



THE SCOTTISH GOVERNMENT

SCOTTISH PROCUREMENT & COMMERCIAL DIRECTORATE

INVITATION TO TENDER

**Analysis of Consultation Responses – for the Getting It Right For Every Child
Practice Development Panel
Consultation inviting views on the draft Code of Practice on sharing
information for the Named Person Service and Child's Plan**

**Scottish Procurement and Commercial
Directorate**

Collaborative and Scottish Government
Procurement Division

T: 0141-242-0478

E:



30 July 2018

Dear Sir/Madam

Tender Reference:

**Analysis of Consultation Responses – for the Getting It Right For Every Child
Practice Development Panel
Consultation inviting views on the draft Code of Practice on sharing
information for the Named Person Service and Child’s Plan**

1. You are invited by the Scottish Ministers to tender for the above-mentioned contract.
2. Your tender must be in accordance with all Schedules in the enclosed Invitation to Tender (ITT) document. You must complete and return the Selection Criteria (Schedule 2), Form of Tender (Schedule 6), respond to each of the questions in the Technical Proposal (Schedule 4) and provide the information requested in the Pricing Schedule (Schedule 5).
3. A copy of the terms and conditions of this contract can be found in Schedule 7 SCOTTISH GOVERNMENT TERMS AND CONDITIONS 2 (SGTC2).
4. The closing date and time for submission of tenders is **15 August 2018**. Your tender must be submitted through Public Contracts Scotland (PCS) Quick Quote Portal.
5. It is the responsibility of all Tenderers to ensure that their tender is received no later than the closing time above. The PCS Quick Quote Portal will not accept tenders submitted after this time. Tenders submitted after this time may not be considered.
6. The Scottish Ministers are not bound to accept the lowest priced or any tender and shall not be bound to accept the Service Provider as a sole supplier.
7. Please contact the undersigned if you have any questions in relation to this Invitation to Tender.

Yours faithfully

Joanna Shedden
Children and Families Analysis

**Analysis of Consultation Responses – for the Getting It Right For Every Child
Practice Development Panel**

**Consultation inviting views on the draft Code of Practice on sharing
information for the Named Person Service and Child’s Plan**

CONTENTS

Schedule 1 - Instructions for Tenderers

Schedule 2 – Selection Criteria

Schedule 3 - Statement of Requirements

- Introduction
- Background
- Aims & Objectives
- Research Questions and Methodology
- Outputs & Meetings
- Ethical Sensitivities
- Timetable & Milestones
- Costs
- Contract Management

Schedule 4 - Technical Proposal

Schedule 5 - Pricing Schedule

Schedule 6 - Form of Tender

Schedule 7 – Terms and Conditions for the Supply of Consultancy Services
(SGTC2).

INSTRUCTIONS FOR TENDERERS

Schedule 1

1. It is the responsibility of the tenderer to obtain for themselves at their own expense any additional information necessary for the preparation of their tender.
2. All information supplied by the Scottish Ministers in connection with the Invitation to Tender shall be treated as confidential by tenderers except that such information may be disclosed for the purpose of obtaining sureties and quotations necessary for the preparation and submission of the tender.
3. The issue of an Invitation to Tender (ITT) is not a commitment by the Scottish Ministers to place a contract as a result of the Tendering exercise or at a later stage.
4. All information requested should be provided on the Tender Schedules enclosed (additional sheets may be used if required, **but all information should be provided in the order and format of the Schedules**). Tenderers should also note that their Pricing Schedule (Commercial Offer) must be submitted as a separate document.
5. Tenderers may submit a tender using their own text creation facilities. However, the content and layout must be identical to the Scottish Government version of the relevant sections of the tender.
6. Tenderers **must** submit their completed tenders via the [Public Contracts Scotland \(PCS\) Portal](#) for this opportunity. Please note that large electronic files take time to download and tenderers should ensure that sufficient time is allowed for this to be done. The speed with which submissions are made are dependent on the size of the document and inclusion of graphics, logos, photographs etc. should be omitted wherever possible.
7. Nothing in this ITT shall preclude Scottish Ministers from making public, under the Freedom of Information (Scotland) Act 2002 ("FOISA") and/or the Environmental Information (Scotland) Regulations 2004 ("EIRS") or otherwise, details of all matters relating to this ITT and responses thereto unless such details fall within an exemption under FOISA and/or EIRS as may be applicable at the discretion of Scottish Ministers and Scottish Ministers (at its sole discretion) consider that such exemption shall apply, and (in respect of commercially sensitive information only) a Tenderer has advised Scottish Ministers in writing that disclosure of specified information would or would be likely to substantially prejudice the commercial interests of any person (including but not limited to the Tenderer or Scottish Ministers).
8. Tenderers should also note that the receipt of any material or document marked "confidential" or equivalent by Scottish Ministers should not be taken to mean that Scottish Ministers accepts any duty of confidence by virtue of that marking.
9. The Tenderer should be aware that should any of its responses be found to be deliberately misleading or falsified, the bidding organisation may be disqualified from the tender process.
10. Scottish Ministers reserve the right to withdraw the requirement at any stage prior to the award of the contract and the right to amend the ITT documents at

any time prior to the deadline for receipt of tenders. Any such amendment will be numbered and dated. Where amendments are significant, the Scottish Ministers may, at their discretion, extend the deadline for receipt of tenders.

11. Scottish Ministers reserve the right to reject or exclude from the procurement process a Tender, where the Tenderer has submit a response which is not in compliance with the requirements of the ITT; the ITT response is submitted late, is completed incorrectly or is incomplete; the Tenderer fails to respond in satisfactory terms to a request by Scottish Ministers for supplementary or to provide clarity in relation to the Tenderer's response to the ITT; or the Tenderer or any of its sub-contractors or consortium members is/are guilty of serious misrepresentation in relation to its response to the ITT and/or the procurement process; or where there is a change in identity, control, financial standing or other factor affecting the tenderer.
12. The date for tender return is **15 August 2018** Scottish Ministers will not enter into detailed discussions with Tenderers in relation to its requirements. All questions regarding the content of this ITT should be directed through the dedicated PCS messaging area by noon 10 August 2018. No other form of communication will be accepted. All technical queries should be directed to [PCS on telephone number 0800 222 9003](#).
13. Direct or indirect canvassing of any elected official, public sector employee or agent by any Tenderer concerning this requirement, or any attempt to procure information from any elected official, public sector employee or agent concerning this ITT may result in the disqualification of the Tenderer from consideration for this requirement.
14. The successful tenderer will be selected on the basis of the most economically advantageous bid, throughout the tender process as a whole, having regard to the price and quality of the proposals against defined evaluation criteria. A Best Price Quality Ratio will be used in the tender evaluation. The Technical Proposal will form the basis of the quality evaluation and the Pricing Schedule will form the basis of the commercial evaluation. The ratio will be **70:30** in favour of quality.
15. Schedule 4 will form the basis of the quality evaluation. Each section carries a weighting to reflect the percentage of the marks allocated to it. Final technical scores will be measured out of 100 (for ease of marking) but will be reflected in the final scoring as a mark out of 70. Each Tenderer's score will be calculated by taking the arithmetical mean average for each section, multiplied by the section weighting to give a Total Weighted Section Score. The final score will be the sum of the Total Weighted Section Scores, multiplied by the Quality (Technical) Award Criteria Weighting (70%) to give the Overall Technical (Quality) Score.
16. Schedule 5 will form the basis of the Commercial Evaluation. The Commercial response of this procurement exercise carries will be evaluated independently of the Technical response.
17. The Commercial response will be evaluated using the weightings in Schedule 5.

18. The ITT is issued on the basis that nothing contained in it will constitute an inducement or incentive nor will have in any other way persuaded a tenderer to submit a Tender or enter into any contractual agreement.

19. Tenders shall remain valid and open for acceptance for 3 months after the tender return date. In exceptional circumstances, Scottish Ministers may request that the tenderer extend the validity period for a specified additional period.

20. Canvassing

22.1. Any Tenderer who directly or indirectly canvasses any officer, member, employee, or agent of the Scottish Ministers concerning the award of the Contract and/or the process leading to that award or who directly or indirectly obtains or attempts to obtain information from any such officer, employee or agent or concerning any other Tenderer, Tender, or proposed Tender may be disqualified.

21. Collusive Behaviour

23.1 Any Tenderer who:

23.1.1 fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other party; or

23.1.2 communicates to any party other than the Scottish Ministers the amount or approximate amount of its proposed Tender or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender or insurance or any necessary security); or

23.1.3 enters into any agreement or arrangement with any other party that such other party will refrain from submitting a Tender; or

23.1.4 enters into any agreement or arrangement with any other party as to the amount of any Tender submitted; or

23.1.5 offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender, any act or omission, will (without prejudice to any other civil remedies available to the Scottish Ministers and without prejudice to any criminal liability which such conduct by a Tenderer may attract) be disqualified.

22. Any tender that does not accord with all the requirements herein and in the covering letter may not be considered.

25. Notification of Award

25.1 Tenderers will be notified in writing as soon as possible when the Purchaser has completed the evaluation process. It is anticipated the evaluation will be completed in accordance with the indicative procurement timetable below.

26. Procurement Timetable

26.1 An indicative timetable is shown below:-

Timetable of Events	
ITT Issued	03 August 2018
Q & A period	3-15 August 2018
Return of Proposals	15 August 2018
Evaluation Meeting	20 August 2018
Contract Award	22 August 2018
Contract Start Date & Inception Meeting	22 August 2018
Indicative high level findings (format to be agreed at inception meeting)	14 September 2018
Final report	7 November 2018

End of Schedule 1

Schedule 2

Selection Criteria

A: INFORMATION ABOUT THE BIDDER

Instructions for Bidders

This section seeks background information about the bidder; this section is not normally evaluated, however the public body may choose not to select bidders that cannot provide basic company information.

All personal information supplied will be treated as confidential and will be subject to the Data protection Act 1998.

Question Reference	Identification	Answer
2A.1	Name:	[text]
2A.2	VAT-number, if applicable:	[number]
2A.3	National Identification no (if required and applicable):	[text]
2A.4	D.U.N.S. number, if applicable:	[number]
2A.5.1	Postal address Line 1:	[text]
2A.5.2	Postal address Line 2:	[text]
2A.5.3	Postal address Town/City:	[text]
2A.5.4	Postal address Region:	[text]
2A.5.5	Postal address Postcode:	[text]
2A.5.6	Postal address Country:	[text]
2A.6	Contact person or persons:	[text]
2A.7	Telephone (including dialling code):	[number]
2A.8	Mobile (including dialling code):	[number]
2A.9	Email:	[number]
2A.10	Internet address (web address) (if applicable):	[text]
2A.11	Name of parent company (if applicable):	[text]

2A.12	Name of ultimate parent company (if applicable):	[text]
2A.13	Bidder Legal Status:	<input type="checkbox"/> Sole Trader <input type="checkbox"/> Private Limited Company <input type="checkbox"/> Public Limited Company <input type="checkbox"/> Partnership <input type="checkbox"/> Other
2A.13.1	If you have answered 'Other' to question 2A.13 please provide details here:	[text]

Question Reference	Identification	Answer
2A.14	For Small to Medium Sized Enterprises (SMEs) only , please confirm the size of your organisation:	<input type="checkbox"/> Micro <input type="checkbox"/> Small <input type="checkbox"/> Medium
2A.15	Is your organisation a supported business or will it provide for the performance of the contract in the context of supported employment programmes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2A.15.1	If you have answered yes to the previous question, what is the corresponding percentage of disabled or disadvantaged workers?	[number]
2A.15.2	If you have answered yes to question 2A.15, please specify which category or categories of disabled or disadvantaged workers the employees concerned belong to:	[text]
Question Reference	Form of participation (Notably as part of a group, consortium, joint venture or similar)	Answer
2A.17	Is the bidder participating in the procurement procedure together with others?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2A.17.1	If yes: Please indicate the role of the bidder(s) in the group (leader, responsible for specific tasks):	[text]
2A.17.2	Please identify the other bidder(s) participating in the procurement procedure together:	[text]
2A.17.3	Where applicable, name of the participating group:	[text]

Schedule 3

SPECIFICATION OF REQUIREMENTS - INVITATION TO TENDER

ANALYSIS OF CONSULTATION RESPONSES - **Getting It Right For Every Child Practice Development Panel**

Consultation inviting views on the draft Code of Practice on sharing information for the Named Person Service and Child's Plan

INTRODUCTION

This is an invitation to tender for analysis of consultation responses to the above consultation. The purpose of the work is to analyse the responses received, summarise this in a high level findings report, as well as to fully analyse the responses and provide us with a final report.

The date of closing of this tender exercise is 10 August 2018. We expect tenderers to provide us with short, sharp tender documents (max 10 pages – anything over this will not be evaluated as part of the tender) clearly setting out your approach to this piece of work.

BACKGROUND

The Health and Social Care Alliance intend to publish a consultation on **15 August 2018** on behalf of the Getting It Right For Every Child Practice Development Panel seeking views on the draft Code of Practice on information sharing for the Named Person Service and Child's Plan. It is planned that the consultation will close on the **10 October 2018**.

The consultation document includes the background of the Panel and the purpose for this draft Code of Practice. The consultation seeks views on the draft Code of Practice in terms of accessibility and usefulness.

The Deputy First Minister appointed Professor Ian Welsh, OBE and Chief Executive of the Health and Social Care Alliance to chair the independent Panel in February 2018. The Panel was set up to develop and produce, by consensus, a draft Code of Practice for information sharing.

The Panel membership is made up of people from education, health, third sector and legal professions. Guest members are also invited to Panel meetings based on relevant topics of discussion. Further, a Legal Focus Group made up of legal members from the Panel and guests with specialist and legal expertise in the public and third sectors was also established.

This consultation seeks views on the draft Code of Practice for information sharing developed by the Panel. There are a range of questions which seek views on the content, format and clarity of the draft Code of Practice and how it could be made more accessible. The consultation seeks views on what information would be helpful for parents, children and young people about the draft Code of Practice, the named person service and child's plan, and when providing this information would be helpful.

The consultation invites views on the financial resources, including training and development needs associated with implementation of Parts 4 (Named Person) and 5 (Child's Plan) of the 2014 Act. Views are also welcome on the development of other support materials, including the restated Getting It Right For Every Child policy statement and Statutory Guidance for Parts 4 and 5 of the 2014 Act.

Respondents will be invited to submit their views on each of the questions asked, there are 9 closed question and 4 open questions. Responses will be submitted via the Health and Social Care Alliance webpage and emailed directly to the Health and Social Care Alliance consultation team at [Redacted text] by 10 October 2018. Responses will be issued to an independent contractor for analysis. The Chair, Panel members and secretariat to the Panel will also have access to responses.

To assist in your assessment of the contract a draft copy of the full list of questions found in the consultation document is attached at **Annex A**.

We expect there will be a wide interest and many views on this topic. Organisations have been informed of this consultation and engagement events have been arranged inviting for responses to the consultation.

AIMS & OBJECTIVES

- The contractor should familiarise themselves with the policy background of the consultations. This includes reading the consultation documents.
- Meet the Chair of the Panel at an inception meeting and agree a plan for the delivery of the analysis
- Receive consultation responses from the Health and Social Care Alliance colleagues; securely store and classify these responses using a database or matrix.
- Process the responses and undertake a qualitative analysis of them, ensuring that the full range and nature of views is considered and presented in a balanced way.
- Deliver two draft final reports outlining the main issues from the consultation, a draft summary report outlining overall findings and conclusions of the consultation by 24 October 2018.
- Provide an agreed final report and a final summary report for publication; by 07 November 2018 (the contractor should be prepared to produce this report in consultation with the Chair of the Panel).
- Respect the wishes of the respondents and not include any direct quotes in the report where the respondent has requested that their response should not be made public.
- Alert the Chair to any potentially defamatory statements within responses.
- Keep the Panel informed of the progress of the work (the nature and frequency of updates to be agreed at the inception meeting).
- Tenderers should outline the rationale for their stated approach, including consideration of cost implications and possible limitations, and how these will be addressed.

RESEARCH QUESTIONS AND METHODOLOGY

The research questions - including themes and general topics - for the consultation are included in the consultation document, and the questions are included also below in Annex A.

We expect there to be many and varied responses to this consultation. Therefore we expect tenderers to **clearly set out their methodological approach to the analysis of the**

responses to deliver the project aims in relation to the themes and questions of the consultation.

In addition we expect tenderers to set out how they would **weight responses** when reporting on the analysis and findings from the consultation. – that is, when the responses are from a PSB, a DPO, or individual responses, taking into account the different roles, responsibilities and functions of these.

In the case of multiple identical responses from the same person, only one response shall be included for analysis and the remainder shall be excluded. Multiple different responses from the same person should be identified and treated as a single composite respondent, i.e. all their comments will be taken into account in the consultation, but only counted once. If the same response is received from multiple people by way of a campaign then only one response should be identified and counted.

OUTPUTS & MEETINGS

We expect the written outputs of this project, including draft outputs, will be of publishable standard, the quality of the writing will be very high, they will be in plain English and be concise. Any output not achieving this standard will be returned for revision. The outputs will be analytical and policy and practice focussed, rather than simply a reporting of information.

The higher the quality of the first drafts the less revision will be required, however revision is still likely and contractors should take this into account in their timetables and costs.

They will include:

- Indicative high level findings (format to be agreed at inception meeting);
- A final report setting out the findings in full detail, around 50 pages (this can be negotiated), which will include an Executive Summary;
- An oral and visual presentation of the main findings to the Practice Development Panel.

The ownership of the research material including the final report and any data produced as a result of the research lies with the Practice Development Panel.

There will be on-going dialogue with the Practice Development Panel and Secretariat during the contract, and expect to meet (VC/ teleconference as options) 3 - 4 times before the end of the contract.

ETHICAL SENSITIVITIES

Given the nature of this work, there is no direct contact between researchers and respondents. There may be sensitivities around responses from individuals - which may have to be handled on a case to case basis - however respondents are made aware in the consultation document (respondent information) that their responses will be made public unless they state otherwise.

TIMETABLE AND MILESTONES

We anticipate the contract milestones will follow the timescales set out below.

This tender exercises closes on 15 August 2018. We expect the contract to be awarded by 22 August 2018.

Other key dates, mile stones and out puts include:

- Inception meeting 22 August 2018 (Glasgow, 11.00-13.00, tbc);

- The consultation closes 10 October 2018;
- Indicative high level findings (format which will be agreed at the inception meeting and during the initial phase of analysis following the closing of the consultation 22 Aug) by 14 September 2018;
- Final report by 7 November 2018.

COSTS

A budget of up to £15,000 (excluding VAT) is available for this work. Rates and prices shall be deemed inclusive of all additional expenses howsoever incurred.

It is anticipated that up to 500 responses could be received. However as this is not certain, we would expect tenderers to set out their costs in relation to responses received as outlined in the Pricing Schedule.

Although we have asked tenderers to include costs for three potential scenarios based on the number of responses received, **commercial evaluation** shall be based on the total cost for the final report **based on the price of 500 responses**.

Over or above the minimum costs, we also expect tenderers to set out the **cost of additional responses up to the next pricing level**.

Tenderers are also welcome to suggest suitable alternatives to this pricing strategy.

Costs need to clearly outline staff costs involved, including day rates if applicable, and costs for any meetings, including travel to these.

CONTRACT MANAGEMENT

The contract manager for this work will be Philip Canavan, Email: [Redacted text] Tel: [Redacted text]

Schedule 4

TECHNICAL PROPOSALS

Award Criteria

<u>QUALITY (TECHNICAL PROPOSAL) - 70%</u>		
SECTION	SUBJECT MATTER	WEIGHTING
1	Service Delivery and Approach	50%
2	Staffing, Skills and Resources	40%
3	Quality Management	10%
Total		100%
<u>PRICE - 30%</u>		
SECTION	SUBJECT MATTER	WEIGHTING
Table 1	Price	100%
Total		100%

Technical Evaluation

Tenders will be evaluated against these requirements and each section carries a weighting to reflect the percentage of the marks allocated. A scoring system of 0-4 will be used to grade your submission. Each section of the technical assessment is assigned an overall individual weighting, each section will contain sub-criteria questions equal to 100% of the overall weighting for that particular section. Further information on this, is contained within Schedule 1.

A guide to the response description and relevant marking is as follows:

0 Unacceptable	Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.
1 Poor	Response is partially relevant but generally poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled.
2 Acceptable	Response is relevant and acceptable. The response addresses a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas.
3 Good	Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements will be fulfilled.
4 Excellent	Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.

SECTION A - Service Delivery & Approach (Weighting 50%)

A1 Tenderers should provide a brief description of the nature of their business, highlight core functions and any areas of specialism, previously undertaken in the public sector, and explain their relevance to the delivery of this requirement. **(Sub-weighting 20%)**

A2 Tenderers should provide a statement demonstrating a full and clear understanding of the requirements as detailed in the Specification. The response should explain why the tenderer's organisation is best positioned to deliver this contract. **(Sub-weighting 30%)**

A3 Tenderers should outline their proposals and approach to delivering the service in line with the timescale targets, including the approach they intend to take (research methodology and weighting of responses), plus identification of any added value that the approach can bring. **(Sub-weighting 50%)**

SECTION B - Staffing, Skills & Resources (Weighting 40%)

B1 Tenderers should provide details of the resource(s) they propose to deliver this contract, a copy of their curriculum vitae (CV) highlighting their specific skill-set and experience in relation to this requirement. **(Sub-weighting 70%)**

Please highlight, in particular, the resource(s)':

- experience of working in this or a related policy field
- technical / professional research credentials
- experience of carrying out implementation reviews / use of required methodologies
- day rates for the proposed resource(s)

B2 Tenderers should provide details of how they will manage and support their proposed resource(s) through the duration of the requirement. The response should include any internal systems in place for managing the absence/replacement of key staff. **(Sub-weighting 25%).**

B3 Further tenderers are expected to provide details of how they apply fair work principles and practices (See Annex B). **(Sub-weighting 5%).**

SECTION C - Quality Management (Weighting 10%)

C1 Tenderers must detail any risks, constraints or conflicts of interest which may impinge on their ability to deliver this contract including how these will be managed, by completing the table below. **(Sub-weighting 100%)**

Issue	Likelihood of Risk (low, medium or high)	Mitigating Action(s)	Recovery Plan

(please add additional lines as required)

The response must describe the risks associated with delivering the contract, detailing the likelihood of each risk occurring, as well as the impact the risk could have on the delivery of the contract should it occur. The response should also detail mitigation measures that are sufficient to reduce the likelihood and/or impact of the identified risk.

Please ensure when preparing your responses that you clearly state which question is being answered. Any additional detail that you wish to provide as part of your Technical Proposal should also be cross referred to the relevant question.

Schedule 5

Pricing Schedule

1. You are hereby invited by the Children & Young People Information Sharing Bill Team to provide firm price day rate proposals for the services required to meet all the requirements outlined in this ITT. This should include CVs of the proposed personnel.
2. It is your responsibility to obtain at your own expense any additional information necessary for the preparation of your proposal, and you will be responsible for any expenses incurred by you during the response process.
3. Prices will be firm, without variation in any respect for the duration of this contract, including the potential additional option period of up to 1 month. Charges which appear elsewhere in the proposal but which are not summarised in this Schedule, will be presumed to have been waived.
4. Payment shall be made monthly in arrears on submission of detailed invoices.
5. Prices should be quoted in Pounds Sterling (£) and should be exclusive of any VAT which may be chargeable. The total price must cover liability for all costs including staff costs, attendance at meetings, equipment, access to data, travel and subsistence, overheads, and participation in any dissemination activity that is envisaged in the specification.
6. Service Providers should note that the **commercial evaluation** shall be based on the total cost for the final report **based on the price of 500 responses.**
7. The Supplier who submits the lowest commercial offer, will be awarded the maximum price score (30).
8. Payment will be made in accordance with the Terms and Conditions of Agreement.

Weighting 100%

Price up to 50 Responses

Activity		£
Fixed Costs – include line details on each cost		
Response cost		
Total Cost		

Price for each Additional Responses

		£
Up to 20		
Up to 21-35		
Up to 36-49		

Price up to 100 Responses

Activity		£
Fixed Costs – include line details on each cost		
Response Review		
Total Cost		

Price for each Additional Responses

Up to 20		£
Up to 21-35		
Up to 36-49		

Price up to 150 Responses

Activity		£
Fixed Costs – include line details on each cost		
Response Review		
Total Cost		

Price for each Additional Responses

Up to 20		£
Up to 21-35		
Up to 36 or more		

Tenderers must also provide a breakdown of the staff involved in this contract and highlight the discounted rate that is being applied. This must also include any volume rebate or Service Credit Mechanism which is being applied to this contract. This will not be evaluated separately.

Personnel	Grade	Hours Input	Activity	Day Rate £
				£
				£
				£
				£
				£

Details of any value for money savings achieved e.g. Company rate card less actual contracted rate multiplied by the number of hours.

Schedule 6

**FORM OF TENDER TO THE SCOTTISH GOVERNMENT
(* DELETE AS APPROPRIATE)**

*I/We the undersigned do hereby contract and agree on the acceptance of the Tender by the Scottish Ministers, to provide the services in the Specification of Requirements (Schedule 3) in accordance with the Schedules, at the prices entered in the Pricing Schedule (Schedule 5) and in accordance with the Terms and Conditions of Contract (Schedule 7) which appear in this set of documents.

*I/We the undersigned undertake to submit a tender in accordance with the following documents:

- Schedule 1 - Instructions for Tenderers
- Schedule 2 – Selection Criteria
- Schedule 3 - Specification of Requirements
- Schedule 4 - Technical Proposal
- Schedule 5 - Pricing Schedule
- Schedule 6 - Form of Tender
- Schedule 7 – Terms and Conditions (SGTC2)

*I/We agree to abide by this tender from, the date fixed for receiving tenders, until the Award of Contract.

*I/We understand that the Scottish Ministers are not bound to accept the lowest or any tender and shall not be bound to use the Service Provider as a sole supplier.

*I/We understand that the service provision is expected to commence in on and end on unless the Contract is either extended or terminated in accordance with the Terms and Conditions of Contract.

Signature

Name: **(BLOCK CAPITALS)**

Designation

Duly authorised to sign Tenders for and on behalf of:

Name of Tenderer

Nature of Firm

Address

Telephone No **INCLUDE AREA CODE**

Date

It must be clearly shown whether the Tenderer is a limited liability company, statutory corporation, partnership, or single individual trading under his own name.

**THE SCOTTISH GOVERNMENT
SCOTTISH GOVERNMENT TERMS AND CONDITIONS 2 (SGTC2)
CONDITIONS OF CONTRACT FOR THE PURCHASE OF SERVICES**

These Conditions may only be varied with the written agreement of the Purchaser. No terms or conditions put forward at any time by the Supplier shall form any part of the Contract unless specifically agreed in writing by the Purchaser.

1. DEFINITIONS

In these Conditions:

“Contract” means the contract between the Purchaser and the Supplier consisting of the Purchase Order, these Conditions and other documents (or parts thereof) specified in the Purchase Order;

“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 1998 and any statutory modification or re-enactment thereof and the GDPR;

“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;

“Intellectual Property Rights” means all copyright, patent, trademark, design right, database right and any other right in the nature of intellectual property whether or not registered, in any materials or works in whatever form (including but not limited to any materials stored in or made available by means of an information technology system and the computer software relating thereto) which are created, produced or developed as part of the Services by or on behalf of the Supplier;

“Personal Data” has the meaning given in the Data Protection Laws;

“Premises” means the location where the Services are to be performed, as specified in the Purchase Order;

“Processing” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly;

“Purchase Order” means the document setting out the Purchaser’s requirements for the Contract;

“Purchaser” means the Scottish Ministers;

'Services' means the services to be provided as specified in the Purchase Order and shall, where the context so admits, include any materials, articles and goods to be supplied thereunder;

'Supervisory Authority' has the meaning given in the Data Protection Laws; and

"Supplier" means the person, firm or company to whom the Contract is issued.

2. CHANGE TO CONTRACT REQUIREMENTS

2.1 The Purchaser may order any variation to any part of the Services that for any other reason shall in the Purchaser's opinion be desirable. Any such variation may include (but shall not be restricted to) additions, omissions, alterations, substitutions to the Services and changes in quality, form, character, kind, timing, method or sequence of the Services.

2.2 Save as otherwise provided herein, no variation of the Services as provided for in Condition 2.1 hereof shall be valid unless given or confirmed in the form of an order given by the Purchaser. All such orders shall be given in writing provided that if for any reason the Purchaser shall find it necessary to give any such order orally in the first instance the Supplier shall comply with such oral order which must be confirmed in writing by the Purchaser within 2 working days of the giving of such oral order by the Purchaser, failing which the variation made by such oral order shall cease to have effect on the expiry of the said 2 working day period.

2.3 Where any such variation of the Services made in accordance with Condition 2.1 and 2.2 has affected or may affect the costs incurred by the Supplier in providing the Services, the Supplier will notify the Purchaser in writing of the effect which it has had or may have on the said costs and such notification shall be considered by the Purchaser, who shall take all of the facts into account (including such information as may be provided by the Supplier in respect of the effect which such variation has had or may have on the costs incurred by the Supplier in providing the service) and may authorise such alteration to the sums to be paid to the Supplier in accordance with the provisions of the Contract as are, in the Purchaser's opinion, appropriate and reasonable in the circumstances.

3. INSPECTION OF PREMISES AND NATURE OF SERVICES

3.1 The Supplier is deemed to have inspected 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 Premises.

3.2 The Purchaser shall, at the request of the Supplier, grant such access as may be reasonable for this purpose.

4. SECURITY AND ACCESS TO THE PURCHASER'S PREMISES

4.1 Any access to, or occupation of, the Purchaser's premises which the Purchaser may grant the Supplier from time to time is on a non-exclusive licence basis free of charge. The Supplier 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.

4.2 The Supplier must comply with the Purchaser's policies concerning Baseline Personnel Security Standard checks and such modifications to those policies or replacement policies as are notified to the Supplier from time to time.

4.3 The Supplier must notify the Purchaser of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.

4.4 At the Purchaser's written request, the Supplier 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.

4.5 The Supplier must ensure that any individual Supplier Representative entering the Purchaser's premises has completed the process for obtaining Baseline Personnel Security Standard clearance. The Supplier 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.

4.6 In accordance with the Purchaser's policies concerning visitor access, entry to the Purchaser's premises may be granted to individual Supplier Representatives for the purposes of meetings, notwithstanding that the process for obtaining Baseline Personnel Security Standard clearance has not commenced or completed.

4.7 The Purchaser may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Purchaser's premises any Supplier Representative whose admission or continued presence would, in the opinion of the Purchaser acting reasonably, be undesirable.

4.8 The Purchaser must provide advice and assistance acting reasonably to the Supplier to facilitate the Supplier's compliance with this Condition.

4.9 All decisions of the Purchaser under this Condition are final and conclusive.

4.10 Breach of this Condition by the Supplier is a material breach for the purposes of condition 19.2 (Termination).

In this Condition 4 the following terms have the meanings given to them below:

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

'Supplier Representatives' means all persons engaged by the Supplier 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 Supplier);
- its agents, suppliers and carriers; and
- any sub-contractors of the Supplier (whether approved under Condition 21 (Assignment and sub-contracting) or otherwise)

5. SUPPLIER'S STATUS

In carrying out the Services the Supplier shall be acting as principal and not as the agent of the Purchaser. Accordingly:

(a) the Supplier shall not (and shall procure that the Supplier's agents and servants do not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent of the Purchaser, and

(b) nothing in this Contract shall impose any liability on the Purchaser in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Purchaser to the Supplier that may arise by virtue of either a breach of this Contract or any negligence on the part of the Purchaser, or the Purchaser's staff or agents.

6. SUPPLIER'S PERSONNEL

6.1 The Supplier shall take the steps reasonably required by the Purchaser to prevent unauthorised persons being admitted to the Premises. If the Purchaser gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by the Purchaser the Supplier shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.

6.2 If and when instructed by the Purchaser, the Supplier shall give to the Purchaser a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them, specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as the Purchaser may reasonably require.

6.3 The decision of the Purchaser shall be final and conclusive as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required of the Supplier by this Condition.

6.4 The Supplier shall bear the cost of any notice, instruction or decision of the Purchaser under this Condition.

7. MANNER OF CARRYING OUT THE SERVICES

7.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Premises without obtaining the Purchaser's prior consent.

7.2 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable the Supplier to carry out the Services concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Purchaser may reasonably require.

7.3 The Purchaser shall have the power at any time during the progress of the Services to order in writing:

(a) the removal from the Premises of any materials which in the opinion of the Purchaser are either hazardous, noxious or not in accordance with the Contract, and/or

(b) the substitution of proper and suitable materials, and/or

(c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefor of any work which, in respect of material or workmanship is not in the opinion of the Purchaser in accordance with the Contract.

7.4 The Supplier shall forthwith comply with any order made under Condition 7.3.

7.5 On completion of the Services the Supplier shall remove the Supplier's plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

8. HEALTH AND SAFETY

The Supplier shall perform the Services in such a manner as to be safe and without risk to the health or safety of persons in the vicinity of the place where the Services are being performed (whether such persons are in the vicinity of the said place at the time when the Services are being performed or otherwise) and in such a manner as to comply with any relevant health and safety or other legislation (including Statutory Instrument, Orders, or Regulations made under the said legislation) and any requirements imposed by a local or other regulatory authority in connection with the performance of services of the type supplied to the Purchaser, whether specifically or generally. The Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any breach of this Condition.

9. TIME OF PERFORMANCE

The Supplier shall begin performing the Services on the date stated in the Purchase Order and shall complete the Services by the date stated in the Purchase Order or continue to perform them for the period stated in the Purchase Order (whichever is applicable). Time is of the essence of the Contract. The Purchaser may by written notice require the Supplier to execute the Services in such order as the Purchaser may decide. In the absence of such notice the Supplier shall submit such detailed programmes of work and progress reports as the Purchaser may from time to time require.

10. PAYMENT

10.1 Unless otherwise stated in the Contract, payment will be made within 30 days of receipt and agreement of invoices, submitted monthly in arrears, for work completed to the satisfaction of the Purchaser.

10.2 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

10.3 Notwithstanding Condition 21 (Assignment and sub-contracting) of this Contract the Supplier may assign to another person (an "assignee") the right to receive payment of the Price or any part thereof due to the Supplier under this Contract subject to (i) deduction of sums in respect of which the Purchaser exercises the right of recovery under Condition 20 (Recovery of sums due) of this Contract and (ii) all the related rights of the Purchaser under this Contract in relation to the recovery of sums due but unpaid. The Supplier shall notify or procure that any assignee notifies the Purchaser of any variations to the arrangements for payment of the Price 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 shall be under no obligation to vary the arrangements for payment of the Price or for handling invoices.

11. FREE-ISSUE MATERIALS

Where the Purchaser for the purpose of the Contract issues materials free of charge to the Supplier such materials shall be and remain the property of the Purchaser. The Supplier shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Supplier shall notify the Purchaser of any surplus materials remaining after completion of the Services and shall dispose of them as the Purchaser may direct. Waste of such materials arising from bad workmanship or negligence of the Supplier or any of the Supplier's servants, agents or sub-contractors shall be made good at the Supplier's expense. Without prejudice to any other of the rights of the Purchaser, the Supplier shall deliver up such materials whether processed or not to the Purchaser on demand.

12. AUDIT

12.1 The Supplier shall keep and maintain until 5 years after the Contract has been completed records to the satisfaction of the Purchaser of all expenditures which are reimbursable by the Purchaser and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by the Purchaser on a time charge basis. The Supplier shall on request afford the Purchaser or the Purchaser's representatives such access to those records as may be required by the Purchaser in connection with the Contract.

12.2 The provisions of this Condition 12 shall apply during the continuance of this Contract and after its termination howsoever arising.

13. CORRUPT GIFTS OR PAYMENTS

The Supplier shall not offer or give, or agree to give, to any employee or representative of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Purchaser or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Supplier is drawn to the criminal offences created by the Bribery Act 2010.

14. INTELLECTUAL PROPERTY RIGHTS

14.1 All Intellectual Property Rights in any material including but not limited to reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs which are created or developed by the Supplier on behalf of the Purchaser for use, or intended use, in relation to the performance by the Supplier of its obligations under the Contract are hereby assigned to and shall vest in the Crown absolutely.

14.2 Except as may expressly be provided for in the Contract, neither party acquires any interest in or license to use the other party's Intellectual Property Rights owned or developed prior to or independently of the Contract.

14.3 The Supplier must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract. The Supplier shall indemnify the Purchaser against all actions, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 14.3.

14.4 The provisions of this Condition 14 shall apply during the continuance of this Contract and after its termination howsoever arising.

15. INDEMNITY AND INSURANCE

15.1 Without prejudice to any rights or remedies of the Purchaser the Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any negligent or wrongful act or omission of the Supplier.

15.2 The Purchaser shall indemnify the Supplier 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 Supplier acting in accordance with the Purchaser's specific written instructions. This indemnity provision shall not apply if the Supplier-

(a) acts on the Purchaser's specific written instructions but fails to notify the Purchaser in accordance with Condition 28.11(c) of this Contract;

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

15.3 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Supplier (in respect of which the indemnity in Condition 15.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown) the indemnity contained in Condition 15.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown.

15.4 The Supplier shall have in force and shall require any sub-Contractor to have in force:

(a) employer's liability insurance in accordance with any legal requirements for the time being in force, and

(b) public liability insurance for such sum and range of cover as the Supplier deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than £1 million for any one incident and unlimited in total, unless otherwise agreed by the Purchaser in writing.

15.5 The policy or policies of insurance referred to in Condition 15.4 shall be shown to the Purchaser whenever the Purchaser requests, together with satisfactory evidence of payment of premiums, including the latest premium due thereunder.

16. DISCRIMINATION

The Supplier 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.

17. BLACKLISTING

The Supplier 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 Condition is a material default which shall entitle the Purchaser to terminate the Contract

18. OFFICIAL SECRETS ACT, CONFIDENTIALITY, AND ACCESS TO GOVERNMENT INFORMATION

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

18.2 The Supplier shall keep secret and not disclose and shall procure that the Supplier's employees keep secret and do not disclose any information of a confidential nature obtained by the Supplier by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision.

18.3 All information related to the Contract will be treated as commercial in confidence by the parties except that:

(a) The Supplier may disclose any information as required by law or judicial order to be disclosed.

(b) The Purchaser may disclose any information as required by law or judicial order to be disclosed. Further, the Purchaser may disclose all information obtained by the Purchaser by virtue of the Contract to the Scottish or 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. 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, (MSPs) or Members of the United Kingdom Parliament (MPs). Such disclosure shall not be treated as a breach of this Contract.

18.4 The provisions of this Condition 18 shall apply during the continuance of this Contract and after its termination howsoever arising.

19. TERMINATION

19.1 The Supplier shall notify the Purchaser in writing immediately upon the occurrence of any of the following events:

(a) where the Supplier is an individual and if a petition is presented for the Supplier's bankruptcy or the sequestration of the Supplier's estate or a criminal bankruptcy order is made against the Supplier, or the Supplier is apparently insolvent, or makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage the Supplier's affairs; or

(b) where the Supplier is not an individual but is a firm, or a number of persons acting together in any capacity, if any event in (a) or (c) of this Condition occurs in respect of the firm or any partner in the firm or any of those persons or a petition is presented for the Supplier to be wound up as an unregistered company; or

(c) where the Supplier is a company, if the company passes a resolution for winding-up of dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrator, administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.

19.2 On the occurrence of any of the events described in Condition 19.1 or, if the Supplier shall have committed a material breach of this Contract and (if such breach is capable March 2018

of remedy) shall have failed to remedy such breach within 30 days of being required by the Purchaser in writing to do so or, where the Supplier is an individual if the Supplier shall die or be adjudged incapable of managing his or her affairs within the meaning of the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003, the Purchaser shall be entitled to terminate this Contract by notice to the Supplier with immediate effect. Thereupon, without prejudice to any other of the Purchaser's rights, the Purchaser may complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance therefor in any payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to the Supplier, and the Purchaser shall not be liable to make any further payment to the Supplier until the Services have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from any amount due to the Supplier the costs thereof incurred by the Purchaser (including the Purchaser's own costs). If the total cost to the Purchaser exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by the Purchaser from the Supplier.

19.3 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 Supplier 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 Supplier 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.

19.4 The Purchaser may also terminate the Contract in the event of a failure by the Supplier to comply in the performance of the Services with legal obligations in the fields of environmental, social and employment law.

19.5 In addition to the Purchaser's rights of termination under Condition 19.2, 19.3 and 19.4, the Purchaser shall be entitled to terminate this Contract by giving to the Supplier not less than 30 days' notice to that effect.

19.6 Termination under Condition 19.2, 19.3, 19.4 or 19.5 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the Purchaser and shall not affect the continued operation of Conditions 12(Audit), 14 (Intellectual Property Rights), 18 (Official Secrets Acts, etc.), 27 (TUPE) and 28 (Data Protection).

20. RECOVERY OF SUMS DUE

Wherever under this Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due, or which at any later time may become due, to the Supplier under this Contract or under any other agreement or contract with the Purchaser or with any department, agency or authority of the Crown.

21. ASSIGNATION AND SUB-CONTRACTING

21.1 The Supplier shall not assign or sub-contract any portion of the Contract without the prior written consent of the Purchaser. Sub-contracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to the Supplier under the Contract or these Conditions.

21.2 Where the Purchaser has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Supplier to the Purchaser immediately it is issued.

21.3 Where the Supplier enters into a sub-contract must ensure that a provision is included which:

21.3.1 requires payment to be made of all sums due by the Supplier 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 Supplier 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 Supplier 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 Supplier, payment must be made to the sub-contractor without deduction;

21.3.2 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; and

21.3.3 in the same terms as that set out in this Condition 21.3 (including for the avoidance of doubt this Condition 21.3.3) subject only to modification to refer to the correct designation of the equivalent party as the Supplier and sub-contractor as the case may be.

21.4 The Supplier shall also include in every sub-contract:

21.4.1 a right for the Supplier 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 Condition 19.3 occur; and

21.4.2 a requirement that the sub-contractor includes a provision having the same effect as 21.4.1 above in any sub-contract which it awards.

In this Condition 21.4, 'sub-contract' means a contract between two or more suppliers, 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.

22. NOTICES

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Purchase Order, or to such other address as the party may by notice to

the other have substituted therefor, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

23. COMPLIANCE WITH THE LAW ETC.

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

23.1 all applicable law;

23.2 any applicable requirements of regulatory bodies; and

23.3 Good Industry Practice.

In this Condition, '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 Supplier under the same or similar circumstances.

24. DISPUTE RESOLUTION

24.1 The parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract.

24.2 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 good faith, 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.

24.3 Any arbitration under 24.2 is subject to the Arbitration (Scotland) Act 2010.

25. HEADINGS

The headings to Conditions shall not affect their interpretation.

26. GOVERNING LAW

These Conditions shall be governed by and construed in accordance with Scottish law and the Supplier hereby irrevocably submits to the jurisdiction of the Scottish courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

27. TUPE

27.1 The Supplier recognises that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in respect of the Contract, and that for the purposes of those Regulations, the undertaking concerned (or any relevant part of the undertaking) shall (a) transfer to the Supplier on the commencement of the Contract; (b) transfer to another supplier on the expiry of the Contract.

March 2018

27.2 During the period of six months preceding the expiry of the Contract or after the Purchaser has given notice to terminate the Contract or the Supplier stops trading, and within 20 working days of being so requested by the Purchaser, the Supplier shall fully and accurately disclose to the Purchaser or to any person nominated by the Purchaser information relating to employees engaged in providing the Services in relation to the Contract in particular, but not necessarily restricted to, the following:

(a) the total number of personnel whose employment with the Supplier is liable to be terminated at the expiry of this Contract but for any operation of law; and

(b) for each person, age and gender, details of their salary, date of commencement of continuous employment and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of staff do not have to be given); and

(c) information about the other terms and conditions on which the affected staff are employed, or about where that information can be found; and

(d) details of pensions entitlements, if any.

27.3 The Supplier shall permit the Purchaser to use the information for the purposes of TUPE and of re-tendering, which shall include such disclosure to potential suppliers as the Purchaser considers appropriate in connection with any re-tendering. The Supplier will co-operate with the re-tendering of the contract by allowing the transferee to communicate with and meet the affected employees and/or their representatives.

27.4 The Supplier agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision or disclosure of information permitted under this Condition.

27.5 In the event that the information provided by the Supplier in accordance with this Condition becomes inaccurate, whether due to changes to the employment and personnel details of the affected employees made subsequent to the original provision of such information or by reason of the Supplier becoming aware that the information originally given was inaccurate, the Supplier shall notify the Purchaser of the inaccuracies and provide the amended information. The Supplier shall be liable for any increase in costs the Purchaser may incur as a result of the inaccurate or late production of data.

27.6 The provisions of this Condition 27 shall apply during the continuance of this Contract and after its termination howsoever arising.

28. Data Protection

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

28.2 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 Condition 28 are without prejudice to any obligations and duties imposed directly on the Supplier under Data Protection Laws and the Supplier hereby agrees to comply with those obligations and duties.

28.3 The Supplier 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.

28.4 The Supplier 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.

28.5 The Supplier must:

28.5.1 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 Supplier is subject; in which case the Supplier 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 Supplier's obligations under this Contract or as is required by the law;

28.5.3 subject to Condition 28.5.1 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;

28.5.4 take all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:

- (a) are aware of and comply with the Supplier's duties under this Condition;
- (b) are subject to appropriate confidentiality undertakings with the Supplier 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.

28.5.5 implement appropriate technical and organisational measures 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.

28.6 The Supplier 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 Supplier 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.

28.7 If the Supplier engages a sub-contractor for carrying out Processing activities on behalf of the Purchaser, the Supplier 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 Supplier shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.

28.8 The Supplier 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. The Supplier 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.

28.9 Taking into account the nature of the Processing and the information available, the Supplier 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.

28.10 At the end of the provision of Services relating to processing the Supplier 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.

28.11 The Supplier must:

- (a) provide such information as is necessary to enable the Purchaser to satisfy itself of the Supplier's compliance with this Condition 28;
- (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 Condition 28 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 the Data Protection Laws.

28.12 The Supplier 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.

28.14 If requested, the Supplier must make such records referred to Condition 28.12 available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks.

28.15 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under Condition 28.14 with minimum disruption to the Supplier's day to day business. March 2018

SCHEDULE (Data Protection)

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

This Schedule 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 [insert description here].

The nature and purpose of the Processing of Personal Data

[Include description here]

The type of Personal Data to be Processed

[Include list of data types here]

The categories of Data Subject to whom Personal Data relates

[Include categories of data subjects here]

The obligations and rights of the Purchaser

The obligations and rights of the Purchaser as the Data Controller are set out in Condition 28 of the Contract.

SUPPLEMENTARY NOTICE

LATE PAYMENT OF INVOICES

Suppliers to the Scottish Government are requested to address complaints regarding late payment of invoices to, in the first instance, the addressee of the invoice and, in the second instance to the Director of Procurement, Area 3A South, Victoria Quay, Edinburgh EH6 6QQ. Telephone [Redacted text]. This procedure is suggested as the best practical way of ensuring problems of late payment are resolved, and is not intended to interfere with Suppliers legal rights.

THIS NOTICE DOES NOT FORM PART OF THE CONDITIONS OF CONTRACT

ANNEX A

Consultation inviting views on the draft Code of Practice on sharing information for the Named Person Service and Child's Plan

1) Please provide your views on what information would be helpful for parents, children and young people about the draft Code of Practice, the named person service and child's plan, and when providing this information would be helpful.

2) Is it clear that the draft Code of Practice for Information Sharing is one part of a suite of materials including Statutory Guidance that will support the implementation of Part 4 (Provision of Named Persons) and Part 5 (Child's Plan) of the 2014 Act?

- Yes
 No

What is helpful and/or what do you think could be clearer?

3) Is it helpful that the primary audience for the draft Code is service providers for the named person service and the child's plan and relevant authorities?

- Yes
 No

What is helpful and/or what do you think could be clearer?

4) Does the draft Code make it clear how the sharing of relevant and proportionate information under Parts 4 and 5 of the 2014 Act must meet the requirements of existing areas of law, including human rights law, data protection and the laws of confidentiality?

- Yes
 No

What is helpful and/or what do you think could be clearer?

5) Is the draft Code useable for the organisations that have legal duties under the Bill (i.e. named person service providers and relevant authorities)?

- Yes
 No

What is helpful and/or what do you think could be clearer?

6) Does the draft Code make clear what policies and procedures service providers are required to have in place to provide a named person service?

Yes

No

What is helpful and/or what do you think could be clearer?

7) Is the addition of the key messages that underpin the draft Code helpful?

Yes

No

What is helpful and/or what do you think could be clearer?

8) Is it clear that the draft Code is binding for named person service providers and relevant authorities, while the Annexes are provided as guidance?

Yes

No

What is helpful and/or what do you think could be clearer?

9) Do you find the guidance included in the Annexes of the draft Code helpful?

Yes

No

What is helpful and/or what do you think could be clearer?

10) Does the draft Code clearly set out when it is and is not appropriate to rely on consent when sharing information?

Yes

No

What is helpful and/or what do you think could be clearer?

11) Please provide any other general comments about the draft Code of Practice.

12) Please provide your views on on the financial resources, include training and development needs associated with implementation of Parts 4 (Named Person) and 5 (Child's Plan) of the 2014 Act.

13) Please provide views on the development of other support materials, including the restated Getting It Right For Every Child policy statement and Statutory Guidance for Parts 4 and 5 of the 2014 Act.

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END OF CONSULTATION