges that Personal Data described in the scope of Schedule 9 (Data Protection) may be Processed in connection with the Services under this Contract. For the purposes of any such Processing, Parties agree that the Service Provider acts as the Data Processor and the Purchaser acts as the Data Controller.

- 14.2. Both Parties agree to negotiate in good faith any such amendments to this Contract that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this clause 14 are without prejudice to any obligations and duties imposed directly on the Service Provider under Data Protection Laws and the Service Provider hereby agrees to comply with those obligations and duties.
- 14.3. The Service Provider will, in conjunction with the Purchaser and in its own right and in respect of the Services, make all necessary preparations to ensure it will be compliant with Data Protection Laws.
- 14.4. The Service Provider will provide the Purchaser with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.
- 14.5. The Service Provider must:
- 14.5.1. process Personal Data only as necessary in accordance with obligations under the Contract and any written instructions given by the Purchaser (which may be specific or of a general nature), including with regard to transfers of Personal Data outside the European Economic Area unless required to do so by European Union or Member state law or Regulatory Body to which the Service Provider is subject; in which case the Service Provider must, unless prohibited by that law, inform the Purchaser of that legal requirement before processing the Personal Data only to the extent, and in such manner as is necessary for the performance of the Service Provider's obligations under this Contract or as is required by the Law;
  - 14.5.2. subject to clause 14.5.1 only process or otherwise transfer any Personal Data in or to any country outside the European Economic Area with the Purchaser's prior written consent;
  - 14.5.3. take all reasonable steps to ensure the reliability and integrity of any Service Provider Representatives who have access to the Personal Data and ensure that the Service Provider Representatives:
    - (a) are aware of and comply with the Service Provider's duties under this clause;
    - (b) are subject to appropriate confidentiality undertakings with the Service Provider or the relevant Sub-contractor;
    - (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and
    - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
  - 14.5.4. implement appropriate technical and organisational measures including those in accordance with Article 32 of the GDPR to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, such measures being 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.
- 14.6. The Service Provider shall not engage a sub-contractor to carry out Processing in connection with the Services without prior specific or general written authorisation from the Purchaser. In the case of general written authorisation, the Service Provider must inform

the Purchaser of any intended changes concerning the addition or replacement of any other sub-contractor and give the Purchaser an opportunity to object to such changes.

14.7. If the Service Provider engages a sub-contractor for carrying out processing activities on behalf of the Purchaser, the Service Provider must ensure that same data protection obligations as set out in this Contract are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Service Provider shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.

14.8. The Service Provider must provide to the Purchaser reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the GDPR.

14.9 The Service Provider must notify the Purchaser if it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws;

(d) receives any communication from the Supervisory Authority or any other regulatory authority in connection with Personal Data processed under this Contract; or

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulatory order;

and such notification must take place as soon as is possible but in any event within 3 business days of receipt of the request or any other period as agreed in writing with the Purchaser from time to time.

14.10 Taking into account the nature of the Processing and the information available, the Service Provider must assist the Purchaser in complying with the Purchaser's obligations concerning the security of personal data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the GDPR. These obligations include:

(a) ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events.

(b) notifying a Personal Data breach to the Purchaser without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;

(c) assisting the Purchaser with communication of a personal data breach to a Data Subject;

(d) supporting the Purchaser with preparation of a data protection impact assessment;

(e) supporting the Purchaser with regard to prior consultation of the Supervisory Authority.

14.11 At the end of the provision of Services relating to processing the Service Provider must, on written instruction of the Purchaser, delete or return to the Purchaser all Personal Data and delete existing copies unless EU or Member State law requires storage of the Personal Data.

14.12 The Service Provider must:

- (a) provide such information as is necessary to enable the Purchaser to satisfy itself of the Service Provider's compliance with this clause 14;
- (b) allow the Purchaser, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to inspect the procedures, measures and records referred to in this clause 14 and contribute as is reasonable to those audits and inspections;
- (c) inform the Purchaser, if in its opinion, an instruction from the Purchaser infringes any obligation under Data Protection Laws.

14.13 The Service Provider must maintain written records including in electronic form, of all Processing activities carried out in performance of the Services or otherwise on behalf of the Purchaser containing the information set out in Article 30(2) of the GDPR.

14.14 If requested, the Service Provider must make such records referred to clause 14.13 available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks.

14.15 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under clause 14.14 with minimum disruption to the Service Provider's day to day business.

14.16 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Purchaser publishes an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Service Provider should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of payment) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

## **15. Transparency and Freedom of Information**

15.1 The Service Provider acknowledges that the Purchaser is subject to the requirements of FOISA and the Environmental Information Regulations. The Service Provider shall:

- (a) provide all necessary assistance and cooperation as the Purchaser may reasonably request to enable the Purchaser to comply with its obligations under FOISA and Environmental Information Regulations;
- (b) transfer to the Purchaser all Requests for Information relating to this Agreement that the Service Provider receives as soon as practicable and in any event within 2 Working Days of receipt;
- (c) provide the Purchaser with a copy of all information held on behalf of the Purchaser which is requested in a Request For Information and which is in the Service Provider's possession or control. The information must be provided within 5 Working Days (or such other period as the Purchaser may reasonably specify) in the form that the Purchaser requires.

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(d) not respond directly to a Request For Information addressed to the Purchaser unless authorised in writing to do so by the Purchaser.

15.2 If the Request for Information appears to be directed to information held by the Purchaser, the Service Provider must promptly inform the applicant in writing that the Request for Information can be directed to the Purchaser.

15.3 If the Purchaser receives a Request for Information concerning the Framework Agreement, the Purchaser is responsible for determining at its absolute discretion whether the information requested is to be disclosed to the applicant or whether the information requested is exempt from disclosure in accordance with FOISA or the Environmental Information Regulations.

15.4 The Service Provider acknowledges that the Purchaser may, acting in accordance with the Purchaser's Code of Practice on the Discharge of Functions of Public Authorities issued under section 60(5) of FOISA (as may be issued and revised from time to time), be obliged under FOISA or the Environmental Information Regulations to disclose information requested concerning the Service Provider or the Framework Agreement:

15.4.1 in certain circumstances without consulting the Service Provider, or

15.4.2 following consultation with the Service Provider and having taken its views into account.

15.5 Where 15.4.1 applies the Purchaser must take reasonable steps, if practicable, to give the Service Provider advance notice of the fact of disclosure or, failing that, draw the fact of disclosure to the attention of the Service Provider after such disclosure to the extent that it is permissible and reasonably practical for it to do.

15.6 Where a Request for Information concerns Service Provider Sensitive Information specified in Schedule 7 (having regard to the justifications and durations set out there), the Purchaser must take reasonable steps, where practicable, to consult with the Service Provider before disclosing it pursuant to a Request for Information.

15.7 The Service Provider acknowledges that Transparency Reports and the content of this Agreement including any Amendments, agreed from time to time, (together the "Transparency Information") are not Confidential Information. However, for the avoidance of doubt, the following shall be treated as Confidential Information:

(i) any information that the Purchaser determine is exempt from disclosure in accordance with the provisions of FOISA; and

(ii) Commercially Sensitive Information;

and if the Purchaser believes that publication of any element of the Transparency Information should be treated as Confidential Information the Purchaser may, in its discretion exclude such information from publication.

15.8 Notwithstanding any other provision of this Agreement, the Service Provider hereby gives consent for the Purchaser to publish to the general public, the Transparency Information in its entirety. The Purchaser shall, prior to publication, consult with the Service Provider on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

15.9 The Service Provider shall assist and co-operate with the Purchaser to enable the Purchaser to publish the Transparency Information including the preparation of Transparency Reports.

15.10 The Purchaser shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being



published to ensure the public obtain a fair view on how the Agreement is being performed, having regard to the context of the wider commercial relationship with the Service Provider.

15.11 The Service Provider agrees that any further Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Purchaser upon request, unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of FOISA. The Purchaser may disclose such information under FOISA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to clause 17.3.3) publish such Information. The Service Provider shall provide to the Purchaser within 5 working days (or such other period as the Purchaser may reasonably specify) any such Information requested by the Purchaser.

## **16. Purchaser Protected Information**

### **16.1. The Service Provider must:**

16.1.1. treat all Purchaser Protected Information as confidential and safeguard it accordingly, implementing appropriate technical and organisational measures to protect Purchaser Protected Information against disclosure;

16.1.2. only use the Purchaser Protected Information for the purposes of performing its obligations under the Contract;

16.1.3. only disclose the Purchaser Protected Information to such Service Provider Representatives that are directly involved in the performance of the Contract and need to know the information; and

16.1.4. not disclose any Purchaser Protected Information without the prior written consent of the Purchaser.

### **16.2. The Service Provider must immediately notify the Purchaser of any breach of security concerning the Purchaser Protected Information. The Service Provider must fully co-operate with the Purchaser in any investigation that the Purchaser considers necessary to undertake as a result of any such breach of security.**

### **16.3. Clause 16.1 does not apply to the extent that:**

16.3.1. disclosure is required by law or by order of any competent court or tribunal;

16.3.2. information is in the possession of the Service Provider without restriction as to its disclosure prior to its disclosure by the Purchaser;

16.3.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;

16.3.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or

16.3.5. information is independently developed without access to the Purchaser Protected Information.

### **16.4. Breach of this clause or the Official Secrets Acts 1911 to 1989 by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).**

## **17. Service Provider Sensitive Information**

### **17.1. The Purchaser must:**

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- 17.1.1. treat all Service Provider Sensitive Information as confidential and safeguard it accordingly; and
- 17.1.2. not disclose any Service Provider Sensitive Information to any other person without the prior written consent of the Service Provider.
- 17.2. Clause 17.1 does not apply to the extent that:
  - 17.2.1. disclosure is required by law or by order of any competent court or tribunal;
  - 17.2.2. information is in the possession of the Purchaser without restriction as to its disclosure prior to its disclosure by the Service Provider;
  - 17.2.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
  - 17.2.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
  - 17.2.5. information is independently developed without access to the Service Provider Sensitive Information.
- 17.3. Nothing in this Contract prevents the Purchaser from disclosing any Service Provider Sensitive Information or any other information concerning the Service Provider or the Contract:
  - 17.3.1. pursuant to a Request for Information concerning the information (see clause 15 (Transparency and Freedom of Information));
  - 17.3.2. in accordance with the Purchaser's publication scheme (within the meaning of section 23 of FOISA) as reviewed from time to time;
  - 17.3.3. in accordance with the requirements of Part 3 of the Public Services Reform (Scotland) Act 2010;
  - 17.3.4. in accordance with any future policies of the Purchaser concerning the routine disclosure of government information in the interests of transparency;
  - 17.3.5. to any consultant, Service Provider or other person engaged by the Purchaser, for example to conduct a gateway review;
  - 17.3.6. in response to a Parliamentary Question from a Member of the Scottish Parliament, a member of the United Kingdom Parliament, or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents, and when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Purchaser shall if the Purchaser sees fit disclose such information but is unable to impose any restrictions upon the information that the Purchaser provides to Members of the Scottish Parliament or Members of the United Kingdom Parliament;
  - 17.3.7. in response to any inquiry of the European Commission concerning the Contract; or
  - 17.3.8. for the purpose of any examination by any auditors of the Purchaser (including Audit Scotland, the Auditor General for Scotland and the Scottish Parliament) of the economy, efficiency and effectiveness with which the Purchaser has used its resources.

- 17.4. The Service Provider consents to the publication of the Contract by the Purchaser, subject to such redactions as the Purchaser may decide to make. The Purchaser may consult with the Service Provider to inform its decisions concerning redaction (for example to exclude any Service Provider Sensitive Information) but any decisions taken by the Purchaser are final and conclusive.

## **18. Audit and Records Management**

- 18.1 In this Clause 18, the following terms have the following meanings:-

The 'Act' means the Public Records (Scotland) Act 2011; and

'Records Management Plan' means the plan prepared by the Purchaser and approved by the Keeper of the Records of Scotland under section 1 of the Act.

- 18.2 The Service Provider must retain and maintain until 5 years after the end of the Contract period full and accurate records of the Contract including the Orders placed, the Services provided and payments made and reimbursed under it.
- 18.3 The Service Provider must on request, and without any charge to the Purchaser, afford the Purchaser, or the Purchaser's representatives, such access to those records as may reasonably be requested by the Purchaser in connection with the Contract.
- 18.4 The Service Provider shall, for the duration of the Contract, provide the Purchaser with all assistance requested by the Purchaser acting reasonably to assist the Purchaser in complying with its obligations under the Act and with the Purchaser's Records Management Plan where such compliance is in respect of records created or to be created by the Service Provider on behalf of the Purchaser in terms of this Contract. This assistance will be at no cost to the Purchaser.
- 18.5 At the end of the Contract, the Service Provider shall transfer the records in question to the Purchaser, such transfer to include full ownership of the records including all Intellectual Property Rights in relation thereto. The transfer shall be at no cost to the Purchaser. The Service Provider shall ensure that all relevant information reasonably required to locate individual items within the records, including metadata and database schema, are also offered to the Purchaser on the same terms.
- 18.6 If the Service Provider shall become bankrupt (whether voluntarily or compulsorily), unable to pay its debts, insolvent or make arrangements with its creditors or if any resolution is adopted for the winding up of any party, or if a receiver, administrator or administrative receiver is appointed over the whole or any part of its assets or if either party goes into liquidation (whether voluntarily or compulsorily), otherwise than for the purposes of amalgamation or reconstruction or any form of execution levied upon its assets, then immediately upon the occurrence of any of these events, the records which would, in terms of clause 18.5 fall to be offered to the Purchaser shall be deemed to be held on trust by the Service Provider on behalf of the Purchaser. The Service Provider shall thereafter, if and when so required by the Purchaser, transfer the records in question to the Purchaser, such transfer to be on the same terms as would apply to a transfer made in terms of clause 18.5.

## **19. Publicity**

The Service Provider must not make any press announcement or otherwise publicise the Contract in any way, except with the written consent of the Purchaser.

## **SECTION C: PROVISION OF SERVICES**

### **20. Provision of the Services**

- 20.1. The Service Provider must provide the Services:
  - 20.1.1. in accordance with the Specification, the Service Levels and the Ordering Procedures;
  - 20.1.2. in accordance with the particular requirements of each Order; and
  - 20.1.3. to the satisfaction of the Purchaser acting reasonably.
- 20.2. The Service Provider acknowledges that the Purchaser relies on the skill, care, diligence and judgment of the Service Provider in the supply of the Services and the performance of its obligations under the Contract.
- 20.3. For each Order for the provision of services, subject to any contrary requirements of the Purchaser communicated in accordance with the Ordering Procedures, the provisions of this Section C apply.
- 20.4. The period for any Order agreed in accordance with the Ordering Procedures may be brought to an earlier end upon 3 months' notice by the Purchaser.

### **21. Deliverables and Milestones**

- 21.1. The Service Provider must provide the Services, including any Deliverables:
  - 21.1.1. at the date(s), time(s) and location(s) required by the Purchaser; and
  - 21.1.2. in good time to meet any Milestones required by the Purchaser.
- 21.2. When the Service Provider believes acting reasonably that it has provided any Deliverable or completed any Milestone in accordance with the Contract it must notify the Purchaser.
- 21.3. The Purchaser may thereafter by notice to the Service Provider:
  - 21.3.1. accept the provision of the Deliverable or the completion of the Milestone (as appropriate), having regard to any acceptance criteria communicated in accordance with the Ordering Procedures; or
  - 21.3.2. providing reasons, reject the provision of the Deliverable or the completion of the Milestone.
- 21.4. Where the Purchaser rejects the completion of a Milestone or provision of a Service or Deliverable in accordance with clause 21.3.2, the Service Provider must at its expense immediately rectify or remedy any defects and/or delays.
- 21.5. Risk and ownership in any Deliverables that are corporeal moveables and in any physical media in which any Deliverables are delivered vests in the Purchaser upon acceptance in accordance with this clause.
- 21.6. Whether the defect or delay is due to the Purchaser or not, the Service Provider shall deploy all additional resources to address the consequences of the default or delay. Where such default or delay is solely due to the Purchaser, any additional costs in respect of the said additional resources shall be agreed between the parties both acting reasonably.

## **SECTION D: STAFF INVOLVED IN THE PROVISION OF SERVICES**

### **22. Key Individuals**

- 22.1. The Service Provider acknowledges that the Key Individuals are essential to the proper provision of the Services to the Purchaser.
- 22.2. The Key Individuals must not be released from providing the Services without the approval of the Purchaser, except by reason of long-term sickness, maternity, paternity, adoption or parental leave, termination of employment or equivalent extenuating circumstances. Where such extenuating circumstances arise or are foreseeable, the Service Provider must immediately give notice of that fact to the Purchaser.
- 22.3. The Service Provider may propose a replacement to a Key Individual (and must do so when a Key Individual is to be released from providing the Services), in which case:
  - 22.3.1. appropriate arrangements must be made to minimise any adverse impact on the Contract which could be caused by the change in Key Individuals (including, wherever possible, a transfer period of sufficient duration to allow for the transfer of know-how and skills); and
  - 22.3.2. the replacement must be of at least equal status and of equivalent qualifications, experience, training and skills to the Key Individual being replaced and must be fully competent to carry out the responsibilities of that person in relation to the Services.
- 22.4. Any proposed replacement to a Key Individual is subject to the approval of the Purchaser. Subject to the Service Provider's compliance with this clause, the Purchaser must not unreasonably withhold such approval.

### **23. Offers of Employment**

- 23.1. For the duration of the Contract and for a period of 12 months thereafter the Service Provider must not employ or offer employment to any of the Purchaser's employees who have been associated with the Contract and/or the contract management of the Contract without the Purchaser's prior approval.
- 23.2. This clause does not prevent the Service Provider from employing or offering employment to any person who has applied for employment in response to an advertisement placed in the normal course of business and not placed with the objective of soliciting the Purchaser's employees.

### **24. Staff transfer at commencement**

- 24.1. The Parties agree that the commencement of the provision of the Services by the Service Provider does not involve a Relevant Transfer.
- 24.2. The Parties agree that the commencement of the provision of the Services by the Service Provider may constitute a Relevant Transfer in respect of the Incoming Employees.
- 24.3. The Service Provider is responsible for all emoluments and outgoings in respect of the Incoming Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, pay as you earn and national insurance contributions and pension contributions) which are attributable in whole or in part to the period from the date of the Relevant Transfer, including bonuses or commission which are payable on or before the date of the Relevant Transfer but attributable in whole or in part to the period from the date of the Relevant Transfer.
- 24.4. The Service Provider indemnifies the transferor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and any other liabilities which the

transferor may incur in respect of the emoluments and outgoings referred to in clause 24.3.

**25. Information about Service Provider Employees**

- 25.1. The Purchaser may by notice require the Service Provider to disclose such information as the Purchaser may require relating to those of the Service Provider's employees carrying out activities under or connected with the Contract.
- 25.2. The Service Provider must disclose by notice all such information as is required by the Purchaser under clause 25.1, within such reasonable period specified by the Purchaser. The Service Provider acknowledges that the Data Protection Laws do not prevent the disclosure of anonymised data that is not personal data within the meaning of that Act.
- 25.3. The Service Provider consents to the disclosure by the Purchaser of all information provided by the Service Provider under this clause to other service providers that the Purchaser may invite to tender or appoint for services to be provided in substitution for the Services.

**26. Staff transfer on expiry or termination**

- 26.1. The Parties agree that the ceasing of the provision of the Services by the Service Provider does not involve a Relevant Transfer.
- 26.2. The Parties agree that the ceasing of the provision of the Services by the Service Provider may constitute a Relevant Transfer in respect of the Outgoing Employees.
- 26.3. The Service Provider indemnifies the Purchaser and any replacement service provider against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Purchaser or any replacement service provider may suffer as a result of or in connection with:
  - 26.3.1. the provision of information pursuant to clause 25;
  - 26.3.2. any claim or demand by any Outgoing Employee (whether in contract, delict, under statute or otherwise) arising directly or indirectly from any act, fault or omission of the Service Provider in respect of any Outgoing Employee on or before the date of the Relevant Transfer;
  - 26.3.3. any failure by the Service Provider to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Purchaser or any replacement service provider to comply with its obligations under regulation 13 of TUPE; and
  - 26.3.4. any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Outgoing Employees arising from or connected with any failure by the Purchaser to comply with any legal obligation to such trade union, body or person.
- 26.4. The Service Provider is responsible for all emoluments and outgoings in respect of the Outgoing Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, pay as you earn and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to and including the date of the Relevant Transfer (including bonuses or commission which are payable after the date of the Relevant Transfer but attributable in whole or in part to the period on or before the date of the Relevant Transfer).
- 26.5. The Service Provider indemnifies the Purchaser and any replacement service provider against all actions, suits, claims, demands, losses, charges, damages, costs and

expenses and any other liabilities which the Purchaser or replacement service provider may incur in respect of the emoluments and outgoings referred to in clause 26.4.

**27. Security**

- 27.1 The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 27.2 The Service Provider must notify the Purchaser of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.

**SECTION E: PROVISIONS RELATING TO INTELLECTUAL PROPERTY AND GOVERNANCE**

**28. Parties' pre-existing Intellectual Property Rights**

Except as expressly provided for in the Contract, neither Party acquires any interest in or license to use the other Party's Intellectual Property Rights as they subsist at the Commencement Date or as developed independently of the Contract.

**29. Specially Created Intellectual Property Rights**

- 29.1. All Intellectual Property Rights in Deliverables and any reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material prepared by or for the Service Provider on behalf of the Purchaser for use, or intended use, in relation to the performance by the Service Provider of its obligations under the Contract belong to the Purchaser.
- 29.2. The Service Provider assigns to the Purchaser, with full title guarantee, all Intellectual Property Rights which may subsist in the materials referred to in clause 29.1. This assignment takes effect on the Commencement Date or as an assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Service Provider. The Service Provider must execute all documentation necessary to effect this assignment.

**30. Licences of Intellectual Property Rights**

- 30.1. The Service Provider grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed prior to the Commencement Date and which the Purchaser reasonably requires in order to enjoy the benefit of the Services.
- 30.2. The Service Provider grants to the Purchaser a perpetual, royalty free, irrevocable and exclusive license to use any Intellectual Property Rights in the Deliverables.
- 30.3. The Service Provider must ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Contract grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence or, if itself a licensee of those rights, grants to the Purchaser an authorised and equivalently wide sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights. Such licence or sub-licence must be non-exclusive, perpetual, royalty free and irrevocable.

**31. Claims relating to Intellectual Property Rights**

- 31.1. The Service Provider must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract and must ensure that the provision of the Services and the use or possession of the Deliverables does not infringe such Intellectual Property Rights.
- 31.2. The Service Provider must promptly notify the Purchaser if any claim or demand is made or action brought against the Service Provider for infringement or alleged infringement of any Intellectual Property Right which may affect the use or possession of the Deliverables or which may affect the provision of the Services.
- 31.3. Where a claim to which this clause applies is made, the Service Provider must, at its expense, use its best endeavours to:
- 31.3.1. modify the Services or Deliverables or substitute alternative Services or Deliverables (in any case without reducing performance or functionality) so as to avoid the infringement or alleged infringement of the Intellectual Property Rights;
- or



31.3.2. procure the grant of a licence or licences from the pursuer, claimant or complainer, on terms acceptable to the Purchaser, so as to avoid the infringement or alleged infringement of the Intellectual Property Rights of the pursuer, claimant or complainer.

31.4. The Service Provider must not without the consent of the Purchaser make any admissions which may be prejudicial to the defence or settlement of any claim to which this clause applies.

## **32. Assignment**

32.1. The Service Provider may not assign its interest in the Contract or any part of it without the prior written consent of the Purchaser.

32.2. Notwithstanding clause 32.1, the Service Provider may assign to another person (an "**Assignee**") the right to receive the price due to the Service Provider under the Contract subject to:

32.2.1. deduction of sums in respect of which the Purchaser exercises its right of recovery under clause 13 (Recovery of Sums Due); and

32.2.2. all the related rights of the Purchaser under the Contract in relation to the recovery of sums due but unpaid.

32.3. The Service Provider must notify or ensure that any Assignee notifies the Purchaser of any variations to the arrangements for making payments or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser is under no obligation to vary its arrangements for making payments or for handling invoices.

32.4. Subject to clause 32.6, the Purchaser may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

(a) any Contracting Authority; or

(b) 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 Purchaser; or

(c) any private sector body which substantially performs the functions of the Purchaser,

provided that any such assignment, novation or other disposal shall not increase the burden of the Service Provider's obligations under the Contract.

32.5. Any change in the legal status of the Purchaser such that it ceases to be a Contracting Authority shall not, subject to clause 31.6, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Purchaser.

32.6. If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause 31.4 to a body which is not a Contracting Authority or if there is a change in the legal status of the Purchaser such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**");

(a) the rights of termination of the Purchaser in clauses 57 (Termination Rights) and 58 (Termination on Insolvency and Change of Control) shall be available to the

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Service Provider in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

- (b) 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 prior consent in writing of the Service Provider.

- 32.7. The Purchaser may disclose to any Transferee any Confidential Information of the Service Provider which relates to the performance of the Service Provider's obligations under the Contract. In such circumstances the Purchaser shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Service Provider's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

### 33. Change of Control

The Service Provider must notify the Purchaser:

- 33.1. whenever it proposes to undergo a change of Control, or a change of control is likely to occur; and
- 33.2. immediately following a change of Control that has occurred.

### 34. Sub-Contracting

- 34.1. The Purchaser approves the appointment of the sub-contractors specified in Schedule 6 (Approved Sub-contractors) in respect of the obligations specified in that Schedule.
- 34.2. The Service Provider may not sub-contract its obligations under the Contract without the prior written consent of the Purchaser. Sub-contracting of any part of the Contract shall not relieve the Service Provider of any obligation or duty attributable to the Service Provider under the Contract. The Service Provider shall be responsible for the acts and omissions of its sub-Service Providers as though they are its own.
- 34.3. Where the Service Provider enters into a sub-contract the Service Provider must ensure that a provision is included which:
  - 34.3.1. requires payment to be made of all sums due by the Service Provider to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Purchaser has made payment to the Service Provider in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Service Provider is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Service Provider, payment must be made to the sub-contractor without deduction;
  - 34.3.2. notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Purchaser and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Purchaser;
  - 34.3.3. requires that all contracts with subcontractors and suppliers which the subcontractor intends to procure, and which the subcontractor has not before the date of this Contract, already planned to award to a particular supplier are advertised through the Public Contracts Scotland procurement portal ([www.publiccontractsscotland.gov.uk](http://www.publiccontractsscotland.gov.uk)) and awarded following a fair, open,

transparent and competitive process proportionate to the nature and value of the contract; and

34.3.4. is in the same terms as that set out in this clause 34.3 (including for the avoidance of doubt this clause 34.3.4) subject only to modification to refer to the correct designation of the equivalent party as the Service Provider and sub-contractor as the case may be.

34.3.5. The Service Provider shall also include in every sub-contract:

34.3.6. a right for the Service Provider to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract, contract award despite the existence of exclusion grounds or a serious infringement of EU legal obligations) specified in clause 57.3 occur; and

34.3.7. a requirement that the sub-contractor includes a provision having the same effect as 34.4.1 in any sub-contract which it awards.

In this clause 34.4, 'sub-contract' means a contract between two or more service providers, at any stage of remoteness from the Purchaser in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

34.4. Where requested by the Purchaser, copies of any sub-contract must be sent by the Service Provider to the Purchaser as soon as reasonably practicable.

34.5. Where the Service Provider proposes to enter into a sub-contract it must:

34.5.1 advertise its intention to do so in at least one trade journal, at least one newspaper circulating in Glasgow/Edinburgh and the Public Contracts Scotland Portal; and

34.5.2 follow a procedure leading to the selection of the sub-contractor which ensures reasonable competition following principles of equal treatment, non-discrimination and transparency and which ensures that such procedure is accessible by small and medium enterprises.

## **35. Amendment**

35.1. The Contract may be amended only by the written agreement of both Parties. Accordingly, the Service Provider may not unilaterally amend the Contract.

## **SECTION F SERVICE PROVIDER CONDUCT REQUIREMENTS**

### **36. Compliance with the Law etc.**

In providing the Services and otherwise when performing the Contract, the Service Provider must comply in all respects with:

- 36.1. all applicable law;
- 36.2. any applicable requirements of regulatory bodies; and
- 36.3. Good Industry Practice.

### **37. Official Secrets Acts**

The Service Provider undertakes to abide and procure that the Service Provider's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.

### **38. Service Provider's responsibility for staff etc.**

- 38.1. The Service Provider is responsible for the acts and omissions of all Service Provider Representatives relating to the Contract as though such acts and omissions are the Service Provider's own.
- 38.2. The Service Provider must ensure that all Service Provider Representatives:
  - 38.2.1. are appropriately experienced, skilled, qualified and trained;
  - 38.2.2. carry out their activities connected with the Contract faithfully and diligently and with all with due skill, care and diligence; and
  - 38.2.3. obey all lawful and reasonable directions of the Purchaser when carrying out activities under the Contract.

### **39. Access to the Purchaser's premises**

- 39.1. Any access to, or occupation of, the Purchaser's premises which the Purchaser may grant the Service Provider from time to time is on a non-exclusive licence basis free of charge. The Service Provider must use the Purchaser's premises solely for the purpose of performing its obligations under the Contract and must limit access to the Purchaser's premises to such individuals as are necessary for that purpose.
- 39.2. The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 39.3. At the Purchaser's written request, the Service Provider must provide a list of the names and addresses of all persons who may require admission to the Purchaser'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 Purchaser may reasonably request.
- 39.4. The Service Provider must ensure that any individual Service Provider Representative entering the Purchaser's premises has completed the process for obtaining Baseline Personnel Security Standard clearance. The Service Provider acknowledges that the Purchaser has the right to deny entry to any individual that has not completed the process for obtaining Baseline Personnel Security Standard clearance.
- 39.5. In accordance with the Purchaser's policies concerning visitor access, entry to the Purchaser's premises may be granted to individual Service Provider Representatives for

the purposes of meetings, notwithstanding that the process for obtaining Baseline Personnel Security Standard clearance has not commenced or completed.

- 39.6. The Purchaser may, by notice to the Service Provider, refuse to admit onto, or withdraw permission to remain on, the Purchaser's premises any Service Provider Representative whose admission or continued presence would, in the opinion of the Purchaser acting reasonably, be undesirable.
- 39.7. The Purchaser must provide advice and assistance acting reasonably to the Service Provider to facilitate the Service Provider's compliance with this clause.
- 39.8. All decisions of the Purchaser under this clause are final and conclusive.

#### **40. Service Provider's Equipment**

- 40.1. The Service Provider must provide all Equipment necessary to perform any required activities on the Purchaser's premises or otherwise necessary for the provision of Services.
- 40.2. But the Service Provider must not, without the Purchaser's approval:
  - 40.2.1. bring Equipment onto the Purchaser's premises; or
  - 40.2.2. leave Equipment on the premises.
- 40.3. Any Equipment brought onto the Purchaser's premises:
  - 40.3.1. remains the property of the Service Provider; and
  - 40.3.2. is at the Service Provider's own risk and the Purchaser has no liability for any loss of or damage to the Equipment unless the Service Provider is able to demonstrate that such loss or damage was caused or contributed to by the Purchaser's Default.
- 40.4. The Service Provider must keep all Equipment brought onto the Purchaser's premises in a safe, serviceable and clean condition. The Purchaser may at any time require the Service Provider to remove from the Purchaser's premises any Equipment which in the opinion of the Purchaser acting reasonably is either hazardous, noxious or not in accordance with the Contract and substitute proper and suitable Equipment at the Service Provider's expense as soon as reasonably practicable.
- 40.5. On completion of any required activities on the Purchaser's premises or at the end of a Working Day (as appropriate), the Service Provider must at its own expense:
  - 40.5.1. remove all Equipment; and
  - 40.5.2. leave the premises in a clean, safe and tidy condition, clearing away all rubbish arising out of the Service Provider's activities.
- 40.6. The Service Provider is solely responsible for making good any damage to the Purchaser's premises or any objects contained therein, other than wear and tear, which is caused by the Service Provider.

#### **41. Purchaser Property**

- 41.1. Where the Purchaser issues Purchaser Property to the Service Provider, the Purchaser Property remains at all times the property of the Purchaser.
- 41.2. The Service Provider undertakes the safe custody of the Purchaser Property and to that end must:

## OFFICIAL - SENSITIVE – [COMMERCIAL]

- 41.2.1. keep the Purchaser Property in good order and condition (excluding wear and tear);
- 41.2.2. comply with any particular security requirements communicated to the Purchaser in relation to the Purchaser Property;
- 41.2.3. use any Purchaser Property solely in connection with the Contract and for no other purpose; and
- 41.2.4. store the Purchaser Property separately and ensure that it is clearly identifiable as belonging to the Purchaser.
- 41.3. The Purchaser Property is deemed for the purposes of clause 41.2.1 to be in good order and condition when received by the Service Provider unless the Service Provider notifies the Purchaser otherwise within 5 Working Days of receipt.
- 41.4. The Service Provider must not:
  - 41.4.1. modify or replace the Purchaser Property;
  - 41.4.2. use the Purchaser Property as security for a loan or other obligation;
  - 41.4.3. sell, or attempt to sell or part with possession of the Purchaser Property; or
  - 41.4.4. allow anyone to obtain a lien over, or right to retain, the Purchaser Property.
- 41.5. The Service Provider licences the Purchaser to enter any premises of the Service Provider during Working Hours on reasonable notice to recover any Purchaser Property.
- 41.6. The Service Provider undertakes the due return of the Purchaser Property and as such is liable for all loss of, or damage to, the Purchaser Property (excluding wear and tear), unless such loss or damage was caused or contributed to by the Purchaser's Default. The Service Provider must notify the Purchaser promptly and, in any event within 2 Working Days, upon becoming aware of any defects appearing in or losses or damage occurring to the Purchaser Property.

### **42. Health and Safety etc.**

- 42.1. While on the Purchaser's premises, the Service Provider must comply with the Purchaser's policies concerning health and safety and fire and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 42.2. The Service Provider must immediately inform the Purchaser in the event of any incident occurring in the performance of its obligations under the Contract on the Purchaser's premises where that incident causes any personal injury or damage to property which could give rise to personal injury. The Service Provider must then promptly notify the Purchaser of that fact.
- 42.3. The Purchaser must promptly notify the Service Provider of any health and safety hazards which may exist or arise at the Purchaser's premises and which may affect the Service Provider in the performance of its obligations under the Contract.
- 42.4. The Service Provider must promptly make available its statutory health and safety policy statement to the Purchaser on request.

### **43. Offences**

- 43.1. The Service Provider must not commit or attempt to commit any offence:

43.1.1. under the Bribery Act 2010;

43.1.2. of fraud, uttering, or embezzlement at common law; or

43.1.3. of any other kind referred to in regulation 58(1) of the Public Contracts (Scotland) Regulations 2015.

43.2. Breach of clause 43.1 is a material breach for the purposes of clause 57.1.3 (Termination Rights).

#### **44. Tax Arrangements**

44.1 Where the Service Provider is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

44.2 Where the Service Provider is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

44.3 The Purchaser may, at any time during the term of this contract, request the Service Provider to provide information which demonstrates how the Service Provider complies with sub-clauses 44.1 and 44.2 above or why those clauses do not apply to it.

44.4 A request under sub-clause 44.3 above may specify the information which the Service Provider must provide and the period within which that information must be provided.

44.5 The Purchaser may supply any information which it receives under clause 44 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

44.6 The Service Provider shall take all reasonable steps to ensure the observance of the provisions of this clause 44 by all of their servants, employees, agents, consultants and sub-contractors.

44.7 Where the Service Provider enters into any sub-contract with any of its servants, employees, agents, consultants and/or sub-contractors, the Service Provider must ensure that a provision is included which is in the same terms as this clause 44 subject only to modification to refer to the correct designation of the equivalent party as the Service Provider.

#### **45. Discrimination**

The Service Provider must not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser.

#### **46. Blacklisting**

The Service Provider must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a material default which shall entitle the Purchaser to terminate the Contract.

#### **47. Sustainability**

- 47.1. The Service Provider shall perform its obligations under this Contract in a manner so as to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimize the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment. The Service Provider shall make all reasonable efforts to minimise its use of packaging and avoid the use of packaging which consumes a disproportionate amount of energy during manufacture, use, or disposal or which contains materials derived from threatened species or threatened environments. If requested by the Purchaser, the Service Provider shall provide the Purchaser with a copy of its environmental policy.
- 47.2. The Service Provider is expected to have appropriate standards for its organisation and its supply chain regarding legal, ethical and social issues. This should include for example: health and safety, security of employment rights, equality and fair trade, in particular in low cost or developing countries. If requested by the Purchaser, the Service Provider shall provide the Purchaser with a copy of its ethical sourcing policy.
- 47.3. The Service Provider must take all reasonable steps to ensure that all products supplied under this Contract are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin, in particular in relation to working conditions and the use of child labour.

**48. Conflicts of interest**

- 48.1. The Service Provider must take appropriate steps to ensure that the Purchaser is not placed in a position where, in the reasonable opinion of the Purchaser, there is an actual or potential conflict between the interests of the Service Provider and the duties owed to the Purchaser under the Contract.
- 48.2. The Service Provider must disclose by notice to the Purchaser full particulars of any actual or potential conflict of interest which may arise and must take such steps as are necessary to avoid or remove the conflict of interest.
- 48.3. Breach of this clause by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).



## SECTION G FINAL PROVISIONS

### 49. Warranties and Representations

The Service Provider warrants and represents that:

- 49.1. it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised individual;
- 49.2. in entering the Contract it has not committed any offence under the Bribery Act 2010 or of fraud or uttering at common law or any other kind referred to in the Public Contracts (Scotland) Regulations 2015;
- 49.3. it has not committed any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or committed any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities;
- 49.4. as at the Commencement Date, all information contained in the ESPD and Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract;
- 49.5. no claim is being asserted and no litigation, alternative dispute resolution procedure or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- 49.6. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- 49.7. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Service Provider 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 Service Provider's assets or revenue;
- 49.8. 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;
- 49.9. in the 3 years prior to the Commencement Date:
  - 49.9.1. it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - 49.9.2. it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established;
- 49.10. it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- 49.11. it has made appropriate inquiries (for example as regards the Purchaser's premises) so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract;

- 49.12. it is familiar with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and health and safety and fire as they apply at the Commencement Date;
- 49.13. it has in place appropriate technical and organisational measures to safeguard any Purchaser Protected Information provided by the Purchaser;
- 49.14. there are no actual or potential conflicts between the interests of the Service Provider and the duties owed to the Purchaser under the Contract, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract; and
- 49.15. it is deemed to have inspected any premises at which the services are to be performed as set out in the Specification (the 'Premises') before tendering so as to have understood the nature and extent of the Services to be carried out and is deemed to be satisfied in relation to all matters connected with the Services and the Premises.

## **50. Indemnity**

50.1 The Service Provider shall indemnify the Purchaser against all claims, proceedings, actions, damages, costs, charges, expenses and any other liabilities which may arise out of, or in consequence of, any Default of the Service Provider.

50.2 The Purchaser shall indemnify the Service Provider in respect of all claims, proceedings, actions, damages, fines, costs, expenses or other liabilities which may arise out of, or in consequence of, a breach of the Data Protection Laws where the breach is the direct result of the Service Provider acting in accordance with the Purchaser's specific written instructions. This indemnity provision shall not apply if the Service Provider-

(a) acts on the Purchaser's specific written instructions but fails to notify the Purchaser in accordance with clause 14.12(c) of this Contract;

(b) fails to comply with any other obligation under the Contract.

## **51. Limitation of Liability**

51.1. Neither Party is liable to the other Party under the Contract for any:

51.1.1. loss of profits, business, revenue or goodwill; or

51.1.2. indirect or consequential loss or damage.

51.2. But clause 51.1 does not exclude any liability of the Service Provider for additional operational, administrative costs or expenses or wasted expenditure resulting from the Default of the Service Provider.

51.3. The liability of either Party under the Contract for Defaults is limited to £5,000,000 (five million)

51.4. But neither Party excludes or limits liability to the other Party for:

51.4.1. death or personal injury caused by its negligence;

51.4.2. misrepresentation;

51.4.3. any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982; or

51.4.4. any breach of any obligations under Data Protection Laws.

## **52. Insurances**

- 52.1. The Service Provider must effect and maintain with a reputable insurance company:
  - 52.1.1. public liability insurance in the sum of not less than £5,000,000 (five million);
  - 52.1.2. professional indemnity insurance in the sum of not less than £2,000,000 (two million); and
  - 52.1.3. employer's liability insurance in accordance with any legal obligation for the time being in force.
- 52.2. Such insurance must be maintained for the duration of the Contract and for a minimum of 5 years following the expiry or termination of the Contract.
- 52.3. The Service Provider must give the Purchaser, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

## **53. Force Majeure**

- 53.1. Neither Party is liable to the other Party for any delay in performing, or other failure to perform, its obligations under the Contract to the extent that such delay or failure is a result of Force Majeure. Nonetheless, each Party must use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of 90 days, either Party may terminate the Contract with immediate effect by notice.
- 53.2. Any delay or other failure by the Service Provider in performing its obligations under the Contract which results from any failure or delay by a Service Provider Representative is only to be regarded as due to Force Majeure if that Service Provider Representative is itself impeded by Force Majeure from complying with an obligation to the Service Provider.
- 53.3. If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any delay or failure on its part as described in clause 53.1, it must immediately notify the other Party of the Force Majeure and the estimated period for which the failure or delay is to continue.
- 53.4. The only events that afford relief from liability for failure or delay under the Contract are Force Majeure events.

## **54. Dispute Resolution**

- 54.1. The Parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract in accordance with the Management Arrangements.
- 54.2. Any dispute or difference arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, which cannot be resolved in accordance with the Management Arrangements, shall be determined by the appointment of a single arbitrator to be agreed between the Parties, and failing agreement within 14 days after either Party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either Party. The seat of the arbitration shall be in Scotland. The language used in the arbitral proceedings shall be English.
- 54.3. Any arbitration under clause 54.2 is subject to the Arbitration (Scotland) Act 2010.

**55. Severability**

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision is severed and the remainder of the provisions of the Contract continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

**56. Waiver and Cumulative Remedies**

- 56.1. Any 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 does not constitute a waiver of that right or remedy and does not cause a diminution of the obligations established by the Contract.
- 56.2. Accordingly, no waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 10 (notices).
- 56.3. A waiver of any Default is not a waiver of any subsequent Default.
- 56.4. The rights and remedies provided by the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy is not to be deemed an election of such remedy to the exclusion of other remedies.

**57. Termination Rights**

- 57.1. The Purchaser may terminate the Contract by notice to the Service Provider with immediate effect if the Service Provider commits a Default and:
  - 57.1.1. the Service Provider has not remedied the Default to the satisfaction of the Purchaser within 20 Working Days, or such other period as may be specified by the Purchaser, after issue of a notice specifying the Default and requesting it to be remedied;
  - 57.1.2. the Default is not in the opinion of the Purchaser, capable of remedy; or
  - 57.1.3. the Default is a material breach of the Contract.
- 57.2. The Purchaser may terminate the Contract in the event that:
  - (a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of The Public Contracts (Scotland) Regulations 2015;
  - (b) the Service Provider has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of The Public Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure; or
  - (c) the Contract should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

In this Condition, 'the Treaties' has the meaning given in the European Communities Act 1972.

- 57.3. The Purchaser may also terminate the Contract in the event of a failure by the Service Provider to comply in the performance of the Services with legal obligations in the fields of environmental, social or employment law.
- 57.4. The Purchaser may also terminate the Contract where, at any time before the term of the Contract, the Service Provider or any person falling within the description set out in paragraph (2) of regulation 58 of The Public Contracts (Scotland) Regulations 2015 commits an offence referred to in paragraph (1) of that regulation.

**58. Termination on Insolvency and Change of Control**

- 58.1. The Service Provider shall notify in writing immediately, and the Purchaser may terminate the Contract with immediate effect by notice, where in respect of the Service Provider:
- 58.1.1. 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, its creditors;
  - 58.1.2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
  - 58.1.3. a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
  - 58.1.4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
  - 58.1.5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
  - 58.1.6. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
  - 58.1.7. being a "small company" within the meaning of section 382 of the Companies Act 2006, a moratorium comes into force pursuant to schedule A1 to the Insolvency Act 1986;
  - 58.1.8. a debt relief order is entered into; or
  - 58.1.9. any event similar to those listed above occurs under the law of any other jurisdiction.
- 58.2. The Purchaser may terminate the Contract by notice with immediate effect within 6 months of:
- 58.2.1. being notified that a change of Control has occurred in accordance with clause 33.2 (Change of Control); or
  - 58.2.2. where no such notification has been given, the date that the Purchaser becomes aware of the change of control.
- 58.3. But the Purchaser may not terminate the Contract under clause 58.2 where approval of the change of control has been granted by notice by the Purchaser.

## **59. Exit Management**

The Service Provider shall perform its relevant Exit Management obligations as part of the Contract whether applicable on either the expiry or early termination of this Contract.

- 59.1 The Service Provider agrees that if it breaches (or attempts or threatens to breach) its obligation to provide Exit Management, the Purchaser and their respective customers and stakeholders shall be irreparably harmed. In such circumstance, the Service Provider agrees that the Purchaser may proceed directly to court notwithstanding anything to the contrary in the dispute resolution procedure outlined in Clause 53 (Dispute Resolution). If a court of competent jurisdiction finds that the Service Provider has breached (or attempted or threatened to breach) any such obligation, the Service Provider agrees that without any additional findings of irreparable injury, or other conditions to interdict, the Service Provider shall not oppose the entry of an appropriate order compelling performance by the Service Provider and restraining the Service Provider from any further breaches or attempted or threatened breaches of its obligations in relation to Exit Management.
- 59.2 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Purchaser within three (3) months after the Commencement Date and shall include or address the matters specified in Clause 59.3. The Purchaser shall provide to the Service Provider the Purchaser's comments on the plan within one (1) month of the Purchaser's receipt of the plan. The Service Provider shall take into account the comments and suggestions of the Purchaser and shall issue the final version of the Exit Plan to the Purchaser within ten (10) Working Days of receipt of the Purchaser's comments.
- 59.3 The Service Provider shall throughout the period of the Contract review, maintain and continuously update the Exit Plan which shall include:
- 59.3.1 the activities required to enable the Purchaser to re-tender the Purchaser Requirements and/or the provision of the Services;
  - 59.3.2 the activities necessary to support any Replacement Service Provider or the Purchaser in carrying out any necessary due diligence relating to all or part of the Services;
  - 59.3.3 details of the Exit Management to be provided by the Service Provider prior to the Exit Management Date;
  - 59.3.4 support for the Replacement Service Provider or the Purchaser during their preparation of any relevant plan for the transition of the System to the Replacement Service Provider or Purchaser, including prior to and during such transition period;
  - 59.3.5 the maintenance of a 'business as usual' environment for the Purchaser during the period when Exit Management obligations are applicable; and
  - 59.3.6 all other necessary activities to support the preparation for, and execution of, a smooth and orderly Exit Management and transfer of all or part of the Services to either a Replacement Service Provider or the Purchaser.
- 59.4 No amendment of the Exit Plan shall be made without prior written consent of the Purchaser.

## **60. Consequences of Expiry or Termination**

- 60.1. Where the Purchaser terminates the Contract under clause 57 (Termination Rights) and makes other arrangements for the provision of services, the Service Provider indemnifies the Purchaser against all costs incurred in making those arrangements.

- 60.2. Where the Purchaser terminates the Contract under clause 5 (Break), the Purchaser indemnifies the Service Provider against any unavoidable losses directly resulting from the termination of the Contract (excluding loss of profit).
- 60.3. Any indemnity given by the Purchaser under clause 60.2 is subject to the Service Provider:
- 60.3.1. taking all reasonable steps to mitigate its loss;
  - 60.3.2. taking all reasonable steps to recover its losses under any insurance policies held by it; and
  - 60.3.3. submitting a fully itemised and costed list of losses which it seeks to recover from the Purchaser together with supporting evidence.
- 60.4. Except as provided for in clauses 50 (General Indemnity), 60.1 and 60.2 and the Management Arrangements, no indemnity is given or special payment is to be made by either Party to the other Party on expiry or termination of the Contract.
- 60.5. On expiry or termination of the Contract the Service Provider must:
- 60.5.1. immediately return to the Purchaser all Purchaser Property and Purchaser Protected Information in its possession; and
  - 60.5.2. destroy or delete any copies of Purchaser Protected Information (whether physical or electronic) in its possession.
- 60.6. The following provisions survive the expiry or termination of the Contract:
- 60.6.1. clause 1 (Definitions and Interpretation);
  - 60.6.2. clause 13 (Recovery of Sums Due);
  - 60.6.3. clause 14 (Data Protection);
  - 60.6.4. clause 15 (Transparency and Freedom of Information);
  - 60.6.5. clause 16 (Purchaser Protected Information);
  - 60.6.6. clause 17 (Service Provider Sensitive Information);
  - 60.6.7. clause 18 (Audit [and Records Management]);
  - 60.6.8. clause 19 (Publicity);
  - 60.6.9. clause 23 (Offers of Employment);
  - 60.6.10. clause 25 (Information about Service Provider Employees);
  - 60.6.11. clause 26 (Staff transfer on expiry or termination);
  - 60.6.12. clause 28 (Parties' pre-existing Intellectual Property Rights);
  - 60.6.13. clause 29 (Specially Created Intellectual Property Rights);
  - 60.6.14. clause 30 (Licences of Intellectual Property Rights);
  - 60.6.15. clause 31 (Claims relating to Intellectual Property Rights);
  - 60.6.16. clause 37 (Official Secrets Acts);
  - 60.6.17. clause 40 (Service Provider's Equipment);
  - 60.6.18. clause 41 (Purchaser Property);
  - 60.6.19. clause 44 (Tax arrangements);
  - 60.6.20. clause 47 (Sustainability);
  - 60.6.21. clause 49 (Warranties and Representations);
  - 60.6.22. clause 50 (Indemnity);
  - 60.6.23. clause 51 (Limitation of Liability);
  - 60.6.24. clause 52 (Insurances);
  - 60.6.25. clause 54 (Dispute Resolution);
  - 60.6.26. clause 56 (Waiver and Cumulative Remedies);
  - 60.6.27. this clause 59; and
  - 60.6.28. clause 62 (Governing Law and Jurisdiction).
- 60.7. If a Judicial Order is made, the provisions of the Management Arrangements referring to that possibility apply.

- 60.8. Immediately upon termination of the Contract for any reason whatsoever the Service Provider shall render such reasonable assistance to the Purchaser or third party nominated by the Purchaser, if requested, as may be necessary to effect an orderly assumption by a Replacement Service Provider of the Services previously performed by the Service Provider under the Contract. The Service Provider shall be entitled to charge for such termination services in accordance with Schedule 11 (Exit Management).

**61. Entire Agreement**

- 61.1. The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with herein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause does not exclude liability in respect of any misrepresentation (whether in the ESPD or Tender or otherwise).
- 61.2. In the event of, and only to the extent of, any conflict between the clauses of the Contract, the Schedules and any document referred to in the Contract, the following order of precedence applies:
- 61.2.1. the clauses of the Contract;
  - 61.2.2. the Schedules; and
  - 61.2.3. any other document referred to in the Contract.

**62. Governing Law and Jurisdiction**

The Contract is governed by and interpreted in accordance with Scots law and, subject to clause 54 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the Scottish courts.



**IN WITNESS WHEREOF** these presents typewritten on this and the 40 preceding pages together with the 13 Schedules annexed are executed as follows:

**SIGNED** for and on behalf of the Scottish Ministers **SIGNED** for and on behalf of Deloitte LLP

[Redacted: Exempt under 38(1)(b) FOISA]

This and the following 23 pages comprise Schedule 1 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

**SCHEDULE 1 PART A – SPECIFICATION**

**STATEMENT OF REQUIREMENTS**

**PROVISION OF SERVICES TO DESIGN AND DELIVER  
THE SERVICE DESIGN OF  
SOCIAL SECURITY SCOTLAND'S  
DESK-BASED REVIEW AND FACE-TO-FACE  
ASSESSMENTS**

**SP-18-042**

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## 1 STATEMENT OF REQUIREMENTS (SoR) OVERVIEW

**[Redacted: Exempt under 29(1)(a), FOISA]**

It is imperative that assessments are conducted with dignity, fairness and respect. The assessment service will guide staff to conduct and record consistent assessments in a way that promotes dignity, fairness and respect. Therefore, achieving more accurate and timely decisions which are understood by the client.

This contract is specifically focussed on the end-to-end service design and deployment of the desk-based review and face-to-face assessments which are used as part of decision making service and the HP advice service. The service design will inform and drive the configuration of the associated technology that supports the service, delivered under separate contracts. User Centred Design, primarily focussed on the client and staff users, will form the core principle underpinning all of the design and deployment of the service.

The Assessment service will provide critical supporting information for decision makers, when evaluating a client's application for that benefit. The Scottish Government has committed to "significantly reduce the number of face-to-face assessments". It is therefore important that there is a consistent experience and outputs for desk-based review and face-to-face assessments.

Face-to-face assessments may take place in an assessment centre, in the client's home or in a third party location i.e. Local Authority building. Desk-based reviews are likely to take place within an SSS location. Suitably qualified Healthcare Professionals carry out these assessments and the Cabinet Secretary for Social Security has confirmed that these assessors will be in-house at Social Security Scotland.

The service will be delivered using a number of technology solutions – including the reuse of programme common components and IT dedicated to support the assessment journey. The Service Design workstream will need to identify how their design fits and consumes the technology provided.

The Service Design will focus on the Assessments service for PIP. This includes the face-to-face Assessments service and the process for the Healthcare Professional to provide advice to Decision Makers for all disability benefits (including CDLA and AA).

**[Redacted: Exempt under 29(1)(a), FOISA]**

As Social Security Scotland's ethos of dignity, fairness and respect will be ingrained in each service, it is particularly important that the design, delivery and experience of Assessments reflect this, end-to-end.

## 2 PROBLEM STATEMENT

Under the current system, most Assessments are carried out by public and private contractors on behalf of DWP. The Scottish Government has stated publically that private firms will not have a role in delivering assessments under the Scottish system.

**[Redacted. Exempt under Section 29(1)(a) FOISA]**

## 3 WAYS OF WORKING

As way of an outline, but not be limited to, the Service Provider is required to bring the following principles and deliverables in their approach to the delivery of the Assessments work streams:

- keep the user at the centre of the service design throughout the delivery of the work stream
- bring around transformational service design change through innovation and industry leading techniques
- ensure excellence at all stages of the user experience
- demonstrate creativity in their delivery approach, from design to delivery, to ensure efficiency and value-for-money at all stages including a flexible and detailed resource profile of their team
- provide experience, knowledge and subject matter expertise across the multiple different areas of the project, including:
  - Service Design
  - Collaboration with technology suppliers to enable service
  - Medical knowledge expertise
  - Assessment centre design
  - User experience testing for all users
  - Accessibility and Assisted Digital
  - Specialised content design
- transition from the conceptual Service Design to implementation and rollout of the live service
- deliver both the user facing and back office management elements of the service
- transfer knowledge and best practice skills transfer to Scottish Government project and operational staff
- bring expert research and proven best practice to the design of the physical Assessment centres
- bring a high level of skills and experience in their team selected to deliver the different service components. Scottish Ministers would encourage Tenderers to form partnerships or externally source specialised expertise if required.

## 4 SERVICE DELIVERY SCOPE SUMMARY

### 4.1 Assessment Service Delivery Phases

The SoR will be delivered through a series of phases – Scottish Ministers ask respondents to propose approaches and timeframes for these.

Service Providers must demonstrate innovation in the way this service can be provided, supported and delivered. This will include a profiling of resources throughout the design and delivery stages to ensure maximum efficiency and effectiveness of their team.

As an indicative outline, the phasing must include, but does not have to be restricted to, the following:

- An initial 8 week rapid Service Design phase to produce a high level service model that can be used to inform the Statement of Requirements to procure the key technology components that will support the service. This will include the future service of the end-to-end face-to-face assessment, desk based reviews as well as Healthcare Professional advice process (initial findings from the Discovery phase will be available)
- An in-depth Service Design phase to clearly define and develop the Assessments service and all supporting areas that have been defined as in scope of this procurement. As defined in Section 7, this includes the pre-Assessment activities such as appointment booking and assessment preparation, the undertaking of the Assessment with the client through to the completion and submission of the Assessment report

Input to the development of the Assessment technology Statement of Requirements to ensure the technology that is being procured to support the service is aligned with the service that is being designed. It is anticipated that the Service Provider of the key components of the service will be onsite from Autumn 2019. It should be noted that the components of the service this will form a rolling programme that will run from Autumn 2019 through 2020.

- The Service Provider will work alongside the chosen technology solutions and suppliers to develop and deliver the service to support desk-based review and face-to-face Healthcare Professional Assessments. This will include components only being developed for assessments and a number of common technical components being delivered across the programme that will be utilised to deliver functionality across the service. For further details of the integration landscape see appendix L.
- The Service Provider will work alongside the operational teams to develop and deliver the service design, align with CDLA and AA teams, the supporting business processes, the operational set-up and the deployment and rollout of the new service using the chosen technology solutions.

#### 4.2 Assessment Service Roles

It is anticipated there will be 5 core roles within the Service, although this is open to change as part of the Service Design. These roles are:

1. **Client:** The client who has submitted the claim for the benefit and who will be involved in the face-to-face assessment
2. **Decision Maker:** The Decision Maker will work within the SSS to assess the claim application and supporting evidence to determine if an award will be made.
3. **Healthcare Professional:** Medical experts with significant experience and expertise in one or many areas of health (musculoskeletal, mental health, general medicine etc.) who can provide expert knowledge and advice.

4. **Assessor:** The Assessor will be responsible for carrying out the face-to-face assessment – both in the client's home and at various SSS and 3<sup>rd</sup> party locations. This will be passed to the Decision Maker to make the decision.

5. **SSS:** The SSS staff will be responsible for the day-to-day management and maintenance of the service. This will include dealing with client enquiries, change of appointments and the ad hoc scheduling and management of assessors.

#### 4.3 Core Service Areas

The Service will consist of 3 distinct areas:

**1. Face-to-Face Assessment Service** will take place in the client's home, at designated assessment centres across multiple geographical locations in Scotland and potentially at third-party locations (e.g. Local Authority offices etc.). The service design must include the delivery of the customer service and experience under all of these scenarios.

The end-to-end Assessment Service will comprise of technology solutions which will be provided in parallel procurements to this one. Some of which will be delivered elsewhere in the Programme, reused and integrated into the end-to-end Assessment Services solution.

The Service Provider will be expected to work with multiple suppliers in the delivery of this service. For example, the Service Design must be able to utilise functionality that will be delivered as part of a common technical component.

The Service Provider will need to ensure that the needs of the service are met, working with Scottish Government to ensure the features required for the service are understood and appropriately prioritised across the technology to ensure an end to end service is supported by the IT at go-live of the benefit. Where gaps appear due to competing workstreams, the Service Provider will work with Scottish Government to ensure mitigation activities are identified and actioned, flexing the service or technology appropriately.

The Service Provider will be required to develop the design standards for the look, feel and set-up of the physical assessment centres. The construction and development of these centres will take place as part of a separate procurement exercise.

**2. Desk-based Review Service** will likely take place in the Social Security Scotland locations using evidence collected on behalf of the client in addition to any evidence provided by the client as part of their application. This service will take place without the client being present.

The Information Capture/Assessment Report will be required to capture the output of both Face to Face assessments and desk-based reviews to make it easy for the client to understand the justification and reasoning behind their award decision.

**3. Healthcare Professional Advice** service to allow Healthcare Professionals to coach and advise Decision Makers at certain points in the service i.e. to a Decision Maker when completing a desktop assessment.

[Redacted: Exempt under 29(1)(a), FOISA]

[Redacted: Exempt under 29(1)(a), FOISA]

#### 4.4 Assessments Technical Strategy

As detailed above, it will be a requirement of the Service Design supplier to work alongside the IT suppliers that will be developing and configuring components dedicated to the assessment function and the common component technical solution workstreams.

The core functions of the dedicated assessment IT will need to receive referrals, support workflow routing, case management and performance of the assessment to benefit. It will also be required to support the provision of advice. Benefit assessment and advice will need to be captured in structured forms for document creation before referring back to the benefit system. The current strategy is to support those capabilities in a single IT component. The Service Provider will be expected to input to the requirements for this IT component and make suggestions on changes and additions to the functions in scope. The procurement and selection is expected to be concluded in Autumn 2019.

Common components are being developed across the Social Security Scotland programme, with the primary aim of developing functionality once that can be reused multiple times across different workstreams. Examples include document management and appointment bookings (these are fully detailed in **Annex L**)

#### 4.5 Scottish Government Project Team Support

At all stages throughout the project, a Scottish Government team will be working alongside suppliers to support all elements of the development of the service. It is planned that this team will include a user researcher, a content developer, a business analyst, a service designer and project support.

The role of this team will be to support the supplier and ensure that they have access to all relevant information across the organisation and the Social Security Scotland programme.



## **5 DEVOLVED BENEFITS AND ASSESSMENTS BACKGROUND**

### **5.1 Benefits Background**

#### **5.1.1 PIP Benefit Overview**

Personal Independence Payment is a benefit for working age adults with disabilities who have difficulty with getting around and/or with daily living activities.

The benefit has two components, daily living and mobility, with clients able to qualify for one or both components. It is non-means tested and tax free and it is possible to qualify whether the applicant is in work, out of work or in education.

PIP was introduced by the UK Government in 2013 and replaces Disability Living Allowance (DLA) for people of working age (16-64 years). DWP is currently transferring clients from DLA to PIP at present and the number of clients receiving PIP are rising as this process takes place.

Entitlement to PIP is based on a functional assessment, to determine how an individual's condition(s) impact upon them on a daily basis.

#### **5.1.2 AA Benefit Overview**

Attendance Allowance is a benefit for people aged over 65 who need help with personal care (washing, dressing or eating) due to an illness or disability.

Unlike PIP and CDLA, AA only has one component based on care needs (i.e. there is no Mobility component).

It is non-means tested and tax free.

#### **5.1.3 CDLA Overview**

Child DLA is a benefit for people aged under 16 with disabilities who have difficulty with getting around and/or who need more looking after than a child of the same age who does not have a disability. Currently, Child DLA is administered by the Department for Work and Pensions (DWP), part of the UK Government. This benefit has two components – care and mobility. Clients can qualify for one or both components. For the eligible child and the parent/carer who applies on their behalf, it is not means tested and is tax free. National Insurance contributions are not needed to qualify for the benefit. It is possible to qualify whether the child and parent/carer is in work, out of work, or in education.

#### 5.1.4 Estimated Volumes of all Disability Benefits

The following table provides estimates for forecasted volumes of claims expected within Scotland for each of the benefits in scope.

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**[Redacted: Exempt under 29(1)(a), FOISA]**

#### Notes:

- These are illustrative estimates and based on the current DWP delivery of PIP, CDLA and AA and the associated DWP forecasts.
- Scottish Government's analysts in Communities Analysis Division are developing models which will allow the Purchaser to estimate overall caseload, new claims volumes and reassessment for these benefits.
- Cases where individuals were in receipt of CDLA before moving onto PIP are included in the PIP Reassessments total rather than in new claims.

### 5.2 Assessments Service Background

#### 5.2.1 PIP Face-to-Face Assessments overview

PIP face-to-face assessments conducted by a Healthcare Professional are part of the information gathering activity which may be undertaken to provide additional evidence for Decision Makers to determine whether clients are eligible for PIP. The client will receive a report with their decision letter.

Under the current system, these assessments are carried out by public and private contractors on behalf of DWP. The Scottish Government has stated publically that private firms will not have a role in delivering assessments under the Scottish system.

Although there will be significantly fewer face-to-face assessments in Scotland due to policy and service design changes (these service design changes will happen as part of the PIP benefit development, which lies outside the scope of this contract), the Social Security Scotland still needs to develop this function for when they are required. Therefore we are seeking a Service Provider to design and create the new face-to-face assessment service.

The Discovery report in **Annex D** contains details of the existing PIP service. In addition, a process flow chart and a swim-lanes diagram together with an overview of the solution architecture can be found in **Annexes E, F and G**, to illustrate the main process steps and IT components contained in the existing DWP Assessments suite. The process description is included for information purposes and bidders should use these processes as a basis for their response.

The service should be capable of supporting PIP assessments in both online (base and remote locations) and offline (when they are not connected to the network) scenarios.

Service Providers are invited to demonstrate innovation in the way this service can be provided and supported.

#### 5.2.2 Desk-based Reviews overview

Desk-based reviews (currently known as Paper Based Reviews) are currently carried out where a Decision Maker requires information to be collated and interpreted by a Healthcare professional. This will not involve a face-to-face interaction with the client

For AA and CDLA, all reviews are desk-based and carried out by a decision maker and not a Healthcare professional. AA and CDLA are out of scope of this procurement, but all service design should be cognisant of these benefits for future reuse.

The result of this process is a desk-based information report output that can be used by a decision-maker as an additional piece of information, alongside the application and other supporting evidence, to align the claimant with the eligibility criteria and make it clear how the award decision was made.

**[Redacted: Exempt under 29(1)(a), FOISA]**

Service Providers are invited to demonstrate innovation in the way this service can be provided and supported in the future.

#### 5.2.3 Healthcare Professional Advice overview

Decision Makers currently have access to QAM (Quality Assurance Manager) who will be able to provide them with advice and guidance on more complicated cases. The QAM role has access to Healthcare Professionals should they require additional expertise.

The new Service will consider the best approach to support Decision Makers in their roles for all three Disability Benefits. i.e. Healthcare Professionals providing advice and support to Decision Makers at various points in the process. This could include activities like the translation and understanding of complex medical reports and describing the functional impacts that may be experienced through the client having a specific condition.

## 6 SCOPE AND DELIVERABLES

### 6.1 Deliverables Summary

As a minimum, there are 6 key delivery areas that the Service Provider will be expected to deliver against in order to deliver the End to End (E2E) Assessments Service as described in the previous section. All of these areas must be delivered with the users at the forefront of the design. The supplier will determine the most effective order in which to deliver these workstreams.

1. Complete a high level Service Design exercise to inform the requirements for the procurement of the Assessment IT support
2. Design and deliver the Healthcare Professional advice process
3. Design and deliver the desk-based review and face-to-face assessments service
4. Design and deliver the Post-Assessment service
5. Ensure the E2E service is fully integrated with other SSS services
6. Ensure Common Components support the service wherever possible

### 6.2 Deliverables Descriptions

#### 6.2.1 Service Design alignment with the procured Assessment tool

The supplier will produce an initial high level Service Design view within the first 2 months following mobilisation to ensure that the needs of the service are understood and appropriately reflected within the technology procurement document for the Assessment IT, which will be completed following this initial phase.

#### 6.2.2 Healthcare Professional Advice Process

Design the new service to deliver the best approach to support Decision Makers in their roles for all three Disability Benefits (PIP, CDLA, and AA). i.e. Healthcare Professionals providing advice and support to Decision Makers at various points in the process. This could include activities like the translation and understanding of complex medical reports and describing the functional impacts that may be experienced through the client having a specific condition.

#### 6.2.3 PIP Assessments Service Design and deployment

There is a requirement to redesign the current PIP Assessments process (including Face to Face (F2F), desk based reviews and HP advice) to ensure that any negative impact on the client is minimised, while ensuring information is gathered to best support decision makers in identifying if a claimant has met the eligibility criteria for their PIP claim.

This new Assessments service must provide both the clients and assessor with a straightforward, streamlined and easy to understand service.

This must include the communication of the Assessment type (F2F or home based) that the client will undertake and the managing of the client through this process to minimise any potential anxiety and provide a great client experience.

The negative impact felt by clients experiencing the existing assessments process must be reduced through ensuring that the service is user-centred.

This will include the review and revision of the existing process used to capture information by the assessor. This service design will inform and shape the technology solution being delivered in the parallel technology procurement.

The Service will be designed in order that Assessors are fully supported in all aspects of the new Assessment process, including the ordering and presentation of existing client information, guidance throughout the assessment information, appropriate questioning based on the needs of the client

Process to ensure consistency and quality of outputs across Assessors and Assessments. The Service needs to ensure that relevant information is collected to allow reasoned and evidenced recommendations to be drawn ensuring consistency and transparency across the Service.

The Assessment process must align with the benefits rules for the relevant benefits as set out in Social Security Scotland Regulations.

Part of the service design must also include the design of the look and feel of Assessment Centres. Aligning with the new Assessment service, this will serve as a welcoming, warm and professional environment for clients to be received and have their assessment completed within. The delivery of the physical assessment centre will be part of a subsequent procurement.

#### 6.2.4 Post-Assessment Service Design

The service must include all appropriate activities and processes following the completion of a face-to-face Assessment and leading up to the production and quality review of the Assessment report to support the decision making process.

The service design must include a comprehensive Quality Control procedure to ensure all completed assessments are of a high quality, fit-for purpose and consistent across the Service. Consideration must also be given to methods to ensure continuous improvement within the service in response to feedback from other parts of the SSS or others.

The service must also include mechanisms to seek feedback from clients on their experience of the Assessment and potentially notifications to close this stage of the interaction with the client.

The service must identify Moments of Truth and journey tracking in the journey for all users so that the measure and KPIs of the journey monitor the effectiveness of the design. This will allow for tracking and reporting of MI and other performance indicators, which will contribute to continuous improvement of the service

#### 6.2.5 E2E Service Integration

There is a requirement to integrate the Assessment service with supporting/dependant systems across the Social Security Scotland ecosystem. These include both existing and future, not as yet built, services, therefore the delivery approach needs to be able to address these areas of uncertainty.

The Assessments service will not sit in isolation and the supplier will be expected to work with wider parts of the overall Social Security programme to ensure this consistency and that any joint development and re-use of services is undertaken.

The supplier will work with all technology providers across the programme to ensure an end to end service is supported by the appropriate technology at go-live of the benefit. Where gaps appear due to competing workstreams, the Service Provider will work with Scottish Government to ensure mitigation activities are identified and actioned, flexing the service or technology appropriately.

#### 6.2.6 Common Components across Social Security Programme

The service provider must develop a comprehensive understanding of the enterprise and service architecture that underpins the programme. This will provide insight and clarity on the common components that the assessments service will be required to incorporate to support the E2E service. This includes, but is not limited to:

- Core Benefit Platform
- Digital Portal
- Document Management
- Appointment Booking
- Notifications
- Management Information

The Service Provider must ensure that the assessments service is aligned with these Common Component services and ensure that the E2E assessment service supports a smooth and seamless user experience, with automation and system assistance incorporated into the service design wherever possible. These are fully detailed in **Annex L**

### 6.3 Deliverables - Service Design Principles and Responsibilities

As a minimum, the Service Design responsibilities will encompass:

- 6.3.1 The Service Provider must deliver the new assessment service for PIP, taking and building on the outputs from appropriate Discovery phases, to create a user centred experience that is inclusive, accessible, efficient, measurable, effective and supportive of the customer journey and the appropriate disability benefit process.
- 6.3.2 The Service Provider must design a modern and dynamic PIP face-to-face assessment service, from the initial assessment referral and booking, through to assessment and ending with the completion of the assessment outputs. All aspects of these journeys must be considered and included in the service.
- 6.3.3 The Service Provider must design a modern and dynamic desk-based review service. This service should align and support Decision Making that will be delivered as part of the Core Benefits Platform, where desk-based reviews will form a core piece of information required by the decision maker to evaluate the clients claim.
- 6.3.4 The Service Provider must deliver standards and specifications for the design of the Assessment centres where face-to-face Assessments will take place, linking seamlessly with the client journey that is part of this new service design.
- 6.3.5 The Service Provider must deliver a high level service design overview specifying the desk-based review and face-to-face Assessments service to inform technology procurement. This will take place over the first 8 weeks of the Service Design workstream following supplier mobilisation.
- 6.3.6 The Service Provider must provide a gap analysis and proposed mitigations between the core capabilities delivered by the chosen Assessment IT and the core capabilities required by the desk-based review and face-to-face Assessments Service. Furthermore, the Service Provider must provide an approach through alternate solutions or service delivery approaches that would allow these service needs to be achieved.
- 6.3.7 The Service Provider must deliver user research and service design deliverables to capture all knowledge gained during user research including, but not limited to, service blueprint, updated user journeys, user personas, interview results, usability testing results, user research scripts and sense-making session results as well as contribute to associated user stories. They must evidence developments, iterations and changes and work with the other design practices to ensure user centric outputs.
- 6.3.8 The Service Provider must deliver user experience (UX) for all user interfaces in the services and demonstrate how they have developed the design in a user centred way. Using insights and co-design to develop prototypes and wireframes and paper form content and UI designs that are aligned to the mygov.scot guidelines and patterns and the Digital First Service Standard, as well as contributing to associated user stories. These prototypes will be tested with users to iterate an evidence based design approach.
- 6.3.9 The Service Provider must deliver business analysis (BA) deliverables to capture all knowledge gained during BA including, but not limited to, interview results, business rules, workflows, process maps, 3rd party interface specifications and financial analysis as well as contributing to associated user stories. These activities will be overseen by relevant experts in Scottish Government.
- 6.3.10 The service must be designed in a way to ensure the client and end users remain at the centre of the design process at all times. There is an expectation that continuous user testing and iterative design will take place throughout the development and delivery process to ensure this user centred design. And key design decisions are documented to evidence the user centrality of the design.

6.3.11 The service will support the vision of delivering a modern, efficient, revolutionary and client focussed service bringing together best practice tools and techniques in service design.

6.3.12 The Service Provider will oversee the usability testing of the service at all stages of the Service creation and development. The Technology provider will be responsible for the delivery of all technical components and functionality. These will be based on the user needs provided by the Service Provider, created through the Service Design process. This could take the form of a model office for example.

6.3.13 The Service Provider will ensure suitable Quality Control processes are developed as part of the E2E service.

6.3.14 The Service Provider must deliver all artefacts to agreed SG standards to capture all knowledge gained during the project as well as contribute to associated user stories.

6.3.15 The Service Provider will be responsible for usability and accessibility testing of the end-to-end desk-based review and face-to-face Assessments service in collaboration with the technology suppliers to demonstrate the seamless user experience.

6.3.16 As part of the ITT response, bidding suppliers will be expected to provide a detailed overview of all outputs that will be produced as part of the project delivery.

## **7 ASSESSMENTS SERVICE – COMPONENTS OUTLINE**

### **7.1 Overview and Introduction**

Within this Statement of Requirements, there are a number of key areas that the chosen Supplier will be expected to provide expertise to design and deliver the end-to-end Assessments service.

The following narrative is intended to provide a view of how the new service could function. This information is only intended to provide an outline context and should not be regarded as a definitive view of the future Assessments service.

It should be noted that these components will serve to contribute to the delivery of the overall Assessments service, which is the end-to-end delivery goal in providing a step-change in meeting the goals of dignity, fairness and respect to the client and staff.

As a minimum, suppliers would be expected to include the following in their outputs:

#### **7.1.1 Desk-Based – Pre-Review Service Components**

- Work scheduling and queue management process
- Completing the assessment
- Evidence to be used to complete the Assessment
- Work re-assignment/status changes
- Quality assurance
- Measuring effectiveness

#### **7.1.2 Face-to-face - Pre-Assessment Service Components**

- Assessment referral and appointment allocation/selection
- Work scheduling and queue management process
- Reminders about upcoming appointment to end users
- Cancellation and rescheduling

- Preparation process for the assessment
- Evidence/case to be presented to the assessor
- Notification of any special requirements for client (translator)
- Notification of anything the assessor should be aware of from the booking – logistics etc. (clients comments when making booking)
- Allow preparation for face-to-face assessments
- Client communications

#### 7.1.3 Assessment Centre Assessment Service Components

- Look and feel design of Assessment Centres (non-medical, welcoming, special access requirements etc.)
- Process on arrival at centre (concierge, log arrival)
- Process for lateness, cancellations, overbooking etc.
- Assessment set-up
- Structure of Assessment questions/conversation to align with eligibility of each specific benefit
- Conducting and appropriately recording face-to-face assessment

**[Redacted: Exempt under 29(1)(a), FOISA]**

- Completion of Assessment report / Information Capture Report
- Submission of Assessment Report / Information Capture Report
- Expenses process

#### 7.1.4 Home Visit Assessment Service design

- Process to deal with late client cancelations/Assessor availability
- Pre-visit and intro to client
- Preparation for assessment
- Safety process prior to visit for Assessors
- Assessment set-up
- Structure of Assessment questions/conversation to align with eligibility of each specific benefit
- Conducting and appropriately recording face-to-face assessment
- Submission of Assessment report
- Offline assessment completion and upload

#### 7.1.5 Desk-Based Review Service Components

- Structure of Assessment questions to align with eligibility of each specific benefit
- Additional support/clarification that can be provided by user
- Submission of Assessment output
- Review of supporting evidence already received with application or awaiting receipt
- See new supporting evidence as it arrives
- Notifications to decision maker around case progress/status updates e.g. appointment booked, report prepared etc.
- Any questions/dialogue about any assessment outputs between end users

#### 7.1.6 Post Assessment

- Client feedback (Requests, complaints etc.)
- Quality assurance

### 7.2 Service Qualities



We will be looking for a range of service qualities to be achieved through the creation and delivery of the Assessments service. There will include:

**Tangibles:** appearance of physical facilities, equipment, personnel, and communication materials

**Reliability:** ability to perform the promised service dependably and accurately

**Responsiveness:** willingness to help customers and provide prompt service

**Assurance:** knowledge and courtesy of staff and their ability to convey trust and confidence

**Empathy:** the caring, individualised attention the SSS provides to it's clients

## 8 IMPLEMENTATION TIMEFRAME

[Redacted: Exempt under 29(1)(a), FOISA]

[Redacted: Exempt under 29(1)(a), FOISA]

- 8.1 Submit an implementation plan which will includes a Milestone Plan, a Statement of Work plan and a Payment Plan. These plans will form the basis of discussions throughout the duration of the Contract and will be finalised in each Statement of Work.

## 9 SCOTTISH GOVERNMENT EXPECTATIONS OF THE SERVICE PROVIDER

- The new service should bring transparency, fairness, consistency and continuity across this area of capturing additional information to support the client claim – both through desk-based review and face-to-face assessments.
- The service created and delivered by the Service Provider must be able to integrate seamlessly and support the new end-to-end disability benefit services and systems being developed in parallel.
- This contract is required to support the delivery of the strategy for social security and digital transformation.
- The Service Provider will use the output defined during the PIP, DLA, AA Discovery and pre-Alpha phases and the subsequent Assessment user research activities to iteratively develop the Service Design, utilising Agile delivery techniques to continuously test and refine the service through Alpha, Beta and go-live. The full discovery report for PIP, Child DLA and AA are included in is included in **Annex D**.
- Suppliers should provide an ambitious delivery approach and timeframe to maximise delivery and minimise risk across all deliverables. This should include a resource profile of staff throughout the engagement period
- The Service Provider will undertake Alpha, and potentially Beta, go-live and subsequent development for the processes within scope. As our service delivery view continues to mature, we envisage each deliverable, or collection of deliverables, to be scoped out within a series of Statement of Work (SOW). Optional break clauses will apply at the end of Alpha, Beta, and delivery.

- The Service Provider will work with other parts of the Social Security programme and wider Scottish Government who are developing common components and services for the SSS. It is expected that these common technology components will be reused wherever possible to support the service.
- The Service Provider will work with the chosen Assessments technology delivery partner to ensure a seamless end-to-end Service Design is delivered for the Assessments service.
- The Service Provider will work with the Scottish Government's (SG) Social Security Directorate (SSD) – including the Programme Management and Delivery (PMD) Division and the Chief Digital Office (CDO) Division. SSD is referred to herein as the Purchaser. The Service Provider will work as part of a co-located team and will be embedded with members of SSD and supported by SG's Digital Directorate at SG offices in both Atlantic Quay in Glasgow and Victoria Quay in Edinburgh. The Service Provider will be required to work with and alongside other contractors as appointed by the Purchaser.
- The Service Provider must have extensive experience of using Agile techniques to design services and develop them through Discovery, Alpha, Beta to Live, as well as the ability to work with non-agile integrating systems. The Service Provider must have specific expertise of co-located Agile project delivery (see <https://www.gov.uk/service-manual/phases> or overview).
- The Service Provider will be expected to bring a high degree of innovation to both their approach to user centred delivery and their focus on usability, simplification, inclusivity and modernisation of the end service
- The successful Service Provider will be expected to align development with existing teams and existing Service Providers working across other Social Security areas who will be working according to a range of methodologies.
- The service provider is responsible for assembling a team with the appropriate design expertise and experience for specialist design practices including (but not limited to) Service Designer, User Experience Designer (including Accessible and inclusive design), Content Designer, User Interface Designer, Accessibility User Tester, User Researchers. Scottish Government expects the supplier to partner with appropriate design resources, that meet the requirements set out in DDAT (<https://www.gov.uk/government/organisations/digital-data-and-technology-profession>) job professions.
- The Service Provider will propose their approach to working alongside all of the technology providers to ensure the Service Design is central to the design and delivery of the technology components. This will also include detailing the day-to-day relationship, approval processes and the governance to support this delivery model.
- The Service Provider will propose their own schedule of work as part of the response to this ITT, planning how they propose carrying out the design to ensure the processes are ready and tested at each stage of delivery. The schedule will include but not be limited to:
  - a project kick off meeting to discuss the work to date, requirements, and proposed methodology;
  - regular meetings to manage the delivery of outputs through daily huddles/ stand-ups, sprint review and planning meetings;
  - regular updates (by phone or email) with the designated Scottish Government contact throughout the project
  - daily stand-ups, show and tells, retrospectives;

- Digital First Service Standard assessments at the appropriate time in each delivery stage; and
- regular progress reporting to the Purchaser, illustrating progress against plans, adherence to the Purchaser's requirements and resource utilisation, throughout the delivery lifecycle.
- The Service Provider will provide staff profiles and a resourcing schedule for proposed individuals who will work as part of this contract.
- Working with the Purchaser, the Service Provider will supply a fully documented escalation matrix within their organisational structure to deal with issues that cannot be resolved within the programme.

## 10 METHODOLOGY AND WAYS OF WORKING

The Service Provider must:

- A. adopt established Purchaser methodologies for user-focused agile delivery wherever possible, any departures from this approach must be agreed with the Purchaser in advance. See: <http://resources.mygov.scot/assessments/agile-overview/>.
- B. comply with **Annex C**, which provides an overview of our methodology and ways of working.
- C. align service design to the Digital First Service standard mandated for all new public services in Scotland. <http://resources.mygov.scot/standards/digital-first/>. This will include undertaking Digital First Service Assessments at key points.
- D. work collaboratively with the Assessments technology partner to ensure the Digital First Service standard mandated for all new public services in Scotland are met. <http://resources.mygov.scot/standards/digital-first/>.
- E. co-locate with the Purchaser project team in Atlantic Quay, Glasgow with a requirement to work in Purchaser offices across Scotland (including Dundee and Edinburgh)
- F. provide resources that will work full-time Monday to Friday (9am – 5pm) throughout the project.
- G. bring resources e.g. service designers, developers onto the project at appropriate times and only when needed. This will be in agreement with the Purchaser.
- H. work onsite throughout the programme with a clear commitment to time on-site (travel time will not be considered to be time on-site).
- I. ensure knowledge transfer to the Purchaser team, building the capability of the team and mentoring them to take ownership of the service, which will be measured throughout the contract using evaluation questionnaires and checklists
- J. use agile working practices and ceremonies including stand-ups, show and tells, retrospectives throughout the delivery.
- K. undertake user research and service design with end users aligned to the Scottish Approach to Service Design (see **Annex C**) and ensure research findings and recommendations are applied to design and delivery iteratively throughout the contract. Where possible SG will support recruitment of existing benefit recipients through Experience Panels. However, alternative recruitment routes will be required

for users who are not in receipt of benefits, staff users, and other third parties such as third sector staff and advocates, for which the Service Provider is required to take responsibility.

- L. have specific experience of delivering user research to agreed ethics standards when engaging with vulnerable user groups on sensitive issues.
- M. design services so that they can be shared and reused to deliver common business capabilities across the Scottish public sector.
- N. Where appropriate, work with Scottish Government architects to develop architecture artefacts to capture and communicate common understanding within the team and with wider stakeholders. These will then be approved by SG staff.
- O. work with the Purchaser during a two-week mobilisation period at the beginning of the contract to ensure SG security clearances (Baseline Personnel Security Standard) are completed and induction and project planning is completed. BPSS clearance is a requirement for access to SG buildings and/or systems.
- P. ensure that all proposed individuals for the contract have a certificate for basic disclosure, completed by Disclosure Scotland prior to the contract start date. **This can take 2 weeks or more to complete.**
- Q. ensure appropriate attendance at open session Social Security Project and Programme Boards together with any other open session meetings or boards as required by the Purchaser on behalf of the Social Security Programme.
- R. ensure that all services, internal and external, are designed in an inclusive manner for people with disabilities and in accordance with accessibility technical requirements.

## 11 SECURITY

The Service Provider will be expected to have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements) or equivalent. The ISO/IEC 27001 certification (or equivalent) must have a scope relevant to the services supplied to, or on behalf of, the Scottish Government and the statement of applicability must be acceptable to the Scottish Government, including the application of an appropriate selection of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

The Service Provider will adopt the UK Government Security Classification Policy in respect of any Scottish Government data being handled in the course of providing this service, and will handle this data in accordance with its security classification. In the event where the Service Provider has an existing Protective Marking Scheme then the Service Provider may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Scottish Government data.

Scottish Government data being handled in the course of providing this service must be segregated from other data on the Service Provider's own IT equipment to protect the Scottish Government data and enable it to be securely deleted when required. In the event that it is not possible to segregate the Scottish Government data then the Service Provider is required to ensure that it is stored in such a way that it is possible to securely delete the data.

Any electronic transfer methods across public space or cyberspace must be protected via encryption which has been certified under a NCSC (e.g. CAPS or CPA) or NCSC-endorsed scheme. Where this is not possible, the encryption method used must be

approved IN ADVANCE by the Scottish Government prior to being used for the transfer any Scottish Government data.

Any portable removable media (including but not constrained to pen drives, memory sticks, CDs, DVDs, PDPs, USB devices) which handle, store or process in any way Scottish Government data to deliver and support the service, shall be under the configuration management of the (sub-)contractors providing the service, shall be necessary to deliver the service, and shall be full-disk encrypted using a product which has been certified under a NCSC (e.g. CAPS or CPA) or NCSC-endorsed scheme, failing that, approved for use by the Scottish Government's security contact.

All paper holding Scottish Government data must be securely protected whilst in the Service Provider's care and securely destroyed when no longer required using a cross-cutting shredder and/or a professional secure waste paper organisation.

Paper documents containing Scottish Government data must be transmitted, both within and outside company premises in such a way as to make sure that no unauthorised person has access.

At the end of the contract or in the event of failure or obsolescence, all equipment holding Scottish Government data must be securely cleansed or destroyed using a NCSC approved product or method. Where this is not possible e.g. for legal or regulatory reasons, or technical reasons such as where there is storage area network (SAN) or shared backup tapes, then the Service Provider must protect the equipment until the time (which may be long after the end of the contract) when it can be securely cleansed or destroyed. In the case of Cloud storage, the NCSC Cloud Security Principles must be followed.

Access by Service Provider staff to Scottish Government data must be confined to those individuals who have a "need-to-know" and whose access is essential for the purpose of their duties. All employees with direct or indirect access to Scottish Government data must be subject to pre-employment checks equal to the requirements of the HMG Baseline Personnel Security Standard (BPSS): Details of the standard are available at the HMG website <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>.

Any non-compliance with Scottish Government conditions, or any suspected or actual breach of the confidentiality or integrity of Scottish Government data being handled in the course of providing this service, must be immediately escalated to the Scottish Government by a method agreed by both parties.

The Scottish Government reserves the right to audit the Service Provider with 24 hours' notice in respect to the Service Provider's compliance with the clauses contained in this Section.

The Service Provider will appoint a suitably qualified individual to act as a single point of contact on all security matters related to this contract, who will liaise with the primary point of contact within the Scottish Government, the Head of Digital Risk & Security for Social Security.

Where Personally Identifiable Information (PII) is involved, the Service Provider shall contractually enforce all Scottish Government Security conditions onto any third-party Service Providers, sub-contractors or partners who could potentially access Scottish Government data in the course of providing this service.

Where no Personally Identifiable Information (PII) is involved, the Service Provider shall contractually enforce all of these Scottish Government Security conditions, where the required standard is the HMG Cyber Essentials certification or equivalent, onto any third-party Service Providers, sub-contractors or partners who could potentially access Scottish Government data in the course of providing this service. Exceptions to this to be agreed in

writing with the Scottish Government's Head of Digital Risk & Security – Social Security Programme.

Service Provider must handle all data in accordance with General Data Protection Regulation (GDPR).

The Scottish Government reserves the right to audit the Service Provider with 24 hours' notice in respect to the Service Provider's compliance with the clauses in this Section.

#### Data Strategy

In Social Security Scotland there's a Data Strategy in place that sets out mission, vision and principles for data management.

Data is one of the major assets of Social Security Scotland and must, therefore, be managed as an organisational asset. Aligning to the Data Strategy in the end to end service design and development of services and solutions to deliver devolved benefits to people of Scotland ensures investment in the right data capabilities and technologies for the SSS.

The Service Provider must ensure that the solution is designed and delivered in such a manner that they meet the terms of the General Data Protection Regulation and the Social Security Programme data strategy. The Service Provider will work with the data team to ensure ongoing alignment with the data strategy.

#### Data Protection Impact Assessment

The Service Provider is required to participate in required exercises to complete necessary assessments related to the execution of the contract including Data Protection Impact Assessment (DPIA).

All Service Provider resources must meet the Baseline Personnel Security Standard (BPSS) and have Basic Disclosure by the start of the contract. Details of Disclosure are available at the following website:

<https://www.mygov.scot/organisations/disclosure-scotland/?via=https://www.disclosurescotland.co.uk/contact/>

The following are security considerations specifically for unconnected use and must be fully incorporated into the E2E Service Design and testing.

## ANNEXES

Annex A – Background to Social Security Programme

Annex B – Social Security Discovery Report

Annex C – Our Approach to Digital Transformation

Annex D – PIP Discovery Report (Appendix 1-14)

Annex E- Assessment Process Flow Diagram

Annex F – Assessment Swim Lanes Diagram

Annex G – PIP Service Overview Diagram

*Annex H – Annex not included for Assessments Service Design SoR*

Annex I – PIP Capability Map

Annex J - Service Design (User Journeys and Personas)

Annex K – Part 2 – DEU – Social Security – How We Work

Annex L – Assessments Common IT Component Overview and Description

**\*Note: Annexes detailed on separate attachments**

**SCHEDULE 1 PART B – SERVICE PROVIDER SOLUTION**

\*Note: Details of Service Provider's Solution detailed on separate attachment.



Deloitte Technical  
Response.docx



This and the following 10 pages comprise Schedule 2 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

**SCHEDULE 2 - PRICING SCHEDULE**

**Part A**

| <b>SOR Ref:<br/>6.1</b> | <b>Line<br/>Item<br/>No.</b> | <b>Scope and Deliverables</b> | <b>Number<br/>of<br/>Mandays</b> | <b>Blended<br/>Day Rate<br/>£ (ex<br/>VAT)</b> | <b>Firm Price £<br/>(ex VAT)</b> |
|-------------------------|------------------------------|-------------------------------|----------------------------------|--|----------------------------------|
| 6.1.1                   | 1                            |                               |                                  |  |                                  |
| 6.1.2                   | 2                            |                               |                                  |  |                                  |
| 6.1.3                   | 3                            |                               |                                  |  |                                  |
| 6.1.4                   | 4                            |                               |                                  |  |                                  |
| 6.1.5                   | 5                            |                               |                                  |  |                                  |
| 6.1.6                   | 6                            |                               |                                  |  |                                  |
| Schedule<br>10          | 7                            |                               |                                  |  |                                  |
|                         |                              |                               |                                  |  | <b>1,897,830.00</b>              |

\* Please note there is a slight variance in the total Firm Price which is due to the figures being rounded up or down.

[Redacted: Exempt under 33(1)(b)  
, FOISA]

|                                  |   |
|----------------------------------|---|
| <p>Note 1:<br/>Final Payment</p> | <p>For each Statement of Works a payment plan will be agreed. The Statement of Works may involve activities that relate to more than one item within the pricing schedule deliverables lines 1-7. For each individual Statement of Works, the applicable charges will be calculated using the the agreed relevant rates for the Service Provider representatives as detailed in Annex 3 to Schedule 2 (pricing) of this Contract and the number of working days or pro rata for every part of a working day, that the Service Provider representatives will be actively providing the services during the term of the SOW. For each Statement of Works, 20% of the total price will be retained until completion of all deliverables required within Schedule 1: Statement of Requirements except if and to the extent that completion of any such deliverables is delayed due to the actions or omissions of any party other than the Service Provider, or any other events or circumstances outside the reasonable control of the Service Provider.</p> |
| <p>Note 2:</p>                   | <p>Supplier Staff providing the Services may only be changed with prior approval of the Buyer. In the event that any of the Supplier's Key Staff cannot continue on the contract, the Supplier will promptly propose to the Buyer a like for like replacement and will be responsible for onboarding the resource to develop knowledge of the project. The grade and discipline of the resources attributed to each SoW will be agreed between the Purchaser and the Service Provider prior to commencement of the SoW.</p>   |

**Part B**

| <b>Indirect Costs (any other applicable costs)</b> | <b>Firm Price £ (ex VAT)</b> |
|--|------------------------------|
|  |                              |
| Quality Assurance Partner                          |                              |
| <b>Total Firm Price £ (ex VAT)</b>                 | <b>£1,897,830.00</b>         |

[Redacted: Exempt under 33(1)(b), FOISA]

**1 General**

- 1.1 The Total Firm Price covers all costs associated with the delivery of this service taking into account all mandatory requirements included in **paragraph 6.1** of the Statement of Requirements. Firm Prices throughout the Pricing Schedule will be deemed to include all costs associated with delivery, including but not limited to: staff charges, attendance at meetings, equipment, access to data, travel and subsistence and overheads.
- 1.2 Prices are expressed in Pounds Sterling (£), exclusive of any VAT which may be chargeable and will remain Firm (i.e. not subject to adjustment) for the Initial Period of the Contract.
- 1.3 A Firm Price for each deliverable listed within Part A - Scope and Deliverables has been provided for each deliverable by calculating the total applicable number of Mandays by the applicable Blended Day Rate i.e. Landed or UK Based.
- 1.4 Blended Day Rate is based on the individual Day Rates for resources indicated within the Resource Profile at ANNEX 1 below. The Blended Day Rate is inclusive of all direct costs associated with achieving the deliverable.
- 1.5 Indirect Costs e.g. costs which are not attributable to a specific activity required to produce a deliverable in Part A but are attributable across the Contract i.e. account management have been itemised in Part B "Indirect Costs (any other applicable costs)".

**2 Resource Profile Worksheet**

- 2.1 Prices expressed in Pounds Sterling (£), exclusive of any VAT which may be chargeable and will remain Firm (i.e. not subject to adjustment) for the Initial Period of the contract.

**3 Rate Card**

- 3.1 Prices expressed in Pounds Sterling (£), exclusive of any VAT which may be chargeable and will remain firm (i.e. not subject to adjustment) for the Initial Period of the Contract and for Option Year 1.
- 3.2 The purpose of the Rate Card: the Purchaser reserves the right to a contractual option to purchase additional Post Design Support and Development services within the initial Period of the Contract and/or during Option Year 1. The Firm Price Manday Rates provided by the Tenderer as part of their Rate Card response will be used by the Purchaser and the Service Provider to agree a Firm Price for Post Design Support and Development services. The said Firm Price will not exceed 50% of the initial contract value.

## ANNEX 1 TO SCHEDULE 2 - RESOURCE PROFILE

1. Complete a high level Service Design exercise to inform the requirements for the procurement of the Assessment Tool.

| Resource No. | Discipline                         | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead                    |      |                        | No                       | 24             |
| 2            | Service Designer                   |      |                        | No                       | 38             |
| 3            | User Interaction Designer          |      |                        | No                       | 8              |
| 4            | Service Design Business Analyst    |      |                        | No                       | 38             |
| 5            | User Research Lead                 |      |                        | No                       | 38             |
| 6            | Spatial Designer                   |      |                        | No                       | 5              |
| 7            | Medical SME                        |      |                        | No                       | 5              |
| 8            | Technology/Benefits Assessment SME |      |                        | No                       | 2              |
|              |                                    |      |                        | Total Days               | 158            |

[Redacted: Exempt under 33(1)(b), FOISA]

## ANNEX 1 TO SCHEDULE 2 - RESOURCE PROFILE

## 2. Design and deliver the Healthcare Professional advice Process

| Resource No. | Discipline                         | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead                    |      |                        | No                       | 43             |
| 2            | Service Designer                   |      |                        | No                       | 72             |
| 3            | User Interaction Designer          |      |                        | No                       | 38             |
| 4            | User Experience Designer           |      |                        | No                       | 35             |
| 5            | Service Design Business Analyst    |      |                        | No                       | 68             |
| 6            | UI/UE Business Analyst             |      |                        | No                       | 68             |
| 7            | User Research Lead                 |      |                        | No                       | 24             |
| 8            | User Researcher                    |      |                        | No                       | 24             |
| 9            | User Researcher                    |      |                        | No                       | 24             |
| 10           | Solution Designer                  |      |                        | No                       | 12             |
| 11           | Medical SME                        |      |                        | No                       | 20             |
| 12           | Content Designer                   |      |                        | No                       | 20             |
| 13           | Technology/Benefits Assessment SME |      |                        | No                       | 6              |
| Total Days   |                                    |      |                        |                          | 454            |

[Redacted: Exempt under 33(1)(b), FOISA]

## ANNEX 1 TO SCHEDULE 2 - RESOURCE PROFILE

## 3. Design and Deliver desk-based review and face to face assessments service

| Resource No. | Discipline                         | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead                    |      |                        | No                       | 36             |
| 2            | Service Designer                   |      |                        | No                       | 45             |
| 3            | User Interaction Designer          |      |                        | No                       | 55             |
| 4            | User Experience Designer           |      |                        | No                       | 44             |
| 5            | Service Design Business Analyst    |      |                        | No                       | 46             |
| 6            | User Research Lead                 |      |                        | No                       | 36             |
| 7            | User Researcher                    |      |                        | No                       | 48             |
| 8            | User Researcher                    |      |                        | No                       | 48             |
| 9            | Solution Designer                  |      |                        | No                       | 12             |
| 10           | Technology/Benefits Assessment SME |      |                        | No                       | 6              |
| 11           | Spatial Designer                   |      |                        | No                       | 48             |
| 12           | Medical SME                        |      |                        | No                       | 30             |
| 13           | Content Designers                  |      |                        | No                       | 24             |
|              |                                    |      |                        | Total Days               | 478            |

[Redacted: Exempt under 33(1)(b), FOISA]

## ANNEX 1 TO SCHEDULE 2 - RESOURCE PROFILE

## 4. Design and Deliver the Post Assessment Service

| Resource No. | Discipline                         | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead                    |      |                        | No                       | 38             |
| 2            | Service Designer                   |      |                        | No                       | 68             |
| 3            | User Interaction Designer          |      |                        | No                       | 34             |
| 4            | User Experience Designer           |      |                        | No                       | 34             |
| 5            | Service Design Business Analyst    |      |                        | No                       | 68             |
| 6            | UI/UE Business Analyst             |      |                        | No                       | 68             |
| 7            | User Research Lead                 |      |                        | No                       | 24             |
| 8            | User Researcher                    |      |                        | No                       | 24             |
| 9            | User Researcher                    |      |                        | No                       | 24             |
| 10           | Solution Designer                  |      |                        | No                       | 12             |
| 11           | Spatial Designer                   |      |                        | No                       | 12             |
| 12           | Medical SME                        |      |                        | No                       | 20             |
| 13           | Content Designers                  |      |                        | No                       | 24             |
| 14           | Technology/Benefits Assessment SME |      |                        | No                       | 6              |
|              |                                    |      |                        | Total Days               | 456            |

[Redacted: Exempt under 33(1)(b), FOISA]



## ANNEX 1 TO SCHEDULE 2 - RESOURCE PROFILE

5. Ensure the end to end service is fully integrated with other Social Security Scotland services.

| Resource No. | Discipline                         | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead                    |      |                        | No                       | 37             |
| 2            | Service Designer                   |      |                        | No                       | 20             |
| 3            | Service Design Business Analyst    |      |                        | No                       | 38             |
| 4            | UI/UE Business Analyst             |      |                        | No                       | 38             |
| 5            | Solution Designer                  |      |                        | No                       | 38             |
| 6            | Technology/Benefits Assessment SME |      |                        | No                       | 6              |
|              |                                    |      |                        | Total Days               | 177            |

6. Ensure Common Components support the service wherever possible.

| Resource No. | Discipline             | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|------------------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead        |      |                        | No                       | 18             |
| 2            | UI/UE Business Analyst |      |                        | No                       | 18             |
| 3            | Solution Designer      |      |                        | No                       | 64             |
|              |                        |      |                        | Total Days               | 100            |

7. Exit Plan.

| Resource No. | Discipline      | Name | Manday Rate £ (ex VAT) | Landed Resource (Yes/No) | Number of days |
|--------------|-----------------|------|------------------------|--------------------------|----------------|
| 1            | Engagement Lead |      |                        | No                       | 10             |

[Redacted: Exempt under 33(1)(b), FOISA]

## ANNEX 2 TO SCHEDULE 2 - DAYS BY MILESTONE

| SOR Ref -<br>6.1 | Line<br>Item<br>No. | Scope and Deliverables   | Mandays by commercial milestones |                        |                       |                       |                            |
|------------------|---------------------|--|----------------------------------|------------------------|-----------------------|-----------------------|----------------------------|
|                  |                     |  | SOW                              | Completion<br>of Alpha | Completion<br>of Beta | Production<br>Service | Total Number of<br>Mandays |
| 6.1.1            | 1                   | Complete a high level Service Design exercise to inform the requirements for the procurement of the Assessment Tool. | 158                              | 0                      | 0                     | 0                     | 158                        |
| 6.1.2            | 2                   | Design and deliver the Healthcare Professional advice process  | 0                                | 218                    | 145                   | 91                    | 454                        |
| 6.1.3            | 3                   | Design and deliver the desk-based review and fact-to-face assessments service  | 0                                | 229                    | 153                   | 96                    | 478                        |
| 6.1.4            | 4                   | Design and deliver the Post-Assessment service   | 0                                | 219                    | 146                   | 91                    | 456                        |
| 6.1.5            | 5                   | Ensure the E2E service is fully integrated with other Social Security Scotland services                              | 0                                | 44                     | 89                    | 44                    | 177                        |
| 6.1.6            | 6                   | Ensure Common Components support the service wherever possible.  | 0                                | 25                     | 50                    | 25                    | 100                        |
| Schedule 10      | 7                   | Final Payment- Exit Plan*  | 10                               | 0                      | 0                     | 0                     | 10                         |

\* Line Item No 7

The development of the Exit Plan will be undertaken within the first phase of work and within the three months stipulated in Schedule 10. Exit management activities include: knowledge and skill transfer; coaching; handing over of documentation and undertaking an exit readiness assessment, client sign-off on all deliverables in scope; and end of engagement reviews and feedback process to assess SSS satisfaction.

## ANNEX 3 TO SCHEDULE 2 - RATE CARD

[Redacted: Exempt under 33(1)(b), FOISA]

| Resource No. | Grade        | Discipline                         | Name | Landed Resource (Yes/No) | Firm Price Manday Rate £ (ex VAT) Year 1 and Year 2 | Firm Price Manday Rate £ (ex VAT ) Optional Year 3 |
|--------------|--------------|------------------------------------|------|--------------------------|---|--|
| 1            | Senior       | Engagement Lead                    |      | No                       |   |  |
| 2            | Intermediate | Service Designer                   |      | No                       |   |  |
| 3            | Junior       | User Interaction Designer          |      | No                       |   |  |
| 4            | Intermediate | User Experience Designer           |      | No                       |   |  |
| 5            | Intermediate | Service Design Business Analyst    |      | No                       |   |  |
| 6            | Junior       | UI/UE Business Analyst             |      | No                       |   |  |
| 7            | Senior       | User Research Lead                 |      | No                       |   |  |
| 8            | Intermediate | User Researcher                    |      | No                       |   |  |
| 9            | Intermediate | User Researcher                    |      | No                       |   |  |
| 10           | Intermediate | Solution Designer                  |      | No                       |   |  |
| 11           | Junior       | Content Designer                   |      | No                       |   |  |
| 12           | Senior       | Spatial Design Lead                |      | No                       |   |  |
| 13           | Senior       | Medical SME                        |      | No                       |   |  |
| 14           | Senior       | Technology/Benefits Assessment SME |      | No                       |   |  |
| 15           | Senior       | Additional SME Resource            |      | No                       |   |  |
| 16           | Executive    | Partner Resource                   |      | No                       |   |  |

This and the following 4 pages comprise Schedule 3 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

### **SCHEDULE 3 – ORDERING PROCEDURES**

#### **1. General**

- 1.1. The Parties will execute a Statement of Work (SOW) for each Order.
- 1.2. Multiple SOWs can operate concurrently.
- 1.3. The rights, obligations and details agreed by the Parties and set out in each SOW apply only in relation to the Services that are to be delivered under that SOW and will not apply to any other SOW executed or to be executed under this Contract unless otherwise agreed by the Parties.
- 1.4. The Service Provider will provide a proposal to each SOW to include a resource plan, indicative project, milestone and payment plan for each of the deliverables outlined in the SOW for consideration by the Purchaser. A template SOW is provided within this Schedule.
- 1.5. The initial SOW will be agreed post contract award with detail of the requirements provided at the inception meeting. The inception meeting will take place during the 2 week mobilisation period with the initial SoW expected to be agreed during the first week of the Contract.
- 1.6. The Purchaser will review the Service Provider's proposal and ensure that it meets the SOW in terms of expected resources, project plan and Price. This will be managed by the Purchaser through senior stakeholders and delegated where appropriate to the project team to maintain the cadence. Final sign-off of the all proposals will be achieved through the relevant board, which will include senior representation from across the Social Security Directorate.
- 1.7. The Service Provider will be asked to review its proposal if the Purchaser considers it does not meet the Purchaser's requirements. The Parties will agree suitable timeframes for the revised SOW to be provided to the Purchaser for approval and for the Purchaser to confirm approval (or otherwise) to the Service Provider.
- 1.8. Any variations to an approved SOW will be formally documented through the Change Control Procedure. The Service Provider is shall maintain continuity of service delivery throughout the Change Control Procedure.
- 1.9. The names of resources who will be attributed to this SOW may change to those listed in Annex 1 to Schedule 2 – Resource Profile, however, the grade/discipline of resource will remain unchanged

## 2. Statement of Work (SOW) Template

- 2.1. The following SOW template will be used by the Parties to agree a SOW under the Contract.

### SOW Details

|   |  |
|---|--|
| <b>Date of SOW:</b>                     | <i>Please enter the first date (on site)</i>                         |
| <b>SOW Reference:</b>                   | <i>SP-18-042/*</i>   |
| <b>Purchaser:</b>                       | <i>The Scottish Ministers acting through the Scottish Government</i> |
| <b>Service Provider:</b>                | <i>Service Provider Full Name</i>                                    |
| <b>Deliverable Type(s):</b>             | <i>Please enter here</i>   |
| <b>Phase(s) of Development:</b>         | <i>Please enter here</i>   |
| <b>Start Date:</b>                      |  |
| <b>Completion Date:</b>                 | <i>Please enter the Completion Date</i>                              |
| <b>Duration of SOW</b>                  | <i>Please enter the number of days here</i>                          |
| <b>Charging Method(s) for this SOW:</b> | <i>Firm Price</i>  |

### Key Individuals

The Parties agree that the Key Individuals in respect of this SOW are detailed in the table below.

| <b>Name</b> | <b>Role</b> | <b>Details</b> |
|-------------|-------------|----------------|
|             |             |                |

Any change to the Service Provider Representatives shall be agreed with the Purchaser and covered by a separate SOW where it cannot be accommodated within an existing SOW.

### Deliverables

To be added, once in agreement between the Parties. Such as:

- [Approach]
- [Service Levels:]
- [Reports to be provided by the Service Provider (with reference to paragraph 1 (*Reporting*) of Schedule 4 Part A (*Management Arrangements*) of the Contract:

- [Milestones to be Achieved during the SOW and Milestone Dates (with reference to the current version of the Implementation Plan)]
- [Sprints: ]
- [Timescales]

### **SOW Charges**

For each individual SOW, the applicable Charges will be calculated using all of the following:

- the agreed relevant rates for Service Provider Representatives as detailed in Schedule 2 (Pricing) of this Contract.
- the number of Working Days, or pro rata for every part of a Working Day, that Service Provider Representatives will be actively providing the Services during the term of the SOW.

The Service Provider will provide a detailed breakdown of Manday Rates based on time and materials Charges, inclusive of expenses and exclusive of VAT, with sufficient detail to enable the Purchaser to verify the accuracy of the time and material SOW Charges incurred.

The Service Provider will provide a Burn Down Chart to demonstrate the state of progress made prior to Agreement of SoW relative to the Deliverables detailed within Schedule 1 Specification and in turn relative to consumption of each Line Item 1 to 6 inclusive and the Total Firm Price agreed at Schedule 2 Pricing. The Service Provider will also provide similar Burn Down Chart to demonstrate progress and consumption to be made at SoW Completion Date.

The Service Provider will keep accurate records of the time spent by the Service Provider Representatives in providing the services and will provide records to the Purchaser for inspection on request.

The detailed breakdown for the provision of Services during the term of the SOW will include (but will not be limited to):

- a role description per Service Provider Representative;
- the agreed relevant Manday Rate;
- the number of Working Days, or pro rata for every part Working Day, they will be actively providing the Services during the term of the SOW; and
- the total cost per Service Provider Representative

The Service Provider will also provide a summary which is to include:

- Total value of this SOW
- Remainder of value under the overall Contract
- Whether there is any risk of exceeding Overall Contract value

Firm Price:

- The Service Provider will continue at its own cost and expense to provide the Services even where the agreed Firm Price has been exceeded; and
- The Purchaser will have no obligation or liability to pay for the cost of any Services delivered relating to this SOW after the agreed Firm Price has been exceeded.

### **Risks or Contingencies**

Risks or contingencies will be included in the Charges. The Parties agree that the following assumptions, representations, risks and contingencies will apply in relation to the Charges.

## Assumptions and Dependencies

To be added subject to agreement by both Parties:

## SSD & Service Provider Roles

The key SSD role will be to support the Service Provider in its delivery of this Statement of Work, ensuring that the Service Provider has access to the necessary SSD (and others as necessary) personnel, information and systems at the required times in order to complete the Service within the agreed timescales.

### SSD

| <b>Roles</b>     | <b>Key Responsibilities</b>   |
|------------------|---|
| SoW Sponsor      | To ensure that all impediments to delivery of the SoW are removed   |
| SoW Owner        | To ensure the Service is executed successfully against parameters of cost, quality, and timescales<br><br>To ensure that the Services provided are monitored and have all the information and tools required to undertake the role successfully |
| Commercial Owner | To ensure that commercial negotiations are concluded successfully with the Service Provider   |

## THE SERVICE PROVIDER

The Service Provider will undertake the duties and tasks described within this Statement of Work utilising the following roles as support to the services provided as part of the SoW.

| <b>Roles</b>              | <b>Key Responsibilities</b>   |
|---------------------------|---|
| Account Manager           | To ensure commercial negotiations are concluded successfully<br><br>To act as an escalation point for any issues that arise during the execution of the Service |
| Service Delivery Managers | To act as a single point of contact for all Service Provider Representatives to ensure that any on-site issues are managed and controlled accordingly           |

## Fees and Commercial Considerations

The fees for this SOW will be those stated in the Pricing Schedule 2.

The rates are in pounds sterling and are exclusive of, but subject to, VAT.

They include all expenses associated with undertaking the Services at the designated location(s).

**Payment**

Payment shall be based on the completion of agreed Milestones and these Milestones will always be tied to delivery. The Purchaser shall pay the Service Provider in arrears following demonstration by the Service Provider and acceptance by the Purchaser that a Milestone has been achieved.

Should the Service Provider fail to achieve a Milestone by the agreed date the Purchaser reserves the right to withhold payment for that Milestone until it has been achieved subject to demonstration by the Service Provider and acceptance by the Purchaser.

**Agreement of Statement of Works**

BY SIGNING this SOW, the Parties agree to be bound by the terms and conditions set out herein:

**For and on behalf of the Service Provider:**

Name and title

Signature and date

\_\_\_\_\_X\_\_\_\_\_

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

Name and title

Signature and date

\_\_\_\_\_X\_\_\_\_\_

Please note that this is the first SOW. If the value of the first SOW is lower than the overall Contract value, and subsequent SOW(s) are required to ensure the Services are delivered, they must be raised and signed by the Purchaser and the Service Provider.



This and the following 2 pages comprise Schedule 4 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

## **SCHEDULE 4 – MANAGEMENT ARRANGEMENTS**

### **PART A: GENERAL ARRANGEMENTS**

#### **1. REPORTING**

- 1.1 The Service Provider must provide the reports as detailed in Schedule 1 Specification and the rest of the Contract.
- 1.2 The Service Provider, in conjunction with the Purchaser, will review the suitability of the reporting throughout the Period Of the Contract (which may include the provision of new reports and/or additional breakdown within reports as reasonably requested by the Purchaser).
- 1.3 The Risk Register shall be updated by the Service Provider and submitted for regular review by the Purchaser.

#### **2. IMPLEMENTATION PLAN**

- 2.1 The Service Provider will have a robust mobilisation plan for commencing the Contract to ensure that adequate resources are available to meet the needs of the Purchaser, dependent on the stage of the project. For example, the Purchaser would expect different resource will be required to deliver a Discovery or Alpha compared to a Beta.
- 2.2 The Supplier will ensure that all proposed individuals for the Contract have a certificate of basic disclosure, from Disclosure Scotland prior to the contract start date.
- 2.3 The Service Provider will be required to attend a contract inception meeting during the 2 week mobilisation period.

#### **3. MEETINGS**

- 3.1 The Service Provider will be expected to meet with the Purchaser at the frequency and for the purposes detailed at in Schedule 1 (*Specification*).
- 3.2 The Service Provider may be required to undertake other ad hoc visits to the Purchaser and other third parties that are relevant to the Services to discuss the operation of this Contract.
- 3.3 The Service Provider, in conjunction with the Purchaser, will review the suitability of meeting frequency and purpose throughout the Period of the Contract.
- 3.4 All costs incurred by the Service Provider in attending such meetings will be the responsibility of the Service Provider.

#### **4. STATEMENT OF WORKS (SOW)**

- 4.1 Services required under this Contract will be managed using a Statement of Work (SOW) agreed between the Parties. The purpose of each SOW is to agree the time, cost and quality (e.g. the deliverable(s) to be achieved by the end of the SOW).
- 4.2 The first SOW will be agreed post contract award with details of the Purchaser's requirements provided at the inception meeting. The Service Provider will provide a proposal for the SOW within 1 week of receiving the Purchaser's requirements for the SOW. With the first SOW expected to be agreed during the first week of the contract.

**5. CONTRACT MANAGEMENT MECHANISMS**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Service Provider shall develop, operate, maintain and amend, as agreed with the Purchaser, processes for:
- 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.

**6. DISPUTE RESOLUTION**

- 6.1 The Parties shall attempt to resolve any dispute between them arising out of, or in connection with, this 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 as follows.
- 6.2 Any dispute will, in the first instance, be presented to the Service Provider's Contract Manager and the Purchaser's Contract Manager for resolution.
- 6.3 If the Service Provider's Contract Manager and the Purchaser's Contract Manager cannot agree on a resolution, then a separate meeting will be held between the senior management of the Service Provider and the Purchaser for resolution.
- 6.4 If the dispute cannot be resolved by the Parties pursuant to this paragraph, the Parties shall refer it to mediation pursuant to the procedure set out at paragraph 5 to this Schedule unless:
- 6.4.1 the Purchaser considers that the dispute is not suitable for resolution by mediation; or
  - 6.4.2 the Service Provider does not agree to mediation.
- 6.5 The obligations of the Parties under this Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Service Provider shall comply fully with the requirements of this Contract at all times.

**7. MEDIATION**

- 7.1 For the purposes of this mediation, the following terms are defined as follows:
- 7.1.1 "CEDR" means the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU ([www.cedr.com](http://www.cedr.com)); and
  - 7.1.2 "**Contract Mediator**" means a neutral adviser or mediator chosen by agreement between the Parties.
- 7.2 A Contract Mediator shall be appointed or, if the Parties 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.
- 7.3 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.

- 7.4 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.
- 7.5 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.
- 7.6 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 this Contract without the prior written consent of both Parties.
- 7.7 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, for the purposes of clause 54 (*Dispute Resolution*), the dispute cannot be resolved in accordance with paragraphs 4 and 5 of this Schedule.

OFFICIAL - SENSITIVE – [COMMERCIAL]

This and the following 1 pages comprise Schedule 5 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

**SCHEDULE 5 – KEY INDIVIDUALS**

| <b>Name</b> | <b>Role</b> | <b>Responsibilities/Authorities</b> | <b>Phase during which they will be a Key Individual</b> |
|-------------|-------------|-------------------------------------|---|
|             |             |                                     |   |
|             |             |                                     |   |
|             |             |                                     |   |
|             |             |                                     |   |
|             |             |                                     |   |
|             |             |                                     |   |

[Redacted: Exempt under 38(1)(b), FOISA]

This and the following 1 page comprise Schedule 6 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

**SCHEDULE 6 – APPROVED SUB-CONTRACTORS**

| <b>approved Sub-Service Provider(s)</b> | <b>Relevant obligations</b> |
|---|-----------------------------|
| 1. Nile HQ                              | User Research Services      |

OFFICIAL - SENSITIVE – [COMMERCIAL]

This and the following 1 pages comprise Schedule 7 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

**SCHEDULE 7 – TRANSPARENCY REPORTS AND SERVICE PROVIDER SENSITIVE INFORMATION**

**Part 1- Transparency Reports**

The Purchaser will routinely publish information in relation to the Contract. This information will be released in Transparency Reports. An example of the type and frequency of the information is as follows:

**TRANSPARENCY REPORTS (to be completed by the Purchaser within 3 months of Contract Award)**

| TITLE                           | CONTENT | FORMAT | FREQUENCY |
|---------------------------------|---------|--------|-----------|
| <i>(Performance)</i>            |         |        |           |
| <i>(Charges)</i>                |         |        |           |
| <i>(Major subcontractors)</i>   |         |        |           |
| <i>(Technical)</i>              |         |        |           |
| <i>(Performance management)</i> |         |        |           |

**Part 2**

**SERVICE PROVIDER SENSITIVE INFORMATION**

| Type of information specified as Service Provider Sensitive Information | Reason why information is sensitive | Duration of sensitivity |
|---|-------------------------------------|-------------------------|
| Personal information (CV's, contact details etc.)                       | TBC                                 | TBC                     |
| Pricing   | TBC                                 | TBC                     |
| Cost Base   |                                     |                         |
| Insurance Arrangements  | TBC                                 | TBC                     |
| Proprietary Informations  | TBC                                 | TBC                     |
| Approach and/or our Methodologies                                       | TBC                                 | TBC                     |

**SCHEDULE 8 – PARENT COMPANY GUARANTEE – Not Used**

This and the following 1 pages comprise Schedule 9 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

## **SCHEDULE 9 – DATA PROTECTION**

Data Processing provision as required by Article 28(3) GDPR.

This Part includes certain details of the Processing of Personal Data in connection with the Services:

### ***Subject matter and duration of the Processing of Personal Data***

The subject matter and duration of the Processing of Personal Data are set out in the Contract.

### ***The nature and purpose of the Processing of Personal Data***

The Assessments Service will support delivery of the Social Security Scotland service. Scottish Government and its contracted Service Providers will hold and process personal data of clients using the Assessments tool. The processing of data will allow Service Providers to access participant contact details and case details and record information on engagement and outcomes achieved.

### ***The types of Personal Data to be Processed***

Client information including name, address, national insurance number, benefit entitlement, telephone number, claim application and evidence received or obtained to support the application. It should be noted that part of the Service Design process will identify all elements of personal data that will be used across the Assessments service.

### ***The categories of Data Subject to whom Personal Data relates***

Data Subjects are categorised in the Statement of Requirements.

### ***The obligations and rights of the Purchaser***

The obligations and rights of the Purchaser as the Data Controller are set out in Clause 14 of the Contract.



This and the following 7 pages comprise Schedule 10 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

## **SCHEDULE 10 - CHANGE CONTROL PROCEDURE**

### **1. GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE**

- 1.1 This Schedule sets out the procedure for dealing with Contract Changes.
- 1.2 Operational Changes shall be processed in accordance with paragraph 8. If either Party is in doubt about whether a Change falls within the definition of an Operational Change then it will be processed as a Contract Change.
- 1.3 Under this Change Control Procedure:
  - 1.3.1 either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with paragraph 3;
  - 1.3.2 the Service Provider will assess and document the potential impact of a proposed Contract Change in accordance with paragraph 4 before the Contract Change can be either approved or implemented;
  - 1.3.3 the Purchaser shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in paragraph 5;
  - 1.3.4 the Service Provider shall have the right to reject a Change Request solely in the manner set out in paragraph 6;
  - 1.3.5 no proposed Contract Change shall be implemented by the Service Provider until such time as a Change Authorisation Note has been signed and issued by the Purchaser in accordance with paragraph 5.2; and
  - 1.3.6 if the circumstances or nature of a proposed Contract Change mean that it is a Fast-track Change then it shall be processed in accordance with paragraph 7.
- 1.4 Not Used.
- 1.5 Until such time as a Change Authorisation Note has been signed and issued by the Purchaser in accordance with paragraph 5.2, then:
  - 1.5.1 unless the Purchaser expressly agrees otherwise in writing, the Service Provider shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply; and
  - 1.5.2 any discussions, negotiations or other communications which may take place between the Purchaser and the Service Provider in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.

### **2. COSTS**

- 2.1 Subject to paragraph 2.3, each Party shall bear its own costs in relation to the preparation and agreement of each Change Request and Impact Assessment.
- 2.2 All Contract Changes shall be calculated and charged in accordance with the day rates set out Schedule 2 (*Pricing*). The Service Provider will only be entitled to increase the Charges if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Contract Change.

- 2.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Service Provider shall be paid for by the Service Provider.

### **3. CHANGE REQUEST**

- 3.1 Either Party may issue a Change Request to the other Party at any time during the Term. The Change Request shall be substantially in the form of Annex 1 to this Schedule and must state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.
- 3.2 If the Service Provider issues the Change Request, then it shall also provide an Impact Assessment to the Purchaser as soon as is reasonably practicable but in any event within ten (10) Working Days of the date of issuing the Change Request.
- 3.3 If the Purchaser issues the Change Request, then the Service Provider shall provide an Impact Assessment to the Purchaser as soon as is reasonably practicable but in any event within ten (10) Working Days of the date of receiving the Change Request from the Purchaser provided that if the Service Provider requires any clarifications in relation to the Change Request before it can deliver the Impact Assessment, then it will promptly notify the Purchaser and the time period shall be extended by the time taken by the Purchaser to provide those clarifications. The Purchaser shall respond to the request for clarifications as soon as is reasonably practicable and the Service Provider shall provide the Purchaser with sufficient information to enable it to understand fully the nature of the request for clarification.

### **4. IMPACT ASSESSMENT**

- 4.1 Each Impact Assessment shall be completed in good faith and shall include:
- 4.1.1 details of the proposed Contract Change including the reason for the Contract Change; and
  - 4.1.2 details of the impact of the proposed Contract Change on the Services and the Service Provider's ability to meet its other obligations under this Contract and any variation to the terms of this Contract that will be required as a result of that impact and including changes to:
    - (a) the Specification and the Service Levels (if applicable);
    - (b) the Milestones, Implementation Plan and any other timetable previously agreed by the Parties;
    - (c) any changes required by the proposed Contract Change to Related Service Providers;
    - (d) details of the cost of implementing the proposed Contract Change;
    - (e) details of the on-going costs required by the proposed Contract Change when implemented, including any increase or decrease in the Charges, any alteration in the resources, period of Contract and/or expenditure required by either Party, taking into consideration any other proposed contract changes and any alteration to the working practices of either Party;
    - (f) a timetable for the implementation and if required, any proposals for the testing of the Contract Change;
    - (g) details of how the proposed Contract Change will ensure compliance with any applicable Change in Law; and

- (h) such other information as the Purchaser may reasonably request in (or in response to) the Change Request.
- 4.2 Subject to the provisions of paragraph 4.3, the Purchaser shall review the Impact Assessment and, within fifteen (15) Working Days of receiving the Impact Assessment, it shall respond to the Service Provider in accordance with paragraph 5.
- 4.3 If the Purchaser receives a proposed Contract Change and the Purchaser reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, then within five (5) Working Days of receiving the Impact Assessment, it shall notify the Service Provider of this fact and detail the further information that it requires. The Service Provider shall then re-issue the relevant Impact Assessment to the Purchaser within ten (10) Working Days of receiving such notification. At the Purchaser's discretion, the Parties may repeat the process described in this paragraph until the Purchaser is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.

## 5. PURCHASER'S RIGHT OF APPROVAL

- 5.1 Within fifteen (15) Working Days of receiving the Impact Assessment from the Service Provider or within ten (10) Working Days of receiving the further information that it may request pursuant to paragraph 4.3, the Purchaser shall evaluate the Change Request and the Impact Assessment and shall do one of the following:
  - 5.1.1 approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in paragraph 5.2;
  - 5.1.2 in its absolute discretion reject the Contract Change, in which case it shall notify the Service Provider of the rejection. The Purchaser shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Service Provider or the Services to comply with any Changes in Law. If the Purchaser does reject a Contract Change, then it shall explain its reasons in writing to the Service Provider as soon as is reasonably practicable following such rejection; or
  - 5.1.3 in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Service Provider to modify the document accordingly, in which event the Service Provider shall make such modifications within five (5) Working Days of such request. Subject to paragraph 4.3, on receiving the modified Change Request and/or Impact Assessment, the Purchaser shall approve or reject the proposed Contract Change within ten (10) Working Days.
- 5.2 If the Purchaser approves the proposed Contract Change pursuant to paragraph 5.1 and it has not been rejected by the Service Provider in accordance with paragraph 6, then it shall inform the Service Provider and the Service Provider shall prepare two (2) copies of a Change Authorisation Note which it shall sign and deliver to the Purchaser for its signature. Following receipt by the Purchaser of the Change Authorisation Note, and subject always to paragraph 9, it shall sign both copies and return one copy to the Service Provider. On the Purchaser's signature, the Change Authorisation Note shall constitute a binding variation to this Contract provided that the Change Authorisation Note is signed by:
  - 5.2.1 the appropriate person(s) specified in paragraph 9.1 of this Schedule; and
  - 5.2.2 the Purchaser within ten (10) Working Days of receiving the Service Provider's signed copy. If the Purchaser does not sign the Change Authorisation Note within this time period, then the Service Provider shall have the right to notify the Purchaser and if the Purchaser does not sign the Change Authorisation Note within five (5) Working Days of the date of such notification, then the Service Provider may refer the matter to the dispute resolution procedure outlined in clause **Error! Reference source not found.** (*Dispute Resolution*).

**6. SERVICE PROVIDER'S RIGHT OF APPROVAL**

- 6.1 Following an Impact Assessment, if the Service Provider reasonably believes that any proposed Contract Change which is requested by the Purchaser:
- 6.1.1 would materially and adversely affect the risks to the health and safety of any person;
  - 6.1.2 would require the Services to be performed in a way that infringes any Law or is inconsistent with Good Industry Practice;
  - 6.1.3 would materially and adversely affect the Service Provider's ability to deliver the Services;
  - 6.1.4 would require the Service Provider to implement the Change in an unreasonable period of time;
  - 6.1.5 would (if implemented) materially and adversely change the nature of the Services (including the risk profile); and/or
  - 6.1.6 would (to implement) require the Purchaser to possess legal powers or capacity that it does not have

then the Service Provider shall be entitled to reject the proposed Contract Change and shall notify the Purchaser of its reasons for doing so within five (5) Working Days after the date on which it is obliged to deliver the Impact Assessment in accordance with paragraph 3.3.

**7. FAST-TRACK CHANGES**

- 7.1 The Parties acknowledge to ensure operational efficiency that there may be circumstances where it is desirable to expedite the processes set out above.
- 7.2 If both Parties agree in relation to a proposed Contract Change that:
- 7.2.1 the Contract Change does not involve any alteration to, or deviation from the contractual principles set out in this Contract; and
  - 7.2.2 the total number of Contract Changes in relation to which this fast track procedure has been applied does not exceed four (4) in any twelve (12) month period (or such higher number as the Parties may from time to time agree in writing); and
  - 7.2.3 the proposed Contract Change is not significant (as determined by the Purchaser acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in paragraphs 2, 3, 4, 5 and 6 above but with reduced timescales, such that any period of fifteen (15) Working Days is reduced to five (5) Working Days, any period of ten (10) Working Days is reduced to two (2) Working Days and any period of five (5) Working Days is reduced to one (1) Working Day.

- 7.3 The parameters set out in paragraph 7.2 may be revised from time to time by agreement between the Parties in writing.

**8. OPERATIONAL CHANGE PROCEDURE**

- 8.1 Any Operational Changes identified by the Service Provider to improve operational efficiency of the Services may be implemented by the Service Provider without following the Change Control Procedure for proposed Contract Changes provided they do not:
- 8.1.1 have an impact on the Purchaser;
  - 8.1.2 require a change to this Contract;

- 8.1.3 have a direct impact on use of the Services; or
- 8.1.4 involve the Purchaser in paying any additional Charges or other costs.
- 8.2 The Purchaser may request an Operational Change by submitting a written request for Operational Change ("**RFOC**") to the Service Provider Representative.
- 8.3 The RFOC shall include the following details:
  - 8.3.1 the proposed Operational Change; and
  - 8.3.2 time-scale for completion of the Operational Change.
- 8.4 The Service Provider shall inform the Purchaser of any impact on the Services that may arise from the proposed Operational Change.
- 8.5 The Service Provider shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC, and shall promptly notify the Purchaser when the Operational Change is completed.

## **9. CHANGE AUTHORISATION**

- 9.1 Any proposed Contract Change processed in accordance with this Schedule will not be authorised and the Service Provider shall not implement any proposed Contract Change until the Change Authorisation Note is signed and executed by the Purchaser's authorised representative in accordance with the Purchaser's Contract Change authorisation and sign off procedure(s), as notified to the Service Provider in writing from time to time.

## **10. COMMUNICATIONS**

- 10.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Purchaser's Change Manager or the Service Provider's Change Manager, as applicable. The provisions of clause 10 (*Notices*) shall apply to a Change Communication as if it were a notice.

**Annex 1**

**Change Request Form**

|   |        |                   |
|---|--------|-------------------|
| CR NO.:   | TITLE: | TYPE OF CHANGE:   |
| PROJECT:  |        | REQUIRED BY DATE: |
| ACTION:   | NAME:  | DATE:             |
| RAISED BY:  |        |                   |
| AREA(S) IMPACTED ( <i>OPTIONAL FIELD</i> ):                                   |        |                   |
| ASSIGNED FOR IMPACT ASSESSMENT BY:  |        |                   |
| ASSIGNED FOR IMPACT ASSESSMENT TO:  |        |                   |
| SUPPLIER REFERENCE NO.:   |        |                   |
| FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING ANY SPECIFICATIONS): |        |                   |
| DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:                                |        |                   |
| REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:      |        |                   |
| SIGNATURE OF REQUESTING CHANGE OWNER:   |        |                   |
| DATE OF REQUEST:  |        |                   |

**Annex 2*****Impact Assessment Form***

|   |        |                   |
|---|--------|-------------------|
| CR NO.:   | TITLE: | DATE RAISED:      |
| PROJECT:  |        | REQUIRED BY DATE: |
| DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING / HAS BEEN PREPARED AND DETAILS OF ANY RELATED CONTRACT CHANGES: |        |                   |
| PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:  |        |                   |
| DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE OR COST-PLUS BASIS):                         |        |                   |
| DETAILS OF ANY PROPOSED CONTRACT AMENDMENTS:  |        |                   |
| DETAILS OF ANY SERVICE LEVELS AFFECTED:   |        |                   |
| DETAILS OF ANY OPERATIONAL SERVICE IMPACT:  |        |                   |
| DETAILS OF ANY INTERFACES AFFECTED:   |        |                   |
| DETAILED RISK ASSESSMENT:   |        |                   |
| RECOMMENDATIONS:  |        |                   |

## ANNEX 3

*Change Authorisation Note*

|  |                 |   |
|--|-----------------|---|
| CR NO.:  | TITLE:          | DATE RAISED:                              |
| PROJECT:   | TYPE OF CHANGE: | REQUIRED BY DATE:                         |
| [MILESTONE DATES: <i>[if any]</i> ]  |                 |   |
| DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING PREPARED AND DETAILS OF ANY RELATED CONTRACT CHANGES: |                 |   |
| PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:   |                 |   |
| DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE OR COST-PLUS BASIS):              |                 |   |
| SIGNED ON BEHALF OF THE PURCHASER:   |                 | SIGNED ON BEHALF OF THE SERVICE PROVIDER: |
| Signature: _____   |                 | Signature: _____                          |
| Name: _____  |                 | Name: _____                               |
| Position: _____  |                 | Position: _____                           |
| Date: _____  |                 | Date: _____                               |



This and the following 2 pages comprise Schedule 11 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

## **SCHEDULE 11 – EXIT MANAGEMENT**

### **1. INTRODUCTION**

- 1.1. The provision in this Schedule applies during the Exit Period. This should be read in line with the Specification.
- 1.2. The Exit Period is the period the duration of which shall be determined solely by the Purchaser but in no event shall exceed 12 months, beginning on the Exit Management Date and ending at or before the expiry of the first 2 years of the Contract (the "**Initial Term**") or any extension period.
- 1.3. The "**Exit Management Date**" shall be the date of a Termination Notice and the Parties each agree and acknowledge that, notwithstanding the order of precedence set out in clause 61.2, this paragraph 1.3 of Schedule 11 (Exit Management) shall take express precedence over any other interpretation of the term, whether conflicting or otherwise.
- 1.4. The Service Provider must guarantee that any subcontractor engaged by the Service Provider to perform any part of the service complies with this requirement. If a subcontractor fails to comply with this requirement, the Service Provider will as soon as possible arrange for the performance of the relevant service at the Service Provider's cost.

### **2. EXIT STRATEGY**

- 2.4. The Service Provider shall, within 3 months after the commencement date, deliver to the Purchaser a plan (the "**Exit Plan**") for all services delivered by them to facilitate migration planning and migration to alternative solutions. The exit strategy is subject to change through the period of the Contract due to the agile approach being followed. This "**Exit Plan**" will take into account factors such as TUPE and working with any new Contractor.
- 2.5. The Service Provider must review the exit strategy regularly and present this for agreement by the Purchaser at **three monthly intervals** to ensure their requirements are met. These requirements may be developed and clarified further during the lifetime of the contract. In addition, the strategy must be reviewed, updated and presented for approval by the Purchaser whenever there are changes to the requirement within the agreed scope of this specification.

### **3. MAINTENANCE OF SERVICE DURING EXIT PERIOD**

- 3.4. The Service Provider must provide sufficient resource to manage the Contract and fulfill all its duties without any deterioration in service during the Exit Period.

### **4. CONTINUITY OF SERVICE TO NEW PROVIDER**

- 4.4. Should the Contract continue either totally, partially or in an amended format and another Service Provider is appointed to continue the provision of the Services under the Contract, the Service Provider will take appropriate action to ensure that an efficient transition from the Service Provider to a replacement Service Provider. The Service Provider will take appropriate action to ensure that there is minimum disruption both to the provision of the Services and to the Purchaser.
- 4.5. During the period of up to 6 months prior to the Exit Management Date, the Service Provider shall, if so required by the Purchaser, make available to the Purchaser, or any organisation appointed by the Purchaser to provide the service following Contract expiry or termination, information and assistance relating to the Contract.

- 4.6. Following termination, when a new contractor is appointed to deliver replacement services broadly similar to the service under the contract, the service provider will take appropriate action to ensure an efficient transition from the service provider to a replacement service provider. The service provider will take appropriate action to ensure that there is minimum disruption both to the provision of services under the contract and to the purchaser.
- 4.7. During the period of up to 12 months prior to the exit management date, the Service Provider shall, if so required by the Purchaser, make available to the Purchaser, or any organisation appointed by the Purchaser to provide the service following Contract expiry or termination, information and assistance relating to the Contract including information and assistance relating to TUPE required by the Purchaser in order to assist with securing a replacement service provider.

This and the following 6 pages comprise Schedule 12 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

## **SCHEDULE 12**

### **SECURITY MANAGEMENT**

#### **1. DEFINITIONS**

1.1 In this Schedule 12, the following definitions shall apply:

**“Breach of Security”** means the occurrence of:

(a) any unauthorised access to or use of the Services, the Sites and/or any ICT, information or data (including the Purchaser Protected Information, the Service Provider Sensitive Information and the Purchaser Data) used by the Purchaser and/or the Service Provider in connection with this Contract; and/or

(b) the loss and/or unauthorised disclosure of any information or data (including the Purchaser Protected Information, the Service Provider Sensitive Information and the Purchaser Data), including any copies of such information or data, used by the Purchaser and/or the Service Provider in connection with this Contract, in either case as more particularly set out in the Security requirements in this Schedule 13 and any relevant Security Policy;

(c) an unauthorised change to the integrity or accuracy of the information or data being processed.

#### **2. SECURITY MANAGEMENT PLAN**

2.1 Within twenty (20) Working Days after the Effective Date, the Service Provider shall prepare and submit to the Purchaser for Approval in accordance with paragraph 2 of this Schedule a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of paragraph 2.2 of this Schedule.

2.2 The Security Management Plan shall:

2.2 Not Used.

2.2.2 comply with the relevant Security Policies, and any security measures specified in the Schedule 9;

2.2.3 unless otherwise specified by the Purchaser in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Purchaser's premises, the Sites, the Service Provider System and any ICT, information and data (including the Purchaser Protected Information and the Purchaser Data) to the extent used by the Purchaser or the Service Provider in connection with this Contract;

2.2.4 set out the security measures to be implemented and maintained by the Service Provider in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Schedule 12.

2.2.5 set out the plans for transiting all security arrangements and responsibilities from those in place at the Effective Date to those set out in the Implementation Plan for the Service Provider to meet the full obligations of the security requirements set out in this Schedule 12.

2.2.6 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and

2.2.7 be written in plain English in language which is readily comprehensible to the staff of the Service Provider and the Purchaser engaged in the Services and shall reference only documents which are in the possession of the Purchaser or whose location is otherwise specified in this Schedule 12.

2.3 If the Security Management Plan submitted to the Purchaser pursuant to paragraph 2.1 of this Schedule is Approved by the Purchaser, it shall be adopted by the Service Provider immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Purchaser, the Service Provider shall amend it within ten (10) Working Days of a notice of non-approval from the Purchaser and re-submit it to the Purchaser for Approval. The Parties shall use all reasonable endeavours to ensure that the Purchaser 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 the first submission to the Purchaser of the Security Management Plan. If the Purchaser does not approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the dispute resolution procedure outlined in clause 55 of the Contract. No Approval to be given by the Purchaser pursuant to this paragraph may be unreasonably withheld or delayed. However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 2.2 of this Schedule shall be deemed to be reasonable.

2.4 Approval by the Purchaser of the Security Management Plan pursuant to paragraph 2.3 of this Schedule or of any change or amendment to the Security Management Plan shall not relieve the Service Provider of its obligations under this Schedule.

### **3. AMENDMENT AND REVISION OF THE SECURITY MANAGEMENT PLAN**

3.1 The Security Management Plan shall be fully reviewed and updated by the Service Provider from time to time and at least annually to reflect:

3.1.1 emerging changes in Good Industry Practice;

3.1.2 any change or proposed change to the Service Provider System, the Services and/or associated processes;

3.1.3 any new perceived or changed security threats; and

3.1.4 any reasonable request by the Purchaser.

3.2 The Service Provider shall provide the Purchaser with the results of such reviews as soon as reasonably practicable after their completion and the Security Management Plan at no additional cost to the Purchaser. The results of the review shall include, without limitation:

3.2.1 suggested improvements to the effectiveness;

3.2.2 updates to the risk assessments;

3.2.3 proposed modifications to the procedures and controls that effect information security to respond to events; and

3.2.4 suggested improvements in measuring the effectiveness of controls.

3.3 Subject to paragraph 3.4 of this Schedule, any change or amendment which the Service Provider proposes to make to the Security Management Plan (as a result of a review carried out pursuant to paragraph 3.1 of this Schedule, an Purchaser request, or otherwise) shall be subject to the Change Procedure and shall not be implemented until Approved in writing by the Purchaser.

3.4 The Purchaser may, where it is reasonable to do so, Approve and require changes or

amendments to the Security Management Plan to be implemented on timescales faster than set out in the change control procedure at Schedule 3 (Change Control Procedures) but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to such procedures for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Contract.

#### **4. BREACH OF SECURITY**

4.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the security management plan upon becoming aware of any breach of security or any potential or attempted breach of security.

4.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 4.1 of this Schedule, the Service Provider shall:

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

(a) remedy such breach of security or any potential or attempted breach of security or protect the integrity of the security management plan against any such breach of security or any potential or attempted breach of security; and

(b) prevent a further breach of security or any potential or attempted breach of security in the future exploiting the same root cause failure; and

4.2.2 as soon as reasonably practicable provide to the Purchaser full details of the breach of security or the potential or attempted breach of security, including a root cause analysis where required by the Purchaser.

4.3 In the event that such action is taken in response to a breach of security or potential or attempted breach of security that demonstrates non-compliance with the Security Policy or security requirements or the requirements of this Schedule, then any required change to the security management plan shall be at no cost to the Purchaser.

#### **5. CYBER ESSENTIALS**

5.1 The Service Provider shall ensure they align with the requirements of Cyber Essentials (<https://www.cyberstreetwise.com/cyberessentials>). Additionally, it should be noted that there may be a requirement to undergo independent penetration testing to validate security controls in place.

ANNEX 1: SECURITY REQUIREMENTS

Security Plan to be inserted as per paragraph 2.1. to this schedule.

This and the following 2 pages comprise Schedule 13 to the foregoing Contract between the Scottish Ministers and Deloitte LLP.

### SCHEDULE 13 – COMMUNITY BENEFITS AND FAIR WORK

#### o Community Benefits

The Scottish Government is committed to contributing to the social, economic & environmental well-being of the people of Scotland. The Government has five objectives that underpin its core purpose - to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

The Fairer Scotland Duty came into force on 1 April 2018, placing new responsibilities on the Scottish Government and the public sector to consider what more we can do to reduce poverty and inequality when making key decisions.

The introduction of the Duty is a Programme for Government commitment, the first action in the Fairer Scotland Action Plan <https://beta.gov.scot/publications/fairer-scotland-action-plan/> and the first duty of its kind in the UK.

It requires Scottish Ministers to actively consider whether they can narrow inequalities of outcome caused by socio-economic disadvantage when making strategic decisions. Community benefits are a key part of this strategy.

#### o Community benefits proposed can fall into the following categories:

Subcontracting opportunities: (for example, enabling those involved in the SME, third sector or supported business sectors to become involved in delivery through initiatives to advertise your sub-contract requirements and/or initiatives to engage with such sectors in your delivery of the contract)

Training: (for example, training that you will undertake and which will be achieved, within your organisation, our organisation or elsewhere as part of your delivery of the contract)

Recruitment: (for example, any initiatives you will undertake, as a result of obtaining and then in performance of the contract, to recruit from disadvantaged groups and/or to create opportunities for disadvantaged groups or those seeking work-experience)

Opportunities which otherwise improve the economic, social or environmental wellbeing of the Buyer's area in a way additional to the main purpose of the contract.

Accordingly, the successful Service Provider will be expected to present a community benefit proposal with their tender detailing how, in the event that they should be successful in winning the contract, they will address the following Community Benefit themes:

- Apprenticeship placements

For this contract there is a **minimum** requirement to create 3 apprenticeship positions registered with relevant sector skills body at the Modern Apprentice level. The first 2 apprentices must be recruited within the 6 months of the contract start date. With the remaining 1 recruited within 12 months of the contract start date. All apprentices shall be in post no later than 18 months of the contract start date.

Measures to retain and further develop the apprentices beyond the term of the apprenticeship and beyond the term of the contract shall be put in place. The apprenticeship positions are to be maintained for the entire contract period with evidence provided to demonstrate the measures for retention and further development.

The winning bidder will discuss the content of their Community Benefit proposal and agree a plan for the delivery of the agreed community benefits which will become a condition of the contract and will be monitored as part of the contract management process.

Any proposed benefit will be:

- A direct result of this contract and not attributable to any other contract
- Related to the subject matter of the contract (in terms of being a community benefit deliverable that will be secured by the successful tenderer in their approach to and performance of the contract)
- Clearly defined within the tender response with a quantifiable output which can be monitored e.g. 1 Modern Apprenticeship placement will be offered for a duration of 1 year, with permanent employment on satisfactory completion of the apprenticeship.

Support is available for taking on apprentices and providing education support from various organisations, dependent on location of the Service Providers premises.

For Service Providers based within Scotland the following links may be useful:

<https://www.apprenticeships.scot/>

<https://www.ourskillsforce.co.uk/>

<https://www.ourskillsforce.co.uk/be-inspired/initiatives/find-a-scottish-school-to-work-with/>

<https://www.ourskillsforce.co.uk/invest-in-young-people/work-with-fe-he/>

<https://www.skillsdevelopmentscotland.co.uk/>

Other useful links outwith Scotland:

<https://www.gov.uk/topic/further-education-skills/apprenticeships>

<https://businesswales.gov.wales/skillsgateway/apprenticeships>

<https://www.nidirect.gov.uk/campaigns/apprenticeships>

The Public Sector in Scotland is committed to the delivery of high quality public services, and recognises that this is critically dependent on a workforce that is well rewarded, well-motivated, well-led, has access to appropriate opportunities for training and skills development, are diverse and is engaged in decision making.

These factors are also important for workforce recruitment and retention, and thus continuity of service. Public Bodies in Scotland are adopting fair work practices, which include:

a fair and equal pay policy that includes a commitment to supporting the Living Wage, including, for example being a Living Wage Accredited Employer;

clear managerial responsibility to nurture talent and help individuals fulfil their potential, including for example, a strong commitment to Modern Apprenticeships and the development of Scotland's young workforce;

promoting equality of opportunity and developing a workforce which reflects the population of Scotland in terms of characteristics such as age, gender, religion or belief, race, sexual orientation and disability;

support for learning and development;

stability of employment and hours of work, and avoiding exploitative employment practices, including for example no inappropriate use of zero hours contracts;

flexible working (including for example practices such as flexi-time and career breaks) and support for family friendly working and wider work life balance;

support progressive workforce engagement, for example Trade Union arrangements to give staff an effective voice.



In order to ensure the highest standards of service quality in this contract we expect Service Providers to take a similarly positive approach to fair work practices as part of a fair and equitable employment and reward package.

### **Fair Work Practices**

The Public Sector in Scotland is committed to the delivery of high quality public services, and recognises that this is critically dependent on a workforce that is well rewarded, well-motivated, well-led, has access to appropriate opportunities for training and skills development, are diverse and is engaged in decision making. These factors are also important for workforce recruitment and retention, and thus continuity of service. Public Bodies in Scotland are adopting fair work practices, which include: a fair and equal pay policy that includes a commitment to supporting the Living Wage, including, for example being a Living Wage Accredited Employer; clear managerial responsibility to nurture talent and help individuals fulfil their potential, including for example, a strong commitment to Modern Apprenticeships and the development of Scotland's young workforce; promoting equality of opportunity and developing a workforce which reflects the population of Scotland in terms of characteristics such as age, gender, religion or belief, race, sexual orientation and disability; support for learning and development; stability of employment and hours of work, and avoiding exploitative employment practices, including for example no inappropriate use of zerohours contracts; flexible working (including for example practices such as flexi-time and career breaks) and support for family friendly working and wider work life balance; support progressive workforce engagement, for example Trade Union recognition and representation where possible, otherwise alternative arrangements to give staff an effective voice.

In order to ensure the highest standards of service quality in this contract we expect contractors to take a similarly positive approach to fair work practices as part of a fair and equitable employment and reward package.