

EVALUATION GUIDE AND AWARD CRITERIA

Advocacy Services for Social Security Scotland Clients – CASE REF: 540750

1. INTRODUCTION

- 1.1. The evaluation criteria will consider Quality as well as Price. Each tender will be subjected to the evaluation process outlined below. The aim of the evaluation is to select the tender which represents the Most Economically Advantageous Tender (MEAT).
- 1.2. The winning tender will be the one that achieves the highest Combined Score (providing their tender is technically compliant). The Combined Score will be determined based on the following Price/Quality Ratio:
 - Quality (Technical) 70%
 - Price (Commercial) 30%

2. EVALUATION PROCESS

Evaluation of tenders will follow this process:

2.1. SPD (Selection Stage)

- 2.1.1. The purpose of the Selection Stage is to allow the Scottish Ministers to assess tenderers' suitability, capacity and capability to provide the Services required under the proposed Contract. Tenderers must submit responses to each question contained in the SPD (Qualification Envelope in PCS-T). In assessing responses to the SPD, a '**Pass/Fail**' score will be awarded to each question.
- 2.1.2. Only tenders that achieve a '**Pass**' for all questions in the SPD will proceed to the Quality and Price Analysis.

2.2. Quality Analysis

- 2.2.1. Tender responses to the Technical Award criteria questions, as outlined in Appendix A, will be used to perform the Quality Analysis.
- 2.2.2. The marks awarded will be based on the evidence contained in the tender submissions, including any relevant attachments where they have been requested in the ITT.
- 2.2.3. Each member of the Tender Evaluation Panel will evaluate each tender submission in isolation of the other evaluators.
- 2.2.4. Each evaluator will award a mark for each question between 0 and 4, in accordance with the methodology detailed in the table below:

QUALITY SCORING GUIDANCE		
Technical responses will be evaluated using the following methodology:		
Score	Definition	Description
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.
Evaluators can award a score of 0, 1, 2, 3 or 4.		

2.2.5. Once each evaluator has independently evaluated each of the tender submissions, a Moderation Meeting will be held with all members of the Tender Evaluation Panel to discuss tender scores and ensure consistency of approach with regard to the Quality Analysis.

2.2.6. The moderated average of all of the Tender Evaluation Panel marks for each question will be multiplied by the relevant question weighting, to give the question weighted score.

2.2.7. Scores will be rounded to 2 decimal places

2.2.8. Quality Scores will be awarded using the following methodology:

1. Individual Question Score (expressed as a percentage) x Question Weighting x the Section Weighting = Question Weighted Score.
2. Sum of all Question Weighted Scores within a section = Total Section Weighted Score.
3. Sum of all Section Weighted Scores = Overall Quality Score for each Tenderer.

2.3. **Price Analysis**

2.3.1. To allow a comparison of bids, a Tender Sum Total for parts a), b) and c) will be calculated as set out in the Pricing Schedule (Schedule 2), which Tenderers are to complete.

2.3.2. The lowest total tender price for each part, determined as the Tender Sum Total following the methodology in the Pricing Schedule, will be awarded 100% of the marks available for that section. The Price Score for the remaining Tenderers will be determined by allocating a mark for each Tenderers' Tender Sum Total relative to the lowest total tender price using the formula:

$$(\text{Lowest Tender Sum Total} / \text{Tenderer's Tender Sum Total}) \times 100.$$

2.3.3. The Price Scores achieved for parts a), b) and c) will be added together to give an overall Price Score which will be scaled to the Price weighting.

2.4. **Combined Score**

- 2.4.1. Once both scores (Quality and Price) have been calculated, they will be added together to give the **Combined Score** for each compliant tender.
- 2.4.2. The Combined Score will be calculated by adding the Overall Quality Score and the Overall Price Score together.
- 2.4.3. Scores will be rounded to 2 decimal places.
- 2.4.4. The Tenderer who achieves the highest Combined Score will be deemed to be the successful bidder, provided their tender has been deemed to be fully compliant in all other respects.
- 2.4.5. In the event of a tie the Scottish Ministers reserves the right to appoint the Tenderer who obtains the highest technical score.

3. TENDER CLARIFICATIONS

- 3.1. Written clarifications may be required to affirm the information provided in the tender. On completion of any clarification exercise, tender responses may be rescored to take account of the clarification.

Appendix A -

TECHNICAL AWARD CRITERIA		Section Weighting	Question Weighting
SECTION A: Methodology and Service Delivery		30%	
A1	Tenderers must provide a proposed methodology for the delivery of the Service as detailed in the Specification (Schedule 1). Responses must demonstrate a clear and full understanding of the requirement.		15%
A2	(a) Tenderers must provide an overview on how they will ensure the Service Principles stated in the Specification of Requirements (schedule 1) will be achieved. Describing how this approach will be best for individuals.		10%
	(b) Describe how you will operate, manage and deliver the Contract in an open, flexible and transparent way		5%
	(c) Describe how you will apply due diligence and implement quality assurance measures to ensure services are delivered accessibly and locally, on time and within budget; and in accordance with the agreed Key performance Indicators.		5%
	(d) Describe of how you will manage fluctuations in referral volumes		5%
	(e) Identify and describe the risks associated with the delivery of the service and how you will manage and mitigate them.		5%
	(f) How you will adapt to the legislative requirements and how you will manage the advocates, delivery partners & supply chain ensuring they are fully trained and kept updated throughout the duration of the contract.		10%

A3	Tenderers must clearly state how they intend to work with their supply chain members to ensure the needs of ALL individuals are fully addressed within their delivery structure.		15%
A4	(a) Tenderers must provide details of how they will provide accessible locations for the provision of advocacy support locally across Scotland ensuring that the timescales detailed in the Specification are met.		15%
	(b) Demonstrate how they will ensure that the needs of all individuals are met in all locations. Tenderers should demonstrate how they will maximise the use of local and specialist providers. Allocating advocate with experience of the specialism; provision of specialist equipment; other accessibility requirements.		15%
SECTION B: Staffing, Knowledge and Competence		25%	
B1.	<p>Tenderers must describe their proposed management structure for this service and how the management skills and expertise identified will ensure that the complete service (including the supply chain) will meet the standards required.</p> <p><u>Organisation Structure</u></p> <p>Tenders must provide a diagram showing their organisation's structure. This should clearly identify key individuals including management posts and post holders that will be involved in delivering the service.</p>		40%

B2.	<p>(a) A Resource Plan must be provided showing how staffing, by full time equivalent and job title/role, will be allocated and a description of the job roles of staff.</p> <p>Responses should include, but not be restricted to the following:</p> <ul style="list-style-type: none"> • number of staff, shown as full time equivalents, • staff geographical coverage • supply chain or delivery partners propose to employ to manage and deliver the Service. • description of why they consider this staffing level is appropriate at contract commencement date, • description in detail of the number of staff to be drawn from current resources, those to be recruited by both there organisation and/or supply chain organisations. 		30%
	<p>(b) Tenderers must provide details on how they will manage the staffing levels should demand volumes change over the lifetime of the contract.</p>		20%
	<p>(c) Describe how you will provide training and upskilling to all service providers (advocates), including partners and supply chain. Ensuring that this development is undertaken throughout the contract duration.</p>		10%
SECTION C: Performance Monitoring & Reporting		15%	
C1.	<p>Tenderers must provide details of how they intend to ensure the quality and accuracy of management information and performance reporting. Responses should include, but not be restricted to:</p> <ul style="list-style-type: none"> • The process for monitoring and reporting performance against the Specification of Requirements and Key Performance Indicators. • The tenderer shall confirm the availability of staff to attend scheduled and ad-hoc contract management meetings. • Responses should include examples of quarterly report formats. 		50%

C2	<p>Please describe your processes and procedures for improving performance through continuous improvement and individuals feedback.</p> <p>Your response should:</p> <ul style="list-style-type: none"> • outline how individuals feedback and satisfaction will be recorded, monitored and managed and how this will be utilised to deliver improved performance in the future; and • approach to performance improvement activities within your organisation and your supply chain members, outlining how you and your supply chain members will share good practice and will act on the findings of any monitoring activity. • include a description of the process for managing complaints including : • How complaints will be registered, managed and reported and the process for escalation and resolution. • How the organisation deals with feedback from the individuals. <p><u>Quality Management</u></p> <p>Please describe your organisation's procedures for periodically reviewing, correcting and improving quality performance.</p> <p>Your response must demonstrate that your organisation has a system for monitoring quality management procedures on an on-going basis. Your organisation should be able to provide evidence of systematic, periodic review and improvement of quality in respect of output and general performance.</p>		50%
SECTION D: Data Protection and Security		5%	

D1.	<p>Tenderers should describe how they will ensure the security of the service in compliance with GDPR and the Data Protection Act 2018:</p> <p>a) the measures that will be taken to ensure the security of data and systems, that hold respondent personal data. Please attach accreditations/certifications held for data security separately.</p> <p>b) how security measures will be maintained to remain up-to-date and fit for purpose at all times,</p> <p>c) how you will ensure these standards are adhered to within any supply chain.</p> <p>d) Please describe how you will collate this data i.e. would you use any software applications. (if so please provide details)</p>		100%
SECTION E. Mobilisation and Implementation		10%	
E1.	<p>The Service Provider must provide a Mobilisation and Implementation Plan and describe their approach to implement this Service.</p> <p>The Plan must detail the key tasks, staff/resources, activities and milestone dates to be undertaken to ensure the availability of the required Service from the Operational Service Commencement Date of 06/12/2021</p>		100%
SECTION F. SUSTAINABILITY		NOT SCORED	
F1.	<p>Please provide details of how the contract will be managed in a way that ensures that its policies and processes will support the Scottish Ministers 'Greener Scotland' strategic objective. As a minimum your response shall include details of proactive approaches to sustainable consumption, including use of any supported businesses, the efficient use of resources and the consideration given to social and environmental consequences.</p>		N/A
SECTION G. COMMUNITY BENEFITS		5%	

G1.	<p>The Scottish Ministers are committed to contributing to the social, economic & environmental well-being of the people of Scotland. The Scottish Ministers have 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. Tenderers are required to provide details of how you will ensure quantifiable wider community benefit(s) through this Contract and your approach to delivering the Service.</p> <p>Community Benefit opportunities may include:</p> <ul style="list-style-type: none"> • target Recruitment and training - generating employment and training opportunities for priority groups • up-skilling Service Provider and delivery partner(s) staff during the term of the contract • developing Equality and diversity initiatives targeted at priority groups • making sub-contracting opportunities available to SMEs, Social Enterprise, Third Sector, and Supported Business • supporting Supply Chain development activities • building capacity in community organisations • working with local schools and colleges to support priority groups journey back to work • minimising negative environmental impacts <p>The above is not an exhaustive list. Please note that all benefits should link to your delivery of this contract. Service Providers must also provide details of any quantifiable wider community benefit they will bring through their approach to the delivery of services. (i.e. rather than being generic statements around corporate social responsibility)..</p> <p>If successful the winning tenderer(s) 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.</p> <p>Apprenticeship placements</p> <p>For this Contract, there is a strong desire to create up to 3 apprenticeship positions registered with relevant sector skills body at the Modern Apprentice level. The first apprentice should be recruited within 6 months of the Contract Commencement Date. Tenderers should propose when they shall recruit the remaining two apprenticeships.</p>		100%
-----	---	--	------

SECTION H. CLIMATE EMERGENCY		NOT SCORED	
H1.	<p>The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, which amends the Climate Change (Scotland) Act 2009, sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045 at the latest, with interim targets for reductions of at least 56% by 2020, 75% by 2030, 90% by 2040.</p> <p>The Scottish Ministers are committed to a fairer and more sustainable Scotland to support citizens now and in future generations. Responsible businesses around the world are considering their own sustainable credentials and how they can counter the climate emergency. Scottish Ministers want to do business with responsible suppliers and actively encourage all bidders, suppliers and partners in the supply chain to the Scottish public sector to collaborate in tackling these global issues together. Scottish Ministers welcome creative thinking and commitment in how to build and shape sustainable solutions and supply chains for Scotland, ensuring that a key consideration in how our supply chains are shaped includes minimising emissions, underpinning a circular economy and supporting our Carbon Management Plan.</p> <p>Please provide details of how the contract will be delivered in a way that ensures that it supports the Scottish Minister's sustainability objectives outlined above. This should include details of how the tenderer will work with the Purchaser to meet external and internal targets for reducing energy consumption, and ways in which they will reduce their carbon footprint in the delivery of this contract.</p> <p>Of particular interest for this contract are impacts of vehicles/transport used by the resources</p> <p>Responses should also address the approach taken to ensure efficiency of logistics operations, the management of waste and energy efficiency in delivering the service.</p>		N/A
SECTION I. FAIR WORK PRACTICES		5%	
I1.	The Public Sector in Scotland is committed to the delivery of high quality public services, and recognises that this is critically dependent on a		100%

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.

For example, the Scottish Government is committed to being a fair work employer, which includes:

- Implementation of a fair and equal pay policy that includes a commitment to supporting the real Living Wage, including, for example being a Scottish Living Wage Accredited employer;
- clear managerial responsibility to nurture talent and help individuals fulfil their potential through support for learning and development, including for example Investors in People, a strong commitment to Modern Apprenticeships and the development of Scotland's young workforce, including Investors in Young People;
- promoting equality of opportunity and developing a workforce which reflects the population of Scotland in terms of protected characteristics such as age, gender, religion or belief, race, sexual orientation and disability;
- providing stability of employment and hours of work, and avoiding exploitative employment practices, including for example no inappropriate use of zero-hours contracts; that is, contracts which compel staff to make themselves available for work offered.
- Supporting flexible working and support for family friendly working and wider work life balance, including through the Healthy Working Lives Award Programme;
- supporting genuine and progressive workforce engagement, including recognition of trade unions and engagement with staff

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.

Question - Please describe how you will commit to Fair Work practices for workers (including any agency or sub-contractor workers) engaged in the delivery of this contract.

Answers need not be constrained to, or be reflective of, any examples given alongside this question.

Good answers will reassure evaluators that your company is adopting relevant fair work practices in the delivery of the contract in line with the Fair Work Framework, see also 1 pager What is Fair Work – Information Sheet.

In your response you should **describe how you are adopting the ‘Fair Work First’ practices, a minimum ask of suppliers:**

- investment in skills and training
- no inappropriate use of zero hours contracts (for example using zero hours contracts when people are working regular hours; exclusive contracts that stop flexible workers working for other people)
- action to tackle the gender pay gap
- genuine workforce engagement such as trade union or employee association recognition, and
- fair pay for workers (for example, the real Living Wage, see 1 pager What is the real Living Wage - Information Sheet)

And adopting wider fair work practices, which in respect of this contract can include, for example a positive approach to rewarding staff at a level that helps tackle inequality (for example paying the real Living Wage); improves the wider diversity of your staff, such as improving the gender balance in supervisory and management roles; provide skills and training, for example to ensure a high quality of customer service and skills regarding health / safety matters; opportunities to use skills which help staff fulfil their potential (for example offering genuine career progression opportunities or accommodating lateral career movement); provides flexible working arrangements to accommodate a work / life balance; avoids exploitative employment practices, such as through the use of umbrella companies and promotes security of employment and that your company will demonstrate organisational integrity with regards to the delivery of those policies.

This reassurance can include a variety of practices which demonstrate your approach to fair work and should be tangible and measurable examples that can be monitored and reported during contract management procedures.

SECTION J. BUSINESS CONTINUITY AND DISASTER RECOVERY (BCDR)		5%											
J1	<p>Please describe any Business Contingency and Disaster Recovery (BCDR) Plans you will put in place to ensure delivery of Services/Goods during the COVID-19 pandemic, these maybe but not limited to:</p> <ul style="list-style-type: none"> • Supply Chain • Resources (Staff) • Deliveries • Use of IT • IT failure • Backups (on/off site servers) <p>Plans must also cover any mitigation actions you will put in place to ensure delivery. Please see table below:</p> <table border="1"> <thead> <tr> <th>Threat</th> <th>H/M/L Risk</th> <th>H/M/L Impact</th> <th>Mitigation / Actions including timescales</th> <th>Responsible Owner</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Threat	H/M/L Risk	H/M/L Impact	Mitigation / Actions including timescales	Responsible Owner							100%
	Threat	H/M/L Risk	H/M/L Impact	Mitigation / Actions including timescales	Responsible Owner								

ADDITIONAL QUESTIONS FOR INFORMATION PURPOSES ONLY

The following questions require a Yes/No answer and are used for statistical purposes only:

1. SCOTTISH BUSINESS PLEDGE

The Scottish Business Pledge is a Government initiative which aims for a fairer Scotland through more equality, opportunity and innovation in business. Information on this can be found at the following link:

<https://scottishbusinesspledge.scot/>

- a) Tenderers are asked to confirm if they have signed up to the Scottish Business Pledge.

YES

NO

2. LIVING WAGE

The Scottish Living Wage Accreditation Initiative and the Living Wage Foundation recognise and celebrate the responsible leadership shown by Living Wage Employers and support employers to incorporate the real Living Wage into organisational structures long term. More information can be found at the links below:

<http://scottishlivingwage.org/>
<http://www.livingwage.org.uk/>

- a) Tenderers are asked to confirm if they are accredited as a Living Wage Employer.

YES
NO

- b) Tenderers are asked to confirm whether they will pay staff that are directly involved in the delivery of services under the contract the Real Living Wage.

YES
NO

FORM OF TENDER TO THE SCOTTISH GOVERNMENT

*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 in accordance with the Schedules, at the prices entered in the Pricing Schedule and in accordance with the Terms and Conditions for Model Services.

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

- Instructions to Tenderers
- Specification
- Evaluation Guide and Award Criteria
- Pricing Submission
- Form of Tender
- The Terms and Conditions detailed above

*I/We agree to abide by this tender from **1200 hours on 28th June 2021**, 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 on 6th December 2021 and end on 5th December 2023 unless the Contract is terminated or extended in accordance with the Terms and Conditions of this Contract.

Signature of
Representative:

Name:

**(BLOCK
CAPITALS)**

Designation/
Role/Job Title:

Duly authorised to sign Tenders for and on behalf of:

Name of
Tenderer
(Organisation)

Nature of
Organisation**

Address

Telephone

No

(Include Area Code)

E-mail

Date

(* Delete As Appropriate)

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

INSTRUCTIONS TO TENDERERS

Advocacy Services for Social Security Scotland Clients – CASE REF: 540750

1. Tender Information

- 1.1 Any expenditure or work undertaken in connection with this tendering exercise is a matter solely for the commercial judgement of the tenderer and the Scottish Ministers will not be responsible for any expenses or losses which may be incurred by any tenderer in connection with the submission of their tender.
- 1.2 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.
- 1.3 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.
- 1.4 Tenders must be submitted in accordance with these Notices and Instructions and accompanying ITT documents. Any tender that does not accord with all the requirements herein and in the covering letter may not be considered.
- 1.5 The closing date and time for submission of tenders is **12.00 noon on 28th June 2021**.
- 1.6 Tenderers may be required to provide a Parent Company Guarantee. Tenderers must make it clear in their tender submission if they are not able conform to this requirement.
- 1.7 Tenderers should refer to Annex A which contains the Scottish Procurement and Policy Directorate privacy notice.

2. Award Criteria

- 2.1 This requirement will follow a Open procedure in line with the Public Contracts (Scotland) Regulations 2015.
- 2.2 The Scottish Ministers are not bound to accept the lowest or any tender. The evaluation criteria will include consideration of quality as well as price.
- 2.3 Each tender will be subjected to a Quality (Technical) and Price (Commercial) evaluation. The aim of the evaluation is to select the tender which represents the Most Economically Advantageous Tender (MEAT).
- 2.4 The Award Criteria which will be applied to determine the Most Economically Advantageous Tender are as follows:
 - **Quality (Technical) 70%**
 - **Price (Commercial) 30%**

- 2.5 Full details of the Award Criteria, Sub-Weightings and Tender Evaluation methods are contained in the Evaluation Guide and Award Criteria.
- 2.6 Any contract awarded as a result of this tendering exercise will be subject to the Terms and Conditions contained in the Model Services Contract.

3. Instructions for Completion and Submission of Tender Documentation

- 3.1 Tenderers must submit their completed tenders via the Scottish Government's electronic tendering system, Public Contracts Scotland – Tender (PCS-T). The speed with which submissions are made is dependent on the size of the document and inclusion of graphics, logos, photographs etc should be omitted wherever possible. Large electronic files may take time to upload and tenderers should ensure that sufficient time is allowed for this to be done.
- 3.2 Scottish Ministers will exclude any evidence provided as responses to the technical evaluation questions that are hyperlinks to YouTube videos, or any other streaming websites, as they do not enable a record to be maintained given that the contents of a link can be changed or removed.
- 3.3 Full guidance on the submission process is provided within the System Guidance document within the attachments area for this ITT. No hard copies will be accepted.
- 3.4 Correspondence connected with this ITT that requires attention before the closing date must be submitted using the PCS-T messaging function.
- 3.5 All responses to questions must be entered into the answer facility within the PCS-T system and failure to do so may invalidate the bid. Treat each question and response in isolation and answer each question in full. Tenderers should not assume evaluators will read more than one answer so do not cross-refer between answers. Supporting information should not be sent in isolation, but only in support of specific questions where requested.
- 3.6 Please note that on questions where the instructions are to provide responses in attached documents, the attachments should be headed with the question number and the question itself. Tenderers should note that when uploading attachments, only one attachment per question is allowed. If Tenderers wish to upload more than one file for a particular question then this can be achieved by uploading a zipped file containing all of the necessary files.
- 3.7 Tenderers should respond to questions on the basis that the Scottish Ministers has no prior knowledge of your organisation. Information and detail which forms part of the general company literature of promotional brochures etc will not form part of the evaluation process. General or irrelevant marketing material should NOT be included.
- 3.8 Please note for all responses to questions (particularly where longer responses are required) it is helpful if Tenderers use plain English and punctuate their answers where appropriate and use headings, section and/or bullet points. This will assist evaluators in finding the information necessary to enable them to score accurately.

- 3.9 The Scottish Ministers will not enter into detailed discussions with Tenderers in relation to its requirements at this stage. All questions regarding the content of this ITT must be directed through the dedicated PCS-T messaging area by **21st June 2021 at 12:00 noon**. No other form of communication will be accepted. Any technical queries related to the system should be directed to the BravoSolution helpdesk on 0800 368 4850 or at help@bravosolution.co.uk
- 3.10 If the Scottish Ministers consider any questions or requests for clarification to be of material significance, both the query and the response will be communicated to all Tenderers that have expressed interest in this ITT. The Scottish Ministers will take steps not to identify the source of the query. Tenderers should indicate if they do not want their question and response circulated. The Scottish Ministers reserves the right to circulate if not doing so would breach the principle of equal treatment.
- 3.11 Tenderers are asked to provide a single point of contact in their organisation for their response to the ITT in PCS-T. The Scottish Ministers shall not be responsible for contacting Tenderers through any route other than the nominated PCS-T contact. Tenderers must therefore keep their contact details on the PCS-T system up to date or they will be unable to receive communications from the Scottish Ministers. Tenderers must also undertake to notify any changes to their single point of contact promptly.
- 3.12 All submissions from Tenderers will remain sealed on the PCS-T system until after the deadline has passed. Please note that your response will not be submitted until you press the “submit response” button. You will then receive a confirmation email that your response has been received. The Scottish Ministers will not be able to see your response until the deadline date has passed.
- 3.13 We strongly advise that you submit your response well in advance of the deadline to allow sufficient time for uploading.
- 3.14 Tenderers are reminded that they can check and amend their submissions after they have been submitted and up until the deadline. In the event that a Tenderer submits their tender more than once, PCS-T will only accept the final version of the tender submission.
- 3.15 If you experience any technical difficulties, please seek advice through the BravoSolution helpdesk on 0800 368 4850 or at help@bravosolution.co.uk. The Scottish Ministers cannot assist you with technical matters and the Bravo Solution helpdesk cannot help you once the tender return deadline has passed.
- 3.16 Should you decline to tender, the Scottish Ministers would request that you provide a brief reason for doing so. This information will help us improve our tender processes in future. Any responses of this nature will be kept confidential.
- 3.17 All information submitted to the Scottish Ministers may need to be disclosed and/or published by the Scottish Ministers. Without prejudice to the foregoing generality, the Scottish Ministers may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, (the decisions of the Scottish Ministers in the interpretation thereof shall be final and conclusive in any dispute,

difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court or tribunal with the Scottish Government to order disclosure.

- 3.18 Further, the Scottish Ministers may also disclose all information submitted to them 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 Scottish Ministers shall if they see fit disclose such information but are unable to impose any restrictions upon the information that they provide to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.
- 3.19 Accordingly, if you consider that any of the information included in your tender is commercially confidential please identify it and explain (in broad terms) what harm might result from disclosure and/or publication. It should be remembered though, that even where you have indicated that information is commercially sensitive, Scottish Ministers may disclose this information where they see fit. Receipt by the Scottish Ministers of any material marked "confidential" or equivalent should not be taken to mean that the Scottish Ministers accept any duty of confidence by virtue of that marking.
- 3.20 The Scottish Ministers reserve the right to reject any tender which, in their opinion, does not comply with the Specification.

4. Right To Reject / Disqualify

- 4.1 The Scottish Ministers reserve the right to reject or disqualify a tenderer where:
- a) The tenderer fails to comply fully with the requirements of this Invitation to Tender; and/or
 - b) The response to the ITT is submitted late, is completed incorrectly or is incomplete; and/or
 - c) The tenderer fails to respond in satisfactory terms to a request by the Scottish Ministers to provide supplementary information or to provide clarity in relation to the tenderers' response to the ITT; and/or
 - d) The tenderer or any of its sub-contractors or consortium members is/are guilty of serious misrepresentation in relation to its tender and/or the tender process.

5. Tenderer Composition

- 5.1 In the event that a Tenderer alters its composition during the procurement process (which shall include, but is not limited to, a change in the identity of any entity named in the ITT response whose capacity has been relied upon in

responding to the ITT), the Scottish Ministers reserves the right to request that any proposed reconstituted Tenderer complete the selection part of the ITT, i.e. Business Probity, Criminal Convictions and Financial Standing for re-evaluation in accordance with the criteria used in relation to the evaluation of the original ITT response.

6. Late Tenders

- 6.1 It is the responsibility of all Tenderers to ensure that their ITT response is submitted no later than the appointed date and time. Responses received after the deadline may not be considered. Completed tenders may be submitted at any time before the closing date.

7. Relevant and Appropriate Responses

- 7.1 Tenderers must ensure that they read each question carefully, that all answers you provide are relevant, and that each question is completed in full. All information must be provided in English.
- 7.2 Once you have submitted your response to this ITT you will receive an automated system e-mail confirming receipt of your submitted and published response.

8. Requests for Clarification or Further Information

- 8.1 Subject to the terms of the Regulations, the Scottish Ministers expressly reserve the right to require a Tenderer to provide additional written information supplementing or clarifying any of the information provided by that Tenderer in response to requests for information or questions contained in the ITT.
- 8.2 The Scottish Government may, as appropriate, enter into tender clarifications and commercial discussions with any tenderer(s). This may include a presentation and discussion by the tenderer at a central government organisational site and/or a meeting at the tenderers' premises to discuss the proposal further and to meet selected personnel proposed for the project.

9. Misleading or Falsification of Documents

- 9.1 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. If the Tenderer provides false information regarding any criminal convictions or business probity the Tenderer may also be guilty of a criminal offence.

10. Freedom of Information

- 10.1 Nothing in this ITT shall preclude the 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 the Scottish Ministers and the Scottish Ministers (at sole discretion)

consider that such exemption shall apply, and (in respect of commercially sensitive information only) a Tenderer has advised the 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 the Scottish Ministers).

10.2 Tenderers should detail commercially sensitive information at Schedule 7.

10.3 Tenderers should also note that the receipt of any material or document marked “confidential” or equivalent by the Scottish Ministers should not be taken to mean that the Scottish Ministers accepts any duty of confidence by virtue of that marking.

11. Constitution of Contracts

11.1 No information contained in this ITT or in any communication made between the Scottish Ministers and any Tenderers in connection with this ITT shall be relied upon as constituting a contract, agreement, warranty or representation as to the Scottish Ministers’ ultimate decision in relation to the subject matter of this ITT or that any contract shall be awarded or entered into pursuant to this ITT.

12. Canvassing

12.1 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.

13. Right to Cancel, Clarify or Vary the Process

13.1 Subject to the terms of the Regulations, the Scottish Ministers expressly reserve the right to change, without notice, the basis of, or the procedures for, this procurement process or to terminate the process at any time.

14. Non-Conclusive

14.1 The ITT does not purport to be all-inclusive or to contain all of the information that a Tenderer, or any of its sub-contractors or any consortium member, may require. Tenderers must make their own independent assessment in relation to the subject matter of this ITT and all matters relevant thereto after making investigation and taking such professional advice as they deem necessary. In no circumstances shall the Authority or its advisors, consultants, employees or agent incur any liability or responsibility arising out of or in respect of the issue of this ITT.

15. No Representation or Warranty

15.1 The Scottish Ministers, its advisers, officers, members, employees, other staff and agents: make no representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the information contained in this ITT; accept no responsibility for the information contained in this ITT or for its

fairness, accuracy or completeness; shall not be liable for any loss or damage (other than in respect of fraudulent misrepresentation) as a result of reliance on the information contained in this ITT or any subsequent communication.

16. Collusive Behaviour

16.1 The Tenderer certifies that this is a bona fide tender submission, intended to be competitive, and it has not fixed or adjusted the tender by, under or in accordance with any agreement or arrangement with any other person or Tenderer. The Tenderer also certifies that it has not done and it undertakes that it will not do at any time before the returnable date for this tender any of the following acts:-

16.1.1 Fixing or adjusting the amount of its tender by or in accordance with any agreement or arrangement with any other party; or

16.1.2 Communicating 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

16.1.3 Entering into any agreement or arrangement with any other party that such other party will refrain from submitting a tender; or

16.1.4 Entering into any agreement or arrangement with any other party as to the amount of any tender submitted; or

16.1.5 Paying or giving or offering or agreeing to pay or give any 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.

17. Conflict of Interest

17.1 Tenderers must disclose in their ITT response (by answering the conflict of interest questions found within the ITT's qualification envelope) any circumstances, including, without limitation, personal financial and business activities that would, or may be likely to, give rise to a conflict of interest between the Scottish Ministers and/or any sub-contractors or members of the Tenderer's consortium and the Tenderer. Where a Tenderer identifies any actual or potential conflicts of interest in their response to this ITT, it must state how it intends to avoid such conflicts. The Scottish Ministers reserve the right to reject any response to this ITT which, in the Scottish Ministers' opinion, gives rise, or may be likely to give rise to, a conflict of interest.

18. Consortium Bids

18.1 If applying on behalf of a consortium, please confirm the names and addresses of all other members of the consortium below. Any contract will be entered into with the nominated lead organisation and all members of the consortium, who will in these circumstances each be required to execute said contract together with all ancillary documentation, evidencing their joint and several liability in respect of the obligations and liabilities of the contract. It will be for members of the consortium to sort out their respective duties and liabilities amongst each other. For administrative purposes, any associated documentation prior to and in regards to contract award will be made to the nominated lead organisation.

18.2 If sub-contractors are to be used to assist in the delivery of the service, the following information must be provided for each proposed sub-contractor, when available:

- Name and Address
- Company Registration
- Areas of the service to be provided

18.3 In respect of tenders which include consortia or sub-contractors, it is the lead organisation who completes the tender. However, the Scottish Ministers reserve the right to request further information in respect of the lead organisation and/or partnering organisations should it be deemed necessary for evaluation purposes.

19. No Inducement or Incentive

19.1 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a Tenderer to submit a tender or enter into any contractual agreement.

20. TUPE (Information Only)

20.1 TUPE - The Transfer of Undertakings (Protection of Employment) Regulations 2007 give effect to the EC Acquired Rights Directive 1977. The Scottish Ministers are not the employer and, therefore, are unable to comment on whether or not TUPE applies in this particular contract. Each tenderer must ensure that they comply in full with their responsibilities under TUPE.

20.2 Tenderers should note that TUPE may or may not apply to some or all of the personnel currently assigned to undertakings that are currently performing part or all of the duties described in the Specification of Requirements. Tenderers should, prior to submitting their tender, take their own specific legal advice to ascertain whether TUPE could be held to apply to such undertakings and, if so, how that would impact on their tender.

20.3 Tenderers must clearly state whether they have bid on the basis of TUPE applying. Tenderers should states any assumptions made in this respect.

21. Additional Information

21.1 Tenders shall remain valid and open for acceptance for **6 months** after the tender return date. In exceptional circumstances, the Scottish Ministers' point of contact

may request that the Tenderer extend the validity period for a specified additional period. Except for manifest error or as may otherwise expressly be agreed by both the Scottish Ministers and the tenderer, the contents of submitted tenders will be deemed to be binding upon the tenderer and open for acceptance by the Scottish Ministers for the duration of the validity period. The tenderer is therefore cautioned to verify its proposal before submission to the Scottish Ministers since it is the tenderers' responsibility to ensure that a full appreciation, understanding and comprehension of the Services required, stated or implicit has been achieved prior to tender submission. No claims will be accepted for items that arise from the tenderers' failure to meet these requirements.

- 21.2 Before the tender return date, the Scottish Ministers may modify the ITT by way of issuing addenda. The procedure for receiving submissions will be detailed in any such addenda.
- 21.3 This ITT and any associated correspondence are subject to the laws of copyright and must not be reproduced, whether in whole or in part, without the prior written consent of the Scottish Ministers.
- 21.4 You may not in any way advertise or publicly announce that you are entering into discussions with and/or undertaking work for the Scottish Ministers without the Scottish Ministers' prior written consent.
- 21.5 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.
- 21.6 Any tender that does not accord with all the requirements herein and in the ITT and covering letter may not be considered.

22. TOTAL SCORE & AWARD

- 22.1. Tenderers' technical (quality) score and commercial (price) score will be combined to give a total overall score.
- 22.2. For the avoidance of doubt, the only way a Tenderer can achieve all of the marks available for the Combined Score is if the arithmetical mean average score for every question in the Technical Response is 100 AND they are the Tenderer with the maximum Commercial (price) score.
- 22.3. The Tenderer with the highest scoring compliant tender will be appointed Advocacy Services for Social Security Scotland Clients Contract. In the event of a tie the Authority reserves the right to appoint the Tenderer who obtains the highest Technical score. In the event of a tie on Technical scores, the Contract will awarded to the Tenderer with the highest score in question A1 Methodology, followed by B1 Management Structure and C1 Quality and Accuracy until the Successful Tenderer is identified.

Annex A

Scottish Procurement and Property Directorate – Invitation to Tender (ITT)

Privacy Notice

Scottish Procurement and Property Directorate (Scottish Procurement) is part of the Scottish Government and is responsible for providing professional procurement services and collaborative procurement arrangements to the Scottish Government and Scottish Public Bodies.

In order to carry out its functions, Scottish Procurement is required to process personal information. The types of data we hold and the reasons we are required to process it are set out below. The Scottish Government is the data controller of the information and is committed to protecting your privacy at all times when using your personal data.

This notice relates to the personal information we process about you as part of tender exercises conducted by Scottish Procurement. It explains what personal information we process about you when you submit a response in relation to a tender exercise, why we process it, and what we do with it. It also explains your rights under data protection laws.

The Public Contracts Scotland Portal and PCS-Tender are provided by external suppliers. Details of the Privacy Policies for the Public Contracts Scotland Portal and PCS-Tender

can be found on the respective websites :

[Public Contracts Scotland](#)

[PCS Tender](#)

1. Your data

We collect information from you (including name, email address, business address, home address, date of birth, telephone number, financial information, experience, qualifications) for the following purpose:

- We need to process your personal information in order to allow Scottish Procurement to assess suitability of bidders, evaluate tenders, provide feedback to bidders, award contracts to the successful supplier and to ensure contract requirements are delivered.
- To respond to your queries or requests when you contact us. We will route your messages to the relevant team.
- To contact you about tender and procurement related matters.

2. Legal basis of processing

The legal basis for processing your data is for the performance of a task carried out in the public interest.

3. Recipients

We will share your information with:

- Individuals involved in the procurement exercise or in the evaluation. This may include Scottish Government staff, individuals from other public sector bodies participating in the evaluation of bids, consultants or expert advisers involved in the tender exercise.
- Procurement team members to allow them to respond to your queries or to send you updates on procurement related matters.
- As your personal data will be stored on our IT infrastructure it may be shared with our data processors who provide electronic tendering systems, advertising portals, email, document management, surveys and storage services. Details of the Privacy Policies for the Public Contracts Scotland Portal and PCS-Tender can be found on the respective websites.

4. Retention

We will only keep your information while there is an ongoing business need or Regulatory requirement to retain the information. For successful tenderers the information will be retained until 6 years after expiry of the contract. For unsuccessful tenderers the information will be retained for one year after the date of last action.

5. Your rights

You have the right:

- to request information about how your personal data is processed and to request a copy of that personal data.
- to request that any inaccuracies in your personal data are rectified without delay.
- to request that your personal data is erased if there is no longer a justification for it to be processed.

Further information on your rights can be found on the Scottish Government website at the attached link :

[Your right to access personal information](#)

6. Contact

6.1 You can contact the More Power Implementation Procurement Team at the following address:

Scottish Procurement and Property Directorate

Scottish Government

3A-South, Victoria Quay

Edinburgh EH6 6QQ

scottishprocurement@gov.scot

6.2 Details of the Scottish Government Data Protection Officer and the procedures for complaints can be found at the following link:

[Contact Data Protection Officer](#)

T: 0131 244
E:

Our ref: CASE/540750

11 May 2021

INVITATION TO TENDER – Advocacy Services for Social Security Scotland Clients

Dear Sir/Madam

You are hereby invited by the Scottish Ministers to tender for the above requirement.

This Invitation to Tender is comprised of the following documents:

1. **This ITT Covering Letter**
2. **Instructions to Tenderers**
3. **Evaluation Guide and Contract Award Criteria**
4. **Form of Tender**
5. **Model Services Contract, including:**
 - Schedule 1 Specification and Service Levels (*attached separately in PCS-T*)
 - Schedule 2 Pricing Schedule (*attached separately in PCS-T*)
 - Schedule 3 Ordering Procedures
 - Schedule 4 Management Arrangements
 - Schedule 5 Key Individuals
 - Schedule 6 Approved Sub-Contractors
 - Schedule 7 Service Provider Information
 - Schedule 8 Parent Company Guarantee
 - Schedule 9 Data Protection
 - Schedule 10 Exit Management
 - Schedule 11 NOT USED

Please ensure you review all of the documents listed above and be advised that:

1. Your tender must be in accordance with all parts contained in the Invitation to Tender (ITT). Instructions for the completion and submission of tenders are contained in the Instructions to Tenderers document.
2. The contents of the ITT documents are confidential and must not be disclosed to any third party without prior written consent. A copy of the Model Services Contract, which will apply to the contract, is attached in PCS-Tender.

3. The closing date and time for submission of tenders is 12:00 noon on **Monday, 28 June 2021**. Tenders must be submitted through the Public Contracts Scotland system (PCS-T).
4. It is the responsibility of all tenderers to ensure that their tender is received no later than the appointed time. The Scottish Ministers may not consider tenders received after that time.
5. The Scottish Ministers are not bound to accept the lowest priced or any tender and shall not be bound to accept the contractor as a sole supplier.
6. Please use the messaging function with PCS-Tender to submit any questions in relation to this Invitation to Tender. The deadline for questions from suppliers is **12:00 noon on Monday, 21 June 2021**.

Yours Faithfully

Senior Portfolio Specialist

****Please Note: The Single Procurement Document (SPD) forms part of this tender exercise. It is attached separately in the Qualification envelope on the Public Contracts Scotland – Tender system. Selection requirements in the SPD must be met for submissions in this ITT document to be assessed. SUBMISSIONS NOT MEETING ALL MANDATORY SELECTION REQUIREMENTS IN THE SPD WILL NOT BE EVALUATED.**

SCHEDULE 1

**Advocacy Services for Social Security Scotland Clients
2021-2023**

1. **Introduction**

1.1 The Scottish Government (the “Purchaser”) is seeking a Service Provider to coordinate and manage a new demand led service across Scotland for advocacy support to those (the “Individuals”) who, if owing to a disability, require an advocacy worker’s help to interact with the Scottish Social Security system. Service is required as follows:

- The Service Provider will be required to put in place systems, agreements and processes to ensure that advocacy support can be received locally across Scotland through working with local service providers.
- The service will be delivered independently of both Scottish Ministers and Social Security Scotland.
- The Scottish Government will not be involved in the instruction of any referred cases to the Service Provider.
- The Service Provider will be required to monitor local service delivery including the quality of service.

1.2 The Service Provider will be expected to design and deliver the Services according to the following service principles:

- **Agility**
This is an all-Scotland contract and the Service Provider must be able to respond to demand across Scotland in a fair and consistent way.
- **Scalability**
This is a demand-led contract and the Service Provider must be able to scale operations according to changing levels of demand during the period of contract without impact to service
- **Resilience**
The Service Provider must be able to adapt to potential service disruption and have appropriate contingency plans in place.
- **Flexibility**
Certain variables in the Contract are outside the control of both the Purchaser and the Service Provider. The Service Provider will be required to respond flexibly to developments or changes in the structure or legislation in relation to advocacy provision.

2. Legislative Background

2.1 The Social Security (Scotland) Act 2018 was brought forward as a result of changes to the devolution settlement enacted in the Scotland Act 2016. As a result of these changes 11 existing social security benefits are being devolved to the Scottish Parliament. These benefits are:

- Disability Living Allowance,
- Personal Independence Pay,
- Attendance Allowance Severe Disablement Allowance,
- Industrial Injuries Benefits,
- Carer's Allowance,
- Sure Start Maternity Grant ,
- Funeral Payments,
- Cold Weather Payments,
- Winter Fuel Payments
- Discretionary Housing Payments.

2.2 The Scottish Government delivered the first of the 11 devolved benefits, Discretionary Housing Payments, on 1 April 2017.

Since then it has delivered:

- Carer's Allowance Supplement,
- Best Start Grant pregnancy and baby payments,
- Best Start Grant early learning payment and school age payments,
- Funeral Support Payment
- Young Carer Grant
- Scottish Child Payment
- Child Winter Heating Assistance

2.3 The current planned timetable for delivery of the remaining devolved benefits is set out in Annex A.

3 Background objective

3.1 The objective is to ensure that advocacy support is provided across Scotland to eligible Individuals to support them with the Scottish Social Security system.

3.2 Advocacy support enables Individuals to:

- be heard and understood
- know, understand and secure their rights under the Social Security system.
- ask questions and obtain information
- express their rights, views, wishes and what they want to achieve

- represent their own interests
- be fully involved and make informed decisions
- have affirmative action taken on their behalf where they are temporarily unable to give a clear indication of their views or wishes in a specific situation.

3.3 The Service Provider will provide individual advocacy services. Support will be available as required by Individuals throughout the benefit claim process once an application is submitted, including:

- Assessment,
- Determination,
- Redetermination
- Appeal.

3.4 Advocacy workers may be required to support Individuals at Scottish disability assistance assessments, if they are requested to do so.

3.5 Advice and information on benefits and support for making applications is available from a range of sources such as welfare rights organisations, citizens advice bureaux, and Social Security Scotland. As such, pre-application advice and information is not covered by this Scottish Government funded advocacy service.

4. Overview of Requirements

4.1 The Scottish Government is providing funding to deliver comprehensive advocacy support for disabled people claiming assistance through the Scottish social security system.

4.2 This service will replace the interim advocacy service which was introduced on 30 June 2020 after the previous procurement exercise for a comprehensive service had to be postponed due to the impact of the Covid-19 pandemic on the rollout of disability benefits. This is a new service and there was no nationally provided advocacy support available until now.

4.3 The Social Security (Scotland) Act 2018 (the Act) provides the legal framework for the provision of independent advocacy, as follows:

- Section 10 ensures that people have a right to access independent advocacy, if owing to a disability they require an advocate's help to engage effectively with the Scottish social security system. The Act also requires that Individuals are told about that right and that advocacy services are available. Independent in this context means that advocacy is provided by a person other than Scottish Ministers.

- Section 11 places a statutory duty on Scottish Ministers to develop 'advocacy service standards' to which those delivering advocacy services must undertake to comply with as part of any agreement with Ministers. The Act also requires that the standards are to be set in regulations.

5 Service Providers Responsibilities

- 5.1 This Service Provider will be responsible for the management, administration and coordination of the delivery of advocacy support to all eligible Individuals who request support to help determine their entitlement to assistance through the Scottish social security system.
- 5.2 The Service Provider will be responsible for identifying and putting in place provisions to ensure local delivery of advocacy support and specialised fields are consistently available across the whole of Scotland.
- 5.3 The Service Provider will be responsible for ensuring overall service delivery and the quality of that provision.

6 Description of Advocacy Service

- 6.1 The advocacy service must include as a minimum but not be limited to:
- providing information to users about the service, as well as their rights and options;
 - communicating with Individuals to establish the nature of their needs;
 - communicating with Individuals to ascertain their views, wishes, questions, concerns and desired outcomes;
 - supporting Individuals to speak for themselves or speaking on their behalf when they are having significant difficulty expressing their views;
 - communication and negotiating with others, on behalf of the Individuals, to address issues of concern and achieve desired outcomes.
 - taking affirmative action with or on behalf of a individual who is unable to give a clear indication of their views or wishes in a specific situation.
- 6.2 To provide consistency for the Individual, the Service Provider should try where possible to allocate the same advocacy worker to provide support throughout the application and determination process, as required by the individual. For some Individuals this support may end with the initial determination; others may require support through to appeal consideration and decision.
- 6.3 Advocacy workers will be required to attend assessments conducted by Social Security Scotland if the individual wishes them to do so.

- 6.4 The Service Provider must ensure adequate provision for meeting individual's communication needs, including hearing, speech and visual impairments and the availability of materials in alternative formats.
- 6.5 The Service Provider must ensure continuity of service through the current Covid -19 pandemic and any similar occurrences in the future. The Service Provider must be able to provide support through remote meetings via online applications, video and telephone. If the individual still wishes to have a face-to-face meeting, local and government guidelines must be adhered to. The Service Provider will be respectful of the individual's wishes and meet in a place which suits the individual's needs and ensuring the safety of both the individual and the advocacy worker.

7 Availability and Allocation process

- 7.1 The Service Provider will ensure Advocacy support is provided during the hours of 9 am until 5 pm, Monday to Friday, excluding public holidays. Support may be provided out with these hours if agreed by the Service Provider, advocacy worker and the Individual seeking support.
- 7.2 The Service Provider will ensure that Individuals in all areas of Scotland receive the required support when requested, including those in rural and remote communities. The Service Provider will maximise the use of local and specialised providers in such cases and will be mindful of the unique challenges faced by rural and remote areas.
- 7.3 All requests for advocacy support whether submitted by an individual or a third party shall be processed, logged and allocated to an advocacy worker or delivery partner within 2 working days of receipt by the Service Provider.
- 7.4 Requests for support may be made by phone, post, email or in person directly to the Service Provider. All requests must be recorded by the Service Provider.
- 7.5 Referrals and requests for support received directly by delivery partners or sub-contractors should be recorded and passed to the Service Provider for approval. The Service Provider should confirm with this delivery partner (or sub-contractor) that they may provide advocacy support or inform them that the referral is being issued to an alternative provider (or sub-contractor), if appropriate.
- 7.6 Upon receipt of the request the Service Provider will contact the individual in order to:
- determine eligibility; subject to Section 10 (3) of the Act
 - determine the type of support required
 - ensure advocacy support is required in relation to Scottish social security;

- provide information about the service; and
- make the referral to an advocacy worker or service partner.

7.7 The Service Provider shall be responsible for processing the requests and related documentation and for allocating to an advocacy worker or service partner. Initial appointments should be arranged within 3 working days of the referral to the advocacy worker or service partner.

7.8 The advocacy worker allocated to the case shall:

- Conduct the initial meeting, explain the service, obtain and record consent to receive advocacy support and consent to share information;
- inform the individual about the service, including confidentiality of information and the feedback and complaints procedures. Information must be provided in the appropriate format for the individual, normally verbal and in writing;
- draft, agree and provide the individual with an advocacy support plan, in the format required, which will, include amongst other issues the individual's requirements, desired outcomes; the action/support required to support the delivery of those outcomes and likely timelines for delivering the required support; and
- support the individual throughout the process (from application, determination, assessment, redetermination, appeal) until the issue is resolved or no further action is possible.

7.9 The timing and hours of support required for dealing with a case will depend on a number of factors, such as urgency, the nature of the issue and the schedule of any related meetings. The timescale may also be impacted by the complexity of the issue and resource available within the service. However, the service should ensure that support is provided timeously to ensure that there is no negative impact on the consideration of an individual's application for devolved benefits.

8 Key Deliverables- Advocacy Support

8.1 The Service Provider will be responsible for ensuring the co-ordination and delivery of local advocacy support. In delivering this local support, the Service Provider will be required to:

- ensure an adequate supply of advocacy workers, ensuring all staff are trained and have appropriate BPSS clearances (e.g. Protection of Vulnerable Adults);
- provide any other support required by staff to perform duties;
- manage requests and clients, allocating cases to an advocacy worker or delivery partner within 2 working days of individual's request;
- monitor and record time spent by advocacy workers in providing support to Individuals.
- meet communication needs of clients, providing interpreters or materials in alternative formats as required;

- meet accessibility needs of clients;
- offer and maintain range of communication routes including phone, email and web;
- manage processes for individual feedback and complaints through a satisfaction survey;
- demonstrate working within data protection principles;
- demonstrate appropriate records management including management; information for monitoring and evaluation purposes;
- use resources effectively and close cases when issue resolved or no further action can be taken; and
- meet the requirements of the social security advocacy service standards.

8.2 All service requirements are mandatory unless otherwise stated.

9 Key Deliverables - Training Requirement

9.1 The Service Provider will be required to provide training to advocacy workers. As a minimum, advocacy workers should demonstrate sound knowledge of:

- basic information relating to the Scottish social security system and the assistance paid within this;
- Scottish social security system processes and requirements;
- equality and data protection legislation; and
- delivering the social security advocacy service standards.

9.2 Training can either be web or paper based or delivered face to face, depending on need.

10 Advocacy Service Standards and Compliance

10.1 As set out in Section 11 of the Social Security (Scotland) Act 2018, as part of any agreement with the Scottish Government for the provision of advocacy services. advocacy providers must undertake to comply with the Social Security Advocacy Service Standards.

10.2 To support delivery in line with the service standards, the Service Provider should ensure that:

- skilled and knowledgeable staff are available to provide social security advocacy support;
- there is high quality leadership and robust skilled management support;
- there is appropriate supervisory and staff development arrangements in place for all staff;
- rights and dignity of Individuals are protected, including right to confidentiality;
- staff are adequately trained in the provision of advocacy support; and

- staff have access to a range of communication techniques and services have a strategy to address communication needs.

10.3 The Service Provider shall demonstrate their commitment to the on-going learning and development needs of staff and provide for an induction programme, training on equality and diversity issues and opportunities for professional development.

10.4 The service standards lay down behaviours and requirements which the advocacy worker or service provider is expected to meet and demonstrate. However these requirements may change if it is deemed necessary.

10.5 Officials are seeking to amend the current published version of the service standards (published on 31 January 2020). This amendment (SSI Reference number will be provided once generated) – would remove the restriction of the service standards to *instructed advocacy*, in order to allow *non-instructed* advocacy to be provided to Individuals where appropriate. This amendment is subject to scrutiny and approval by the Scottish Parliament, but should be factored into Service Providers' proposed approach.

10.6 Services providing advocacy support on behalf of the Scottish Government must undertake to comply with any changes to the service standards.

11. Staff Resources and Knowledge

11.1 The Service Provider will ensure that staff involved in the delivery and management of this support are appropriately experienced and knowledgeable in delivery of advocacy support and if possible Scottish social security.

11.2 The Service Provider will employ sufficient, suitably experienced staff to ensure that the advocacy support provided meets the needs of Individuals. There are no requirements for specific qualifications. The Service Provider should ensure staff have the opportunity to undertake on-going learning and development and are supervised and appropriately supported.

11.3 The Service Provider will provide an induction programme for new staff recruited which should include as a minimum information on the Scottish social security system and equality, diversity and data protection issues as related to the service provision.

12 Service Provider Behaviours

12.1 In line with the Scottish Government's principles and values, where the Service Provider sub-contracts or, enters into partnership agreements for the Service delivery, they must:

- be committed to achieving the best possible outcomes for Individuals;

- act with integrity in their dealings with Individuals;
- ensure transparency, non-discrimination, equal treatment and clearly defined accountability in relationships between parties;
- encourage the sharing of good practice;
- agree, document and abide by the terms of delivery and funding at the outset;
- agree monitoring and management information requirements that are not overly bureaucratic and must be consistent, proportionate, clearly specified and agreed at the Effective Date;
- develop and support its sub-contractors or delivery partners to improve overall supply chain effectiveness;

13. Branding, Communications, Marketing and Accessibility

- 13.1 While the Scottish Government will raise awareness of the Service prior to the service start date and sign post to this through its marketing and communication as appropriate, the Service Provider is required to promote the availability of advocacy support.
- 13.2 The Service Provider must ensure that their systems for providing and receiving feedback are advised to Individuals in inclusive way and available in accessible formats and promoted/displayed on marketing leaflets and in public areas of the Service Providers premises. The Scottish Government through Social Security Scotland will provide advice and guidance to the advocacy provider in relation to inclusive communications principles and accessibility. The Scottish Government through Social Security Scotland should be consulted on plans to deliver upon this requirement.
- 13.3 All communications (press releases, announcements, advertising, publicity material or activity and similar such communications) associated with the operation of the Service must be submitted to the Purchaser through the Social Security Scotland Communications and Marketing team for approval. The Service Provider must not issue any communications until written/email confirmation is received from the Social Security Scotland Communications and Marketing team on behalf of the Purchaser confirming that the communication is approved and can be issued.
- 13.4 Access to the Service Provider's web sites and associated documentation must be comprehensive, clearly laid out and meet the [Scottish Government Digital First Service Standards](#).

14. Service Delivery Locations

- 14.1 Advocacy support must be available across Scotland and should be provided locally from appropriate premises. Premises should be accessible in compliance with the Disability Act 2010 and comply with the Equality Act 2010 (Disability) Regulations 2010. Premises should be appropriate and meet the needs of the individual.
- 14.2 Advocacy support may be provided from other locations as agreed with the individual. Any alternative premises should allow for sensitive discussions to take place in private.
- 14.3 Alternative locations may include the individual's home if this was required and considered appropriate, and subject to any requirements of the service's lone working policy being followed.

15. Estimated Demand

- 15.1 There are no guarantees to the level of demand for this service. The Act does not define disability, it is for Individuals to self-identify that they have a disability, and as a result of that disability require advocacy support.

The table below provides an estimate of inflow (ie new cases) for disability benefits. However, this is for information purposes only as this cannot be simply translated into demand for advocacy support as not everyone claiming a Scottish social security benefit would want or require such support.

Disability Benefits Estimated Inflow (Child DLA, PIP and AA combined)

Quarter	Nov 19	Feb 20	May 20	Aug. 20
Aberdeen City	517	561	563	440
Aberdeenshire	570	574	598	424
Angus	555	486	361	330
Argyll & Bute	367	362	327	246
City of Edinburgh	1602	1342	1359	1049
Clackmannanshire	298	220	177	161
Dumfries & Galloway	883	667	525	460
Dundee City	836	707	655	488
East Ayrshire	620	480	487	420
East Dunbartonshire	397	366	269	271
East Lothian	415	304	332	254
East Renfrewshire	353	288	266	197
Falkirk	768	607	577	440
Fife	1545	1389	1327	1034
Glasgow City	3526	2789	2620	2143
Highland	932	798	764	560
Inverclyde	538	412	384	346
Midlothian	437	359	336	275
Moray	320	272	250	190
Na h-Eileanan Siar	159	134	100	65

North Ayrshire	741	677	591	539
North Lanarkshire	1801	1492	1354	1206
Orkney Islands	76	76	79	58
Perth & Kinross	634	548	487	343
Renfrewshire	957	778	633	581
Scottish Borders	459	351	328	306
Shetland Islands	133	94	87	54
South Ayrshire	482	436	367	373
South Lanarkshire	1604	1235	1134	953
Stirling	369	295	261	194
West Dumbartonshire	561	396	395	334
West Lothian	853	645	623	512
Total	24,308	20,140	18,616	15,246

- 15.2 Other factors will affect levels of demand, such as numbers of meetings required to support the client and follow-up action required. These are beyond the control of the Purchaser. There are no set rules on the number of contacts required by the individual and this will vary depending on their need. Service Provider should provide the advocacy support required to meet the individual's needs. Service demand will include face-to-face time with an individual and time on administration, preparation and action.
- 15.3 The Service Provider shall use a management information system to manage and retain information about requests, nature of cases and Individuals and the hours spent providing advocacy support to ensure resources are used effectively and efficiently and throughput is maximised.
- 15.4 The Scottish social security system is built on the values of dignity, fairness and respect. Service Providers should ensure that Individuals are treated with these same values.

16. Travel Expenses

- 16.1 Individuals are entitled to be reimbursed for expenses necessary to them in order to attend the service. However, some Individuals may already receive support for such costs due to a health condition; therefore they must not be over-compensated.
- 16.2 The Service Provider is responsible for reimbursement of all appropriate travel costs and any additional support costs incurred. The Service Provider must not assume that the individual is entitled to travel costs, and must ensure appropriate checks are carried out before payment is made to the individual. This includes confirming the most appropriate mode of transport has been utilised by the individual depending upon their level of health condition, disability or any other barrier to travel.

- 16.3 Where the individual's travel costs are to be paid or reimbursed, these costs must not exceed Scottish Government standard travel rates (i.e. those that are currently applicable at the point of costs being incurred by the service user) which are provided within Schedule 2 (Pricing).
- 16.4 Data on individual costs must be provided in accordance with the provision of management information and to meet audit and governance requirements. This will include the submission of receipts and/or vouchers.
- 16.5 Service Provider Staff are able to claim travel costs incurred as a result of official business. These costs will be paid or reimbursed at Scottish Government standard travel rates provided within Schedule 2 (Pricing). at the point the costs are incurred.

17. Digital Accessibility

In line with the Digital Accessibility Standards 2018 the Service Provider must ensure that all new digital interfaces, internal and external, and mobile apps must comply with all Level A and AA Success Criteria of the W3C Web Content Accessibility Guidelines version 2.1.

- 17.1 Any newly developed system will need to work with assistive technologies (see table below for examples). This technology ensure that clients and staff from any background or any ability can do what they need to do and not be disadvantaged in comparison to someone who does not have any additional needs.

Example of software

Software	Version	Type	Browser
JAWS	18 or later	screen reader	Chrome
VoiceOver on iOS	10.11 or later	mobile screen reader	Safari (version 12 or later)
Dragon NaturallySpeaking	15 or later	speech recognition	Internet Explorer 11
NVDA	Latest	screen reader	Firefox (latest versions)
VoiceOver	Latest	screen reader	Safari version 12 or later) (

- 17.2 Testing with assistive technology should also be included as part of the overall accessibility testing of your service. The Service Provider must provide evidence (for any digital interfaces they are proposing) of either its ability to meet these standards or a gaps in the provision, which would require SG to put in place contingency processes.

18. Non-digital Accessibility and Inclusion

- 18.1 In line with Section 29 of the Equalities Act 2010 the Service Provider must ensure services do not directly or indirectly discriminate against citizens, and will ensure that all citizens whether they are internal staff, external clients, partners, stakeholders or suppliers with uphold these values and will support the delivery of the commitments identified in the [Social Security Charter](#).
- 18.2 The Service Provider must ensure that they provide a fully inclusive service, for example, if the advocacy support is requested by an individual who is either deafened or has a language barrier, BSL or interpretation services must be provided.

19. Feedback, Suggestions, Complaints and Escalation

- 19.1 The Service Provider must operate a quality feedback process for Individuals (satisfaction survey), ensuring the voice of the individual is recognised and valued in service delivery. The Service Provider should demonstrate how this shapes provision going forward, ensuring systems are in place to encourage Individuals to feedback on their experience of the Service. This must include suggestions for improvement, positive feedback and complaints.
- 19.2 For complaints, the Service Provider must put in place an internal dispute resolution procedure to deal with complaints and issues raised by Individuals regarding the delivery of this Service. This must include clear and reasonable timescales as detailed below for resolution and a defined escalation process.

The Service Provider must acknowledge receipt of complaint/concern within 2 working days of receipt and provide a formal response to individual within 5 working days of receipt (copied to the Purchaser for information).

- 19.3 If the dispute between the individual and the Service Provider cannot be resolved the dispute shall be referred to the Purchaser, who will independently review the dispute and make a judgement within 10 working days.
- 19.4 The Service Provider must ensure that its complaints process includes provision for allegations of serious misconduct.

The main types of serious misconduct include, but are not limited to:

- racial abuse;
- gender based discrimination
- sexual abuse; theft or fraud; and criminal activities.

- 19.5 The Service Provider must inform the Purchaser within 24 hours of receipt of a complaint in the serious misconduct category. The Service Provider must also, if appropriate, consider removing any employee or sub-contractor from continuing delivery of the service until any investigations into the complaint has been completed.

- 19.6 The Service Provider must liaise with the Purchaser on the outcome of any investigation into a serious complaint.
- 19.7 The Service Provider shall report monthly to the Purchaser on the number and nature of complaints received, source of the complaint, and the average time taken to resolve complaints as detailed within Schedule 1.

20. Management Information (MI)

- 20.1 The Service Provider will ensure that information management systems are suitable for service delivery and for monitoring and reporting on the support provided.
- 20.2 The Service Provider shall provide quarterly management information reports to the Purchaser no later than 10 working days following the end of each quarter. The timing of the first quarterly report will be agreed following contract award.
- 20.3 The Service Provider shall provide management information reports or data exchange in electronic and paper formats (if required). The format, content and transport mechanism of the required management information will be agreed between the Purchaser and Service Provider. The content and data of the reports will belong to the Purchaser.
- 20.4 The Service Provider will ensure that information management systems are suitable for service delivery and for monitoring and reporting on the support provided
- 20.5 As a minimum, Management Information Reporting should include details on the following:

Individuals (service users)

- the number of individuals supported;
- detailed information on geographical split of individuals who access the service;
- anonymised statistics on the Equality Act characteristics and additional support and communication needs of individuals;
- the number of onward referrals to other agencies should the provision of advocacy not be appropriate for the client;
- details of any unmet demand;

Requests and Referrals

- the number of requests for support received;
- geographical spread of requests for support;
- total number of referrals received;
- record of referring agency or organisation for each referral;

Allocation and First Contact

- number of referrals allocated to an advocacy worker or delivery partner within 2 working days of receipt;
- average time taken from request to first contact being made with individual
- number of first appointments being made within 3 working days of allocation to advocacy worker;
- average time taken from request to first appointment taking place;

Service Administration

- total hours worked by advocacy workers on social security advocacy, broken down by milestone;
- spend during reporting quarter and cumulative total spend to date
- the number of onward referrals to other agencies should the provision of advocacy not be appropriate for the client;
- details of any unmet demand;
- feedback and complaints including results of satisfaction surveys and responses to these;
- anonymised concerns identified about a individuals personal safety e.g threatened self-harm or possible threats of harm to others and response to these;

Compliance

- evidence of social security advocacy services standards being met;
- evidence of communication needs being met;
- evidence of partnership working;

Staffing

- details of any training and development undertaken by staff;

20.6 If available, the Service Provider will provide access to real time management information to the Purchaser along with the ability to analyse said information. In the event that this is not available the Service Provider will provide requested management information within two working days. This information required in addition to the standard quarterly information provided.

20.7 As part of the reporting, the Service Provider must measure and report on achievement of outcomes to the Purchaser. Outcomes will be finalised and agreed after contract award. This outcomes report should, however, include the following as minimum:

- feedback from individuals who access the service about the level and quality of support they received;
- feedback from individuals about the impact the service has made on their interaction with the Scottish social security system;
- feedback from individuals about the impact the service has had on them personally e.g. increased self-confidence, person feels more involved in

- decisions affecting them; person feels listened to more by others; person feels better informed about available options; and
- feedback from individuals on the level of input they have provided on how the service is run.

20.8 The report must also contain a cumulative and projected spend report detailing all costs in relation to the provision of the service both locally and nationally.

20.9 This report will inform contract management meetings which will take place on a quarterly basis.

20.10 Should changes or enhancements be identified for services and reporting these must be discussed and agreed by the Purchaser prior to implementation. Services provided which the Purchaser have not agreed will not be paid.

21 Performance Management

21.1 The Service Provider shall monitor and report on performance against the Key Performance Indicators and the Contract.

21.2 These requirements will be measured as part of the overall performance of the Service Provider, utilising anonymised individual's case management notes to evidence progress and outcomes.

21.3 The Service Provider's performance against the Key Performance Indicators will be checked by the Purchasers Contract Manager and Operational Support Team on a quarterly basis. The Service Provider must provide the Scottish Government with its full cooperation in this process and will be required to provide full evidence as required to conduct the checks at such times as the Purchaser may require.

21.4 The Purchaser will assess the Service Provider's performance using such means or methods as it considers appropriate in the circumstances.

21.5 The Purchaser has the right to request non personal data information and access to records in relation to service delivery at any time. The Service Provider will provide any and all such information which is requested. Response times for this type of ad-hoc request will be determined by the Purchaser on a case by case basis at the time of the request.

21.6 The Service Provider will be responsible for all costs associated with the provision of management information. Key Performance Indicators are designed to measure delivery, service, quality and cost in relation

to the Contract. Any additional Key Performance Indicators will be agreed prior to the Commencement Date.

21.7 The Service Provider will be responsible for ensuring delivery of the Services in accordance with the Service Guarantee for the Contract Period.

22. Key Performance Indicators (KPIs) - Performance of the services

22.1 The Service Provider will operate the contract and monitor performance in accordance with this specification of requirements and agreed Key Performance Indicators.

The following levels of performance will be expected as core KPIs listed as follows:

No	Key Performance Indicator	Milestone
1	All requests for support received must be processed and allocated to appropriate advocacy representation within 2 working days.	95%
2	Initial appointments with Individuals should be arranged within 3 working days of the referral to the advocacy worker or service partner	95%
3	Acknowledge receipt of complaint/concern within 2 working days of receipt and provide a formal response within 5 working days of receipt (copied to the SG contract manager for information).	90%
4	Any complaints which cannot be resolved by Service provider regarding the system or services must be sent to SG contract manager within 6 working days of receipt.	90%
5	Serious issues to be escalated to the Scottish Government within 24 hours	100%
6	Service Provider must issue satisfaction survey to 100% of Individuals within two days of their service requirements ending	95%
7	Service Provider must make payment to any sub-contractors within 30 days of receipt of a valid invoice	100%

23. Continuous Improvement

23.1 The Service Provider must put in place appropriate policies, processes and tools to continuously improve the service throughout the duration of the contract and provide improved value for money.

23.2 During the period of the contract, the Service Provider may make proposals to the Purchaser which will:

- Improve the services;
- Improve technology or methodology used in connection with the Services;
- Reduce costs, including, where appropriate, consequent reductions in prices charged to the Purchaser.

23.3 The Service Provider must put in place a process to capture, assess, report and make recommendations to the Purchaser with respect to continuous improvement in the provision of the services. Examples include, but are not restricted to individual feedback, monitoring and reporting, lessons learned, etc.

24. Quality Assurance

24.1 The Service Provider will have a quality assurance system in place which incorporates people who use this service and stakeholders' views to ensure internal control of quality and consistency of practice.

25. Audit

25.1 The Service Provider may be asked by the purchaser to conduct an internal audit and provide the audited data and report to the Scottish Government.

26 Open Book Accounting

26.1 Open Book Accounting ("OBA") will provide the Purchaser with information that will be invaluable in helping to understand all costs associated with the Service delivery and help to inform future funding models and Service delivery and design. This includes:

- understanding expenditure (cost base);
- understanding the cost implications of decisions taken or being considered in delivering the Service and forward investment;
- operating and managing the Service to incentivise and drive improvements in cost efficiency;
- how Service Providers and their sub-contractors can work together to develop and implement a proactive approach to Service decision making and create a positive experience for the Customer; and help the Purchaser understand the cost drivers in delivering this service, learn about the prime/sub v consortium delivery approaches and the scope for future efficiencies.

26.2 The Information that the Service Provider may be asked to share with the Purchaser will include, but not be limited to, the following:

- Data on actual Service Provider and sub-contractor costs, margins, trends and volumes. Likely to include both actual and forecast data;
- Information on processes, systems and quality controls put in place to manage and ensure compliance;
- Any other financial or non-financial data gathered continuously or periodically that supports innovation, Continuous Improvement or decision making.

26.3 Specific OBA requests from the Scottish Government will be discussed with the Service Provider on a case by case basis.

27. Contract Extension

27.1 Subject to satisfactory Service Provider performance; the continuing need for the service; budget; and the continued suitability of the delivery model, the Purchaser reserves the option to extend the contract for up to two separate one year periods.

28. Contract Management

28.1 The Purchaser considers the effective performance and delivery of the Services to be a business critical objective of the Contract. As such, the Service Provider shall be open, flexible and transparent in the operation, management and delivery of the Contract and shall develop and implement appropriate due-diligence, risk management and quality assurance measures to ensure that Services are delivered on time, within budget and in accordance with the Key Performance Indicators.

28.2 The Service Provider must provide and maintain adequate management and staff resources, including a senior officer to act as Service Manager and support the strategic and day to day operation and management of the contract.

28.3 The Service Provider shall act as the single point of contact for the purposes of operating the Contract and will be responsible for the effective mobilisation, Implementation, delivery and exit management of the Contract.

28.4 The Service Provider shall ensure that the Key Performance Indicators are achieved and consistently high standards of service and best practice are assured and maintained throughout the duration of the Contract.

28.5 The Service Provider must ensure that all staff engaged in the performance of the Contract have and maintain an appropriate level of knowledge and expertise; are appropriately trained and qualified; and are competent to deliver the required Services. This may include, but is not limited to: training on the tasks to be performed; operation of the Contract; and procedures concerning health and safety at work, data protection and sustainability.

- 28.6 The Service Provider must ensure that there is a sufficient level of trained and competent staff to operate and manage the Contract at all times and that an adequate reserve of trained staff and competent staff are available during holidays, sickness and/or any other absence.
- 28.7 The Service Provider will appoint a named Service Manager to manage the mobilisation and implementation of the Contract. The Service Manager will act as the Single Point of Contact (SPoC) for the Purchaser. The Service Provider will also specify a named contact to the Purchaser for the escalation and progression of any issues associated with the mobilisation and implementation process.

29. Contract Review Meetings

- 29.1 The Service Manager shall be required to attend quarterly Contract Review meetings with the Purchaser, but will meet more frequently should a need arise.
- 29.2 The Service Manager may also be required to attend additional ad-hoc meetings at times and locations specified by the Purchaser,
- 29.3 The Contract Review Meetings will address operational issues such as Service delivery and achievement of the Service performance requirements.
- 29.4 The Purchaser may on occasion request that specific sub-contractors or delivery partners attend the quarterly meetings if this is deemed to be necessary.
- 29.5 All costs incurred by the Service Provider in attending review meetings will be the responsibility of the Service Provider.

30. Change Control Procedures

- 30.1 In addition to the service requirements within this Specification, the Service Provider shall embrace changes (proposed by the Purchaser) to the delivery model to reflect emerging good practice; or adapt to changes to policy to ensure the delivery of the principles and values outlined in this document. Control Procedures).

31 Mobilisation and Implementation

- 31.1 The contract includes time for mobilisation and implementation prior to the go-live date of 6th December 2021.
- 31.2 The Service Provider will discuss and/or meet weekly with the Scottish Government during the mobilisation period.

- 31.3 The Service Provider will be responsible for managing the successful mobilisation and implementation of the Contract and shall provide sufficient resources to ensure the availability and provision of the Services in accordance with the Contract from the Service “Commencement Date”.
- 31.4 The Service Provider must submit a detailed Implementation Plan to the Purchaser for approval no later than 10 working days from the contract award date. The Service Provider shall not be entitled to propose any variations to the Purchaser milestone dates.
- 31.5 The Purchaser shall review and comment upon the Implementation Plan as soon as reasonably practicable and in any case, no later than 10 working days from its receipt. Following such review and consultation, the Purchaser shall formally approve or reject the Implementation Plan.
- 31.6 If the Purchaser rejects the Detailed Implementation Plan, it shall provide its reasons for the rejection and the Service Provider shall have the period of 10 working days from the date of the rejection in which to revise and re-submit the Implementation Plan for approval. The parties shall use all reasonable endeavours to resolve any disputes and agree the Detailed Implementation Plan as soon as possible. If the parties are unable to resolve any disputes this shall be referred to the Management Arrangements (Schedule 4).
- 31.7 The Service Provider will review the Detailed Implementation Plan on a weekly basis (or as otherwise directed by the Purchaser) until such time as all milestones have been achieved. The Service Provider will submit an updated plan to the Purchaser’s Contract Manager if required within 10 working days prior to the end of each month.
- 31.8 Key Milestone dates are detailed as following:

Activity	Date(s)
Contract Award	29 th July 2021
Implementation and Mobilisation	1 st August 2021 – 5 th December 2021
Operational Service Commencement Date (i.e. First individual Request)	6 th December 2021
Contract End Date	5 th December 2023 with option to extend for further 2 x 12 month periods.

32. Data Management and Storage

- 32.1 The Service Provider shall ensure that all information held or obtained by the Service Provider in connection with the operation of the Contract is securely and sensitively managed at all times and in accordance with Schedule 9 (Model Contract regarding Data Protection Directive 95/94/EC).
- 32.2 The Service Provider must ensure that all automated software solutions utilised to collate personal data for reporting adhere to the GDPR compliance requirements.
- 32.3 The Service Provider must ensure that any device/mobile solutions have the ability to hold data securely.
- 32.4 The Service Provider must store all data relevant to this Contract (whether personal data or otherwise) in a secure data storage environment which must be located within the UK and in accordance with Schedule 9 GDPR.
- 32.5 This data must be stored in a manner that allows authorised persons to easily access and retrieve data.

33. Confidentiality

- 33.1 The Service Provider is required to keep advocacy records confidential. Information should not be shared within or across services without the individual's prior agreement. The Service Provider must maintain this confidentiality and have appropriate systems in place.
- 33.2 Where advocacy is part of a range of support offered, the Service Provider or sub-contract should ensure that conflicts of interest are avoided and advice and advocacy will be provided by different people and advocacy records will be kept separately from other records.

34. Physical Data Security

- 34.1 The Service Provider shall ensure robust and layered physical security measures are in place at all sites where data is stored. This must include, but not be limited to:
- restricted access to paper and electronic data;
 - devices/mobiles holding personal information should be in a secure encrypted format
 - low key appearance;
 - door control system, including Fire Doors.

35 Risk

- 35.1 The Service Provider shall, at all times, have in place an appropriate risk management strategy (including a suitable risk management plan and risk logs) for the delivery and support of Services to be provided under the Contract.
- 35.2 The Service Provider must inform the Purchaser immediately of any known or foreseeable risks which may have an impact on the operation of the Contract and/or the performance of the Services.

36. Exit Strategy

- 36.1 The Service Provider shall ensure that prior to the contract expiring, all data relevant to running of the service is transferred over to the new Service Provider. The Service Provider must not retain or withhold any data.
- 36.2 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Purchaser six (6) months prior to the Expiry Date. 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.
- 36.3 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.
- 36.4 The Service Provider shall develop and maintain plans and procedures for the orderly transition of the Services to a successor Service Provider in accordance with Schedule 10 (Exit Management).

37. Business Continuity & Disaster Recovery

- 37.1 The Service Provider shall have in place and maintain appropriate and relevant Business Continuity and Disaster Recovery plans, policies and procedures in respect of the Services.
- 37.2 The service provider must notify the Purchaser Contract Manager as soon as reasonably possible following the occurrence of such an incident, and set out remedial action taken.

38 Sustainability and Environmental Benefits

- 38.1 The Service Provider shall comply with the Scottish Government's sustainable development strategy and ethical policy with respect to the delivery of this Contract.
- 38.2 The Service Provider's policies and processes will support the Scottish Government's 'Greener Scotland' strategic objective including: a proactive approach to sustainable consumption and the efficient use of resources; consideration given to social and environmental consequences; policies which

ensure that business activities have a direct positive impact on climate change and energy; and policies which encourage natural resource protection and environmental enhancement.

38.3 The Scottish Government is committed to sustainable procurement and to this end the Service Provider is required to comply with all social and environmental policies in the delivery of Services during the period of the Contract.

38.4 The Service Provider will be required to report to the Scottish Government within their monthly management information reporting, details of any sustainability and environmental measures and achievements.

39. Community Benefits

39.1 'Community Benefits' are social considerations which include not only targeted recruitment & training, but also equal opportunities, training for the existing workforce, supply-chain initiatives, community consultation, 'considerate Supplier' schemes, contributions to education, the promotion of social enterprises and resources for community initiatives.

39.2 The Service Provider is committed to contributing to the social, economic & environmental well-being of the people of Scotland. Scottish 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.

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

39.4 It requires Scottish Government 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.

39.5 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)
- Delivery of information sessions to targeted audience and supporting networks.

- 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) or provide opportunities to unemployed citizens/job seekers of all age groups;
- Attend a Job Fair to promote interest in the delivery of Advocacy services and how to become an Advocate.
- Opportunities which otherwise improve the economic, social or environmental wellbeing of the Purchaser's area in a way additional to the main purpose of the contract.
- The Service Provider shall embrace the Scottish Government's requirement for delivering Community Benefits through the Contract. To assist the Scottish Government in understanding what opportunities exist to deliver benefits to the community through the Contract, the Service Provider shall report to the Scottish Government as part of their monthly management information reporting, details of any Community Benefit measures and achievements such as Targeted Recruitment and Training, skills development, employment, apprenticeships, etc.

39.6 Apprenticeship Placements

39.6.1 For this Contract, there is a strong desire to create up to 3 apprenticeship positions registered with relevant sector skills body at the Modern Apprentice level. The first apprentice should be recruited within 6 months of the Contract Commencement Date. The remaining two apprenticeships being created within the period of contract.

Where possible recruitment of apprentices should be:

- targeted in postcodes within the 10% most deprived in Scotland. Information on these areas can be accessed via the attached link <https://www2.gov.scot/Topics/Statistics/SIMD>

and/or

- targeted to encourage applications from disabled or disadvantaged job-seekers through engagement with providers delivering Fair Start Scotland programme [Employability Learning Network — Employability in Scotland](#)

39.6.2 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.

39.6.3 The Service Provider will discuss the content of their Community Benefit proposal with the Purchaser 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.

39.6.4 Any proposed benefit must be:

- A direct result of this Contract and not attributable to any other contract

40. Fair Work

40.1 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;
- 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; and
- 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, the Service Provider shall take a similarly positive approach to Fair Work practices as part of a fair and equitable employment and reward package including any sub-contracting entity's.

41. Payments

- 41.1 Payment will be made monthly in arrears for all advocacy services performed together with a management/administration fee. Payment per month for the management/administration fee will be based on an annual fee.
- 41.2 The Service Provider will be required to submit a breakdown and a consolidated invoice to enable the Purchaser to make payment for services received.
- 41.3 Invoices will be paid subject to KPIs being satisfactorily met and the Service Provider will be expected to outline an escalation policy in the event of repeated failure to meet agreed KPIs.

42 Sub-Contractors/Delivery Partners

- 42.1 Any service requirements delivered through sub-contractors or delivery partners will be subject to the service requirement levels outlined in this specification. It will be the responsibility of the Service Provider to ensure that disclosure clearances, accreditations and service levels are met by the subcontractor/delivery partner. The Purchaser should be notified of the use or change of use of sub-contractors or delivery partners at any time during the contract period.

43. Contact Manager

- 43.1 The Scottish Government will nominate an official to be the point of contact for the service provider. The nominated official will liaise with the service provider on all operational and contractual issues, including complaints and dispute resolution. The Scottish Government nominated contact will be:

Colin Armstrong ,
Scottish Government
Social Security Directorate,
4 Atlantic Quay,
70 York Street,
Glasgow,
G2 8JX,

- 43.2 A contract inception meeting will be held with the Purchaser as soon as possible following the contract award date. This will be followed by annual meetings to discuss and review performance of the contract. The service provider will be

expected to liaise with the Purchaser on relevant matters, and may also be required to attend additional ad-hoc meetings.

- 43.3 The Service Provider will be notified should the contract manager change at any point during the delivery of the contract.

SCOTTISH SOCIAL SECURITY - DELIVERY TIMETABLE

When	What
Summer 2021	Child Disability Payment (CDP) – Pilot
Autumn 2021	Child Disability Payment (CDP) – National Roll Out
Spring 2022	Adult Disability Payment – Pilot
Autumn 2021	Adult Disability Payment – National Roll Out
TBC	Winter Heating Assistance
TBC	Cold Spell Heating Assistance
TBC	Scottish Child Payment (U16)
TBC	Scottish Carers Allowance (SCA)

TBC	Carers Additional Child Payment (CACP)
TBC	Pension Age Disability Payment (PADP)
TBC	Employment Injury Assistance (EIA))

SOCIAL SECURITY ADVOCACY – DRAFT SERVICE STANDARDS

The Social Security Advocacy Service Standards were published on 31 January 2020.

These service standards are currently being amended to remove the restriction of services provided under them.

The Service Provider shall comply with the Draft Service Standards below.

Introduction

1. The Scottish Government is required by section 10 of the Social Security (Scotland) Act 2018 to make independent advocacy support available to people with a disability who need such support to engage effectively with Social Security Scotland, as part of the process of claiming Scottish social security assistance. Section 11 of the Act requires Scottish Ministers to develop and publish service standards that would apply to this support. This document sets out the advocacy service standards required by section 11.
2. References to advocacy worker and advocacy support in these service standards are to be taken to mean independent advocacy. Independent is defined by the Act and as used in this document means advocacy services “provided by persons other than the Scottish Ministers”.
3. The Service Standards apply to individual instructed advocacy for Scottish social security.
4. Instructed advocacy takes place where the individual is able to tell the advocacy worker what they want as well as the actions they would like taken. This means that the individual can understand the advocacy role and how the advocacy worker can represent and support them and can instruct their advocacy worker.
5. Advocacy support is available to Individuals making a claim in their own right and to those making a claim in respect of a disabled child if they consider that they needed this support to engage with Social Security Scotland. A parent or carer claiming assistance for a child would be eligible for advocacy support if they themselves were disabled and needed such support or if the child themselves wished to take an active part in the process of claiming their entitlements.
6. The Act does not define disability. It is for Individuals to self-identify whether they are eligible for advocacy support as provided by the Act. This may include Deaf people and those with a sensory disability or mental health condition.
7. The Scottish Government will provide funding for advocacy services but will not be directly involved with their day-to-day operation or the handling of individual cases.

Social Security Scotland (the Agency) will not provide advocacy support either. This would not meet the requirement for independence at paragraph 2 as the Agency is doing the work of the Scottish Ministers.

8. Advocacy support may be provided by organisations which solely provide advocacy support or by other organisations which offer other services including advocacy. Where advocacy is part of a range of support offered, such organisations should ensure that conflicts of interest are avoided. For example, advice and advocacy will be provided by different people and advocacy records will be kept separately from other records.

9. Advocacy support will be available throughout the whole of the process for seeking support - from point of application, through any request for redetermination to appeals. Advocacy workers would also provide support at assessments if requested to do so by the client.

10. Section 59 of the Act gives Individuals the right to have a supporter present during any discussion or assessment relating to their entitlement to a benefit. This right remains even if the individual has the support of an advocacy worker.

11. The service standards lay down behaviours and requirements which the advocacy worker or service is expected to meet and demonstrate, under the headings of broad overarching principles.

12. Services providing advocacy support on behalf of the Scottish Government must undertake to comply with these service standards.

PRINCIPLE 1 – DEFINITION OF ADVOCACY

You are entitled to the support of an advocacy worker if you have a disability and, because of your disability, you need help claiming benefits under the Scottish social security system.

Your advocacy worker will help you:

- be heard and understood;
- know, understand and secure your rights under the Scottish social security system;
- ask questions and get information;
- express your rights, views, wishes and what you want to achieve, and represent your own interests; and
- be fully involved and make informed decisions.

Your advocacy worker will not provide advice.

Your advocacy worker will only speak for you when you instruct them to or when you have a significant difficulty putting your views across.

Your advocacy worker will help you determine and promote your views and will not give their own view.

Your advocacy worker may need to consult or get information from other parties in order to help you with your situation and help you put your views across. Your advocacy worker will ask for your permission first.

PRINCIPLE 2 – INDEPENDENCE

Advocacy support will not be provided directly by people working for Scottish Ministers, including staff of Social Security Scotland. It will be provided by people working for other organisations.

Your advocacy worker will support your social security advocacy rights and needs and work for and on your behalf.

Advocacy services will be as free from conflicts of interest as possible.

Your advocacy worker will only provide you with advocacy support.

If the organisation provides a range of services, advocacy support will be delivered separately from these.

If the organisation provides advocacy and other services, the advocacy service must not share information with those other services without your permission.

Advocacy records will be kept separately from other records.

Advocacy services and workers must be aware of and meet confidentiality requirements.

PRINCIPLE 3 – PERSON CENTRED

Your advocacy worker is on your side, puts you first and is directed by your rights, needs, views and wishes.

Your advocacy worker will obtain your agreement before acting on your behalf.

Your advocacy worker will agree their actions with you and base these on your desired outcomes and what you want to achieve.

You are trusted and valued and will be treated with dignity, fairness and respect.

You will be kept informed of and involved in all aspects of the advocacy process.

The information you share with your advocacy worker will be kept confidential, except where there are safeguarding concerns.

If you tell your advocacy worker that you may be at risk of harm or that you want to harm yourself or someone else they will discuss this with you but may need to share this information with others without your consent.

You can ask to see the information the service holds about you and your case.

PRINCIPLE 4 – ACCESSIBLE

Advocacy services and workers will be respectful of your rights, needs, views, experiences and protected characteristics.

Advocacy services and workers will communicate using the methods and forms you need and prefer.

Advocacy workers will meet you at a time and in a place which suits you and meets your needs, is safe for both you and your advocacy worker and where you can discuss sensitive and personal matters.

Advocacy services will provide support if you contact them personally or if you are referred by someone else. This can be done in writing, by phone or in person or by other ways of communicating depending on your needs.

PRINCIPLE 5 – TRAINED

Advocacy workers will have detailed knowledge of using the Scottish social security system and of advocacy.

Advocacy workers will understand your rights, needs and any barriers you face.

Advocacy workers will be able to meet your rights and needs including any communication needs.

Advocacy workers will be trained and continue to develop their knowledge, skills and experience.

Advocacy workers will get regular support and supervision.

Advocacy services and workers will be aware of and meet their duties and responsibilities under relevant human rights, data protection and equality legislation.

Your advocacy worker will work within the policies and procedures of their service, including but not limited to equality, staffing, data protection and data management.

PRINCIPLE 6 - QUALITY ASSURANCE

Advocacy workers will keep accurate and up to date written records of action taken, progress made and outcomes achieved.

Advocacy services will have systems for seeking, receiving, addressing and monitoring feedback and complaints and you will be told about these.

Feedback and complaints forms will be available in accessible formats without having to be requested.

Advocacy services will take all feedback and complaints seriously and will respond promptly and in accordance with the service's procedures.

Advocacy services will carry out self-evaluations and provide service updates, including complaints, to funding bodies as part of routine reporting.

v. 24 February 2021

CONTRACT REFERENCE NUMBER CASE/540750

SERVICES CONTRACT

-between-

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

-and-

(2) SERVICE PROVIDER NAME (THE “SERVICE PROVIDER”)

-relating to the supply of-

Advocacy Services for Social Security Scotland Clients

Table of Contents

Page

SECTION A INTRODUCTORY PROVISIONS

1. Definitions and Interpretation
2. Condition Precedent
3. Nature of the Contract
4. Period
5. Break
6. Specification and Service Levels
7. Pricing Schedule
8. Ordering Procedures and Management Arrangements

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

9. Service Provider's Status
10. Notices
11. Price
12. Payment and Invoicing
13. Recovery of Sums Due
14. Data Protection
15. Transparency and Freedom of Information
16. Purchaser Protected Information
17. Service Provider Sensitive Information
18. Audit [and Records Management]
19. Publicity

SECTION C PROVISION OF SERVICES

20. Provision of the Services
21. Deliverables and Milestones

SECTION D STAFF INVOLVED IN THE PROVISION OF SERVICES

22. Key Individuals
23. Offers of Employment
24. Staff transfer at commencement
25. Information about employees
26. Staff transfer on expiry or termination
27. Security

SECTION E PROVISIONS RELATING TO INTELLECTUAL PROPERTY AND GOVERNANCE

28. Parties' pre-existing Intellectual Property Rights
29. Specially Created Intellectual Property Rights
30. Licenses of Intellectual Property Rights
31. Claims relating to Intellectual Property Rights
32. Assignation
33. Change of Control
34. Sub-Contracting
- 34A. Supply Chain Transparency and Protections
35. Amendment

SECTION F SERVICE PROVIDER CONDUCT REQUIREMENTS

36. Compliance with the Law etc.
37. Official Secrets Acts
38. Service Provider's responsibility for staff etc.
39. Access to the Purchaser's premises
40. Service Provider's Equipment
41. Purchaser Property
42. Health and Safety etc.
43. Offences
- 43A. Compliance with Anti-Slavery and Human Trafficking Laws
44. Tax arrangements
45. Discrimination
46. Blacklisting
47. Sustainability etc.
48. Conflicts of Interest

SECTION G FINAL PROVISIONS

49. Warranties and Representations
50. Indemnity
51. Limitation of Liability
52. Insurances
53. Force Majeure
54. Dispute Resolution
55. Severability
56. Waiver and Cumulative Remedies
57. Termination Rights
58. Termination on Insolvency or Change of Control
59. Exit Management
60. Consequences of Expiry or Termination
61. Entire Agreement
62. Governing Law and Jurisdiction

SCHEDULES

- | | |
|-------------|---|
| Schedule 1 | Specification and Service Levels |
| Schedule 2 | Pricing Schedule |
| Schedule 3 | Ordering Procedures |
| Schedule 4 | Management Arrangements |
| Schedule 5 | Key Individuals |
| Schedule 6 | Approved Sub-contractors |
| Schedule 7 | Transparency Reports and Service Provider Sensitive Information |
| Schedule 8 | Parent Company Guarantee |
| Schedule 9 | Data Protection |
| Schedule 10 | Exit Management |
| Schedule 11 | NOT USED |

v. 24 February 2021

PREAMBLE:

- ONE The Purchaser requires the provision of services;
- TWO On 11th May 2021 the Purchaser's contract notice relating to the Services was published in Public Contract Scotland with reference number «F11: reference number»;
- THREE On «F12: date SPD completed» the Service Provider completed its SPD;
- FOUR On 7th May 2021 the Purchaser issued its ITT to potential Service Providers (including the Service Provider) in respect of the provision of services;
- FIVE On «F14: date Tender submitted» 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 UK 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.

“Employee Liabilities” means all claims (whether in delict, contract, under statute or otherwise), demands, actions, orders, complaints, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment by way of settlement and costs and expenses and legal costs reasonably incurred in connection with any claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory, or supervisory body and of implementing any requirements which may arise from such investigation) including:

- claims for redundancy payments, unlawful deduction of wages, claims for equal pay, unfair, wrongful or constructive dismissal compensation; and
- compensation for discrimination on grounds of sex, sexual orientation, race, disability, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity and age or less favourable treatment of part-time workers or fixed term employees.

“Employee Liability Information” has the meaning given in TUPE.

“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.

“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 10 (Exit Management).

“Exit Plan” means the exit management plan developed by the Service Provider and approved by the Purchaser in accordance with Clause 59 (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.

“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.

“Information Commissioner” means the Commissioner as set out in Part 5 of the Data Protection Act 2018.

“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 11th May 2021.

v. 24 February 2021

“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.

“Law” means:

(a) any applicable statute or proclamation or any delegate or subordinate legislation;

(b) any enforceable right forming part of retained EU law within the meaning of the European Union (Withdrawal) Act 2018;

(c) any applicable guidance, direction, determination, or regulations with which the Purchaser and/or the Service Provider is bound to comply;

(d) any applicable judgment of a relevant court of law which is a binding precedent in Scotland; and

(e) and requirements of any regulatory body;

in each case in force during the period of the Contract in Scotland.

“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:

v. 24 February 2021

- 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 Levels**” means the Service Levels identified as such in the Specification.

“**Service Provider**” means «F26: 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) and any employees of and workers of any such sub-contractors wholly or mainly assigned to carrying out activities in provision of the Services under the Contract.

“**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; and
- 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.

“**SPD**” means the Single Procurement Document completed by the Service Provider and sent to the Purchaser on «F12: date SPD completed».

“**Specification**” means the Purchaser’s general requirements for the provision of services including Service Levels set out in Schedule 1.

“**Staffing Information**” means such information as the Purchaser may request in an anonymised format or otherwise including:

- ages;
- dates of commencement of employment or engagement;
- sex;
- job or role descriptions and objectives of role;
- details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- the identity of the employer or relevant contracting party;
- their relevant contractual notice periods and any other terms relating to termination of employment including redundancy procedures and redundancy payments;
- their wages, salaries and profit sharing arrangements as applicable;
- details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- any other Employee Liability Information.

“**Tender**” means the tender submitted by the Service Provider to the Purchaser in response to the ITT dated «F14: date Tender submitted».

“**Third country**” means a country or territory outside the United Kingdom.

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

v. 24 February 2021

“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.

“UK GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

“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. Save to the extent specifically provided for in this Contract, 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 «F29 commencement date» (the “**Commencement Date**”) to and including «F30 initial expiry date», 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 DD/MM/YY. 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:

Purchaser address for notices:

Social Security Policy Division

Scottish Government

4 Atlantic Quay

70 York Street

Glasgow

G2 8JX

For the attention of: Colin Armstrong

Tel: 07789 912896/ 0141 242 5528

E-mail: Colin.Armstrong@gov.scot

10.3.2. For the Service Provider:

«F43: Service Provider address for notices»

For the attention of: «F44: Service Provider individual contact for notices»

Tel: «F45: Service Provider phone number»

Fax: «F46: Service Provider fax number for notices»

E-mail: «F47: Service Provider e-mail address for notices»

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. NOT USED

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.

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. NOT USED

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.

12.7. In this clause 12, 'valid invoice' includes an electronic invoice meeting all the requirements set out in regulation 70A of the Public Contracts (Scotland) Regulations 2015 or regulation 44A of the Concession Contracts (Scotland) Regulations 2016.

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. Data Protection

v. 24 February 2021

14.1. The Parties acknowledge and agree that for the purposes of the Services under this Call Off Contract, each Party acts as Data Controller in their own right and is responsible for compliance with all obligations and duties under applicable Data Protection Laws in respect of any Personal Data which they may process in delivery of the Services.

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 the Data Protection Laws.

14.3. 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.

14.4. The Service Provider agrees not to transfer Personal Data to a third country other than within the European Economic Area without the Purchaser's prior written consent, unless required to do so by European Union or domestic 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. The Service Provider must ensure that in respect of any transfer of Personal Data to a third country other than within the European Economic Area that:

(a) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the UK GDPR;

(b) there are appropriate safeguards in place pursuant to Article 46 of the UK GDPR; or

(c) one of the derogations for specific situations in Article 49 of the UK GDPR applies to the transfer.

14.6. The Service Provider must notify the Purchaser prior to engaging a Data Processor in connection with the Services. The Service Provider must further keep the Purchaser informed of any intended changes concerning the addition or replacement of a Data Processor.

14.7. If the Service Provider engages a sub-contractor acting as Data Processor in connection with the Services, the Service Provider must ensure that the data protection requirements under Article 28 of the UK GDPR 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 for the performance of the Data Processor's performance of the obligations.

14.8. The Service Provider must notify the Purchaser if it or a Data Processor engaged in connection with the Services :

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

v. 24 February 2021

- (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 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.

14.9. Taking into account the nature of the Processing and the information available, the both Parties must provide reasonable assistance to the other Party in complying with the Data Protection laws concerning the security of personal data, reporting requirements for data breaches and data protection impact assessments These obligations include:

- (a) notifying a Personal Data breach to the other Party without undue delay and in any event no later than 48 hours after becoming aware of a Personal Data breach;and
- (b) assisting the other Party with communication of a personal data breach to a Data Subject.

14.10. At the end of the provision of Services relating to processing the Service Provider agrees to delete or return to the Purchaser all Personal Data following a written request from the Purchaser and to delete existing copies, unless EU or domestic law or regulatory body requires storage of the Personal Data.

14.11. 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 Contract 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

v. 24 February 2021

other period as the Purchaser may reasonably specify) in the form that the Purchaser requires.

(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 Contract, 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 Contract:

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 Contract including any Amendments, agreed from time to time, (together the "Transparency Information") are not Service Provider Sensitive Information. However, if the Purchaser believes that publication of any element of the Transparency Information should be treated as Service Provider Sensitive Information the Purchaser may, in its discretion exclude such information from publication.

15.8 Notwithstanding any other provision of this Contract, 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 Contract 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

v. 24 February 2021

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 cooperate 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:

17.1.1. treat all Service Provider Sensitive Information as confidential and safeguard it accordingly; and

v. 24 February 2021

- 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; or
 - 17.3.7. 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.

v. 24 February 2021

18. Audit

18.1. 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.

18.2. 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.

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

v. 24 February 2021

- 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. NOT USED

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 (as defined in TUPE) against all Employee Liabilities which the transferor may incur in respect of the emoluments and outgoings referred to in clause 24.3.

25. Information about employees

25.1. The Purchaser may at any time by notice require the Service Provider to disclose such information as the Purchaser may require to the Purchaser or at the direction of the Purchaser to any prospective Replacement Service Provider relating to the manner in which the Services are organised or about any employee who is wholly mainly assigned to carrying out activities in provision of the Services, whether employed by the Service Provider or Service Provider Representatives ("**Assigned Employee**"). The information required by the Purchaser about Assigned Employees may include Employee Liability Information and/or Staffing Information.

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.

25.3. The Service Provider warrants for the benefit of the Purchaser and any Replacement Service Provider that all information provided pursuant to this clause shall be true and accurate in all material respects at the time of providing the information. The Purchaser may at any time require the Service Provider to confirm whether information provided under this clause remains true and accurate in all material respects or ask it to provide updated information.

25.4. The Purchaser shall be permitted to use and disclose all of the information provided by the Service Provider under this clause for the purpose of rendering the Services and/or inviting bids from any prospective Replacement Service Provider.

26. Staff transfer on expiry or termination

26.1. NOT USED

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 shall comply, and shall procure that each Service Provider Representative shall comply, with all of its obligations under TUPE and shall perform and discharge, and procure that each Service Provider Representative shall perform and

v. 24 February 2021

discharge all of its obligations in respect of all the Outgoing Employees arising in respect of the period up to (and including) the date of the Relevant Transfer.

- 26.4. The Service Provider indemnifies the Purchaser and any Replacement Service Provider against any and all Employee Liabilities which the Purchaser or any Replacement Service Provider may suffer as a result of or in connection with:
- 26.4.1. the provision of information pursuant to clause 25;
 - 26.4.2. any claim or demand by any Outgoing Employee (whether in contract, delict, under statute or otherwise) and whether made before, on or after the date of the Relevant Transfer arising directly or indirectly from any act, fault or omission of the Service Provider or any Service Provider Representative in respect of any Outgoing Employee on or before the date of the Relevant Transfer;
 - 26.4.3. any failure by the Service Provider or any Service Provider Representative 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
 - 26.4.4. 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 Service Provider or any Service Provider Representative to comply with any legal obligation to such trade union, body or person.
 - 26.4.5. any act or omission of the Service Provider or any Service Provider Representative whether occurring before, on or after the date of the Relevant Transfer or any other matter, event or circumstance occurring or having its origin on or before the date of the Relevant Transfer.
 - 26.4.6. the breach or non-observance by the Service Provider or any Service Provider Representative occurring on or before the date of the Relevant Transfer of any collective agreement applicable to the Outgoing Employees or any custom or practice in respect of any Outgoing Employees that a Replacement Service Provider is contractually bound to honour.
 - 26.4.7. any claim made by or in respect of any person employed by the Service Provider or any Service Provider Representative other than an Outgoing Employee for whom it is alleged the Purchaser or a Replacement Service Provider may be liable by virtue of this Contract or TUPE.
- 26.5. 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).
- 26.6. 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 26.5.
- 26.7. The Service Provider shall, and shall procure that each Service Provider Representative shall, promptly provide to the Purchaser and any Replacement Service Provider, in writing such information as is necessary to enable the Purchaser and/or the Replacement Service

v. 24 February 2021

Provider to carry out their respective duties under regulation 13 of TUPE, as the case may be.

26.8. The Service Provider shall provide, and shall procure that each Service Provider Representative shall provide, all reasonable cooperation and assistance to the Purchaser and any Replacement Service Provider to ensure the smooth transfer of the Outgoing Employees including, without prejudice to the foregoing generality, providing sufficient information in advance of the date of the Relevant Transfer to ensure that all necessary payroll arrangements can be made to enable the Outgoing Employees to be paid as appropriate.

26.9. The Service Provider warrants to the Purchaser that during the period of 6 months immediately prior to the expiry of the Contract it will not (and will ensure that any Service Provider Representatives will not) without the prior consent of the Purchaser:

- increase the total employment costs of the Assigned Employees [in any material way];
- amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Assigned Employee other than where such amendment or variation has previously been agreed in the normal course of business, and where any such amendment or variation is not in any way related to the transfer of the Services;
- terminate or give notice to terminate the employment or engagement of any Assigned Employee, other than in circumstances in which the termination is for reasons of misconduct or lack of capability;
- transfer away, remove, reduce or vary the involvement of any of the Assigned Employees from or in the provision of the Services other than where such transfer or removal:
 - was planned as part of the individual's career development;
 - takes place in the normal course of business; and
 - will not have any adverse impact upon the delivery of the Services by the Service Provider, provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services;
- recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services 6 months prior expiry of the Contract.

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 assignation takes effect on the Commencement Date or as an assignation 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 assignation.

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 NOT USED
- 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

v. 24 February 2021

- (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 32.6, 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 32.4 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 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. NOT USED .

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

v. 24 February 2021

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. NOT USED

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.

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

34.4.1 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 or contract award despite the existence of exclusion grounds) specified in clause 57.3 (Termination Rights) occur; and

34.4.2 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.

34.5. 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.

34.6. NOT USED

34.6.1 NOT USED

34.6.2 NOT USED

34A. Supply Chain Transparency and Protections

Knowledge of the supply chain

34A.1. In performing its role as a reseller, the Service Provider will use its reasonable endeavours to ensure that the suppliers operating in its supply chain (the "Service Provider's Suppliers") prepare and maintain a written supplier code of conduct or supplier policy that addresses the following.

- child labour,
- forced labour,
- working hours,
- wages,
- discrimination,

v. 24 February 2021

- health and safety,
- freedom of association,
- collective bargaining,
- disciplinary practices,
- humane treatment of workers,
- training,
- engagement with NGOs, and
- worker grievance procedures .

The Service Provider will provide the Purchaser with a copy of the Service Provider's suppliers codes of conduct or supplier policies on request.

34A.2. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers prepare and maintain appropriate policies and procedures to identify, manage and mitigate labour and human rights risks in their supply chains relevant to this Contract (the "Service Provider Supply Chain").

34A.3. The Service Provider will, within 20 Working Days of the Contract Commencement Date, provide the Purchaser with the names, locations and details of the roles of suppliers (including details of the factories used by suppliers and specific components produced in each factory) within the Service Provider Supply Chain. The Service Provider will notify the Purchaser of any changes as soon as reasonably practicable.

34A.4.

Supply chain working conditions

34A.5. The Service Provider will submit an annual written report to the Purchaser outlining the Service Provider's objectives, targets and specific actions for monitoring and improving labour standards and working conditions within the Service Provider Supply Chain.

34A.6. The Service Provider will take all reasonable steps to ensure that all Goods 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.

34A.7. In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider must ensure the following:

34A.7.1. forced, bonded (including debt bonded) or indentured labour, involuntary or exploitative prison labour, slavery or trafficking of persons is not permitted;

34A.7.2. child labour is not used in any stage of manufacturing or in the provision of services or supplies;

34A.7.3. workers do not undertake excessive working hours. For the purposes of this Contract, working hours must not exceed the maximum set by local law; a working week must not be more than 60 hours per week, including overtime, except in emergency or unusual situations and workers shall be allowed at least one day off every seven days;

34A.7.4. compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits; in compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates; that deductions from wages as a disciplinary measure shall not be permitted; that for each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed; and that all use of temporary,

dispatch and outsourced labour will comply with local laws;

34A.7.5. all workers must have the right to form and join trade unions, of their own choosing, to bargain collectively and to engage in peaceful assembly and the right of workers to refrain from such activities must be respected;

34A.7.6. workers must not be subject to any harsh or inhumane treatment, including any sexual harassment, sexual abuse, corporal punishment, mental or physical coercion or verbal abuse of workers; nor is there to be the threat of any such treatment;

34A.7.7. workers must not be subject to harassment or unlawful discrimination; and

34A.7.8. workers must be provided with safe and healthy working conditions.

34A.8. In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider will use its reasonable endeavours to ensure the following:

34A.8.1. compliance with all applicable whistleblowing laws, statutes and regulations in force from time to time in the jurisdiction where the Goods are manufactured;

34A.8.2. implementation of an appropriate (e.g. anonymous) whistleblowing policy which encourages openness and ensures support and protection from detrimental treatment for workers which raise genuine concerns.

Managing risks in the supply

34A.9. The Service Provider will use its reasonable endeavours to require the Service Provider's Suppliers to audit, evaluate and report in writing to the Service Provider not less than once every twelve (12) months on performance against the Service Provider's Suppliers' codes of conduct and or supplier policies and their policies on labour and human rights impacts in respect of the Service Provider Supply Chain. The Service Provider shall provide the Purchaser on request with a copy of any such reports in so far as they relate to the Service Provider Supply Chain.

34A.10. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers undertake a defined program of supply-chain audits. Audits must be undertaken by third party accredited certification bodies and independently verified. These audits must either include or be supplemented by external consultation and engagement with local labour unions or civil society organisations/NGOs, and off-site worker interviews to gain a more accurate understanding of working conditions. The Service Provider shall provide the Purchaser on request with a copy of any such audits, and supplementary evidence where relevant, in its possession or control in so far as they relate to the Service Provider Supply Chain.

Corrective and preventive measures to ensure social responsibility in the supply chain

34A.11. The Service Provider will use its reasonable endeavours to ensure the outcomes of the Service Provider's Suppliers supply-chain audits are subject to corrective actions by the Service Provider's Suppliers in a timely manner. The Service Provider shall provide the Purchaser on request with details in its possession or control of any actions taken or proposed to be taken in so far as they relate to the Service Provider Supply Chain .

34A.12. The Service Provider will use its reasonable endeavours to actively engage

v. 24 February 2021

with the Service Provider Supply Chain to ensure continuous improvement in labour and human rights standards and supplier compliance with such standards .

34A.13. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers communicate and publicly report progress in addressing labour and human rights issues within the Service Provider Supply Chain not less than once every twelve (12) months .

Measures to control the supply chain

34A.14. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers' sourcing policies address labour and human rights impacts during the extraction phase of production and include the use of conflict free smelters in accordance with the [Responsible Minerals Initiative](#). The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers provide and maintain a written list of tantalum, tin, tungsten, and gold smelters/refiners reported by the Service Provider Supply Chain and provide the Purchaser on request with details.

34A.15. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers implement and adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (as the same may be updated from time to time) and produce a publicly viewable annual summary of their due diligence and risk management measures consistent with this guidance.

34A.16. The Service Provider will use its reasonable endeavours to provide the Purchaser on request with evidence of direct and ongoing collaboration by the Service Provider's Suppliers with external organisations (such as NGOs, civil society organisations and governments) to address labour and human rights impacts on the Service Provider Supply Chain.

Supply chain contract termination

34A.17. The Service Provider will use its reasonable endeavours to ensure that all contracts in the Service Provider Supply Chain give the Purchaser a right to terminate the sub-contract if the supplier fails to comply with legal obligations in the fields of environmental, social, labour or human rights law.

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.

35.2. NOT USED

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;

v. 24 February 2021

36.3. Good Industry Practice; and

36.4. Schedule 11 (Cyber Security Requirements).

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. NOT USED

40. NIOT USED

41. NOT USED

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:

v. 24 February 2021

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).

43A. Compliance with Anti-Slavery and Human Trafficking Laws

43A.1. In performing its obligations under this Contract, the Service Provider shall:

43A.1.1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015;

43A.1.2. not engage in any activity, practice or conduct that would constitute an offence under the Human Trafficking and Exploitation (Scotland) Act 2015 if such activity, practice or conduct were carried out in the UK;

43A.1.3. include in contracts with its direct subcontractors and contractors provisions which are at least as onerous as those set out in this clause;

43A.1.4. notify the Purchaser as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract;

43A.1.5. maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Purchaser; and

43A.1.6. provide the Purchaser and its third party representatives access to such records.

43A.2 The Service Provider represents and warrants that it has not been convicted of any offence involving slavery and human trafficking nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

43A.3. The Service Provider shall prepare and deliver to the Customer, each year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

43A.4. The Purchaser may terminate this Contract with immediate effect by giving written notice to the Service Provider if the Service Provider commits a breach of this clause.

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.

v. 24 February 2021

- 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 etc.

- 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.

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 SPD 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;

v. 24 February 2021

- 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:

v. 24 February 2021

- 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 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 Million;
 - 52.1.2. professional indemnity insurance in the sum of not less than £1,000,000 Million
 - 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 1 months, 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

v. 24 February 2021

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 «F67: 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;

v. 24 February 2021

- 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 also terminate the Contract in accordance with any provisions of the Schedules.
- 57.3. 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; or
 - (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.
- 57.4. 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.
- 57.5. 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;

v. 24 February 2021

- 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 54 (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;

v. 24 February 2021

- 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 «F69: 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);

v. 24 February 2021

- 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 60;
- 60.6.28. clause 62 (Governing Law and Jurisdiction); and
- 60.6.29. paragraph 2 (Service Provider's Warranty) of Schedule 11 (Cyber Security Requirements).

60.7. NOT USED

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 rates derived from the Price Schedule..

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 SPD 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

v. 24 February 2021

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 «F71: number of pages before this page» preceding pages together with the 11 Schedules annexed are executed as follows:

SIGNED for and on behalf of the Scottish Ministers **SIGNED** for and on behalf of «F3: Service Provider name...»

At.....

At.....

On.....

On.....

Signature.....

Signature.....

Full name

Full name.....

Position

Position.....

Address.....

Address.....

In the presence of

In the presence of

Signature.....

Signature.....

Full name

Full name.....

Address.....

Address.....

v. 24 February 2021

This and the following [] pages comprise Schedule 1 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 1 – SPECIFICATION AND SERVICE LEVELS

To be entered at contract award.

v. 24 February 2021

This and the following [] pages comprise Schedule 2 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 2 - PRICING SCHEDULE

To be entered at contract award.

v. 24 February 2021

This and the following [] pages comprise Schedule 3 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 3 – ORDERING PROCEDURES

Purchase Order options and Invoicing Requirements

1. The Purchaser uses PECOS as the Purchase-to-Pay (P2P) system. Further information can be accessed through the following link:

<http://www.gov.scot/Topics/Government/Procurement/eCommerce>

2. PECOS supports the following options for transmitting approved Purchase Orders (POs) to suppliers:

- **cXML** - PECOS can issue a cXML PO directly to a supplier's back office system. This allows the PO to be automatically captured by the supplier's system, thereby removing the need to manually enter the PO and reducing potential errors. There is a one-off charge to configure cXML ordering from PECOS. The charge is £1415 + VAT per connection for cXML PO transmission. This is a one off cost for the supplier as once the connection is bought it can be used indefinitely with all PECOS customers. If an established live connection already exists then the one-off charge is not applicable.
- **PDF Email** – PECOS will send the supplier an emailed PO to a predetermined address with a PDF attachment.
- **Secure Email** – PO's be secure emails are used when sending personal information ie interim managers names, home addresses etc.. There is no cost for this set-up.

3. The Purchaser can accept invoices through the following options:

- Paper invoice to Accounts Payable, Victoria Quay, Edinburgh EH6 6QQ
- Email with a PDF attachment invoice

4. To ensure compliance with the EU eInvoicing Directive – effective from April 2019, the Purchaser is working with suppliers with a high volume of invoices annually to use an electronic format such as cXML or PDF for all invoices and credit notes. There are no costs to suppliers to issue and invoice or credit note via the Purchaser's eInvoicing solution.

5. All invoices submitted – regardless of format – must be HMRC compliant and include the following data:

- PO number
- Product or service item number if used (invoice should reflect any item number used on the PO)
- Line item detail – such as price, unit of measure and description
- Invoice period
- Supplier details include relevant tax information
- Buyers details
- Delivery details

v. 24 February 2021

- Payment instructions
 - Allowance or charge information
 - Invoice totals
 - VAT breakdown (if applicable)
6. It is critical the invoice issued matches the information within the Purchasing System; the data must be correctly mapped to the invoice processing environment.

v. 24 February 2021

This and the following [] pages comprise Schedule 4 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 4 – MANAGEMENT ARRANGEMENTS

1. Contract Managers

- 1.1. Colin Armstrong based at Glasgow is the Purchaser Contract Manager and will be the point of contact for the Service Provider and liaise with the Service Provider on all operational and contractual issues, including complaints and dispute resolution.
- 1.2. The Service Provider will also appoint an individual (“Service Provider Contract Manager”) to be the main point of contact for the Purchaser on all operational and contractual issues, including complaints and dispute resolution.

2. Reporting Requirements

- 2.1. The Service Provider will be required to provide quarterly reports (“Performance Reports”) to the Purchaser in an electronic format. Performance Reports must be clear and concise, and provide a top level summary of performance with supporting documents.
- 2.2. Performance Reports must provide the Purchaser with robust information on the service delivery described in Schedule 1 and must include the Service Provider’s performance against any objectives and Service Levels, as set out in the Contract.
- 2.3. Performance Reports must include a detailed written analysis of the performance of all Services undertaken in the time period which the Performance Report covers. The Service Provider must also undertake trend analyses across these time periods and this must be presented in the form of a written report and tables.
- 2.4. The detail provided must be sufficient to measure the performance of the Contract against all Service Levels and objectives. Where the Performance Report shows a negative trend, the Service Provider will be expected to provide quantitative analysis or narrative explanation, as appropriate, to accompany the Performance Report along with a mitigation / improvement plan.
- 2.5. The Performance Report must be submitted to the Purchaser within 15 working days of the end of each quarter and, in addition to the requirements detailed above, must include:
 - Executive summary;
 - A summary of overall monthly performance;
 - Compliance with any administrative, quality assurance, ethical, sustainability and financial requirements of the Contract.
- 2.6. The Service Provider must ensure the quality of all Performance Reports such that the Purchaser is able to use the Performance Reports without the need for rigorous review each time.
- 2.7. The Performance Reports must be fully transferable by secure email exchange between the Service Provider and the Purchaser.
- 2.8. The Purchaser may give the Service Provider an opportunity to comment on any Performance Report in respect of the Service Provider’s operation and, in particular to highlight any mitigating circumstances in respect of any failure. The Service

v. 24 February 2021

Provider must give due regard to any comments made by Purchaser but the findings of any outcome, after having such regard, are final.

- 2.9. The ownership of any material and/or Performance Reports and any other outputs produced as a result of this Contract will rest with the Purchaser..

3. Dispute resolution

- 3.1. The Parties shall attempt to resolve any dispute between them arising out of, or in connection with, the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute as follows.
- 3.2. Any dispute will, in the first instance, be presented to the Service Provider Contract Manager and Purchaser Contract Manager for resolution.
- 3.3. If the Service Provider Contract Manager and Purchaser 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.
- 3.4. If the dispute cannot be resolved by the Parties pursuant to this paragraph, the Parties shall refer it to arbitration pursuant to the procedure in terms of clause 54 (Dispute Resolution) of the Contract.
- 3.5. The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to arbitration in terms of clause 54 (Dispute Resolution) of the Contract and the Service Providers shall comply fully with the requirements of the Contract at all times.

4. Data handling

- 4.1. All data and reports which are supplied electronically will be supplied in a format which is compatible with the software utilised by the Purchaser. The Service Provider must ensure all electronic files to be submitted to the Purchaser are free of viruses. The Service Provider must provide data and reports to the Purchaser in an editable electronic format, on request.

5. Meetings

- 5.1. Monthly contract meetings will usually be held remotely or at the Purchaser's office at Glasgow, However, occasions may arise where meetings will be held at the Service Provider's offices. Any change to the location of a meeting will be communicated by the Purchaser with as much notice as reasonably practicable.
- 5.2. The meetings will cover, amongst other topics, the most recently submitted Performance Report. The Purchaser reserves the right to alter the agenda of any meeting but will endeavour to give attendees as much notice as reasonably practicable.
- 5.3. The Purchaser will determine who must attend from the Service Provider's Key Personnel.
- 5.4. All costs incurred by the Service Provider in attending such meetings will be the responsibility of the Service Provider.

6. Quality assurance

- 6.1. The Service Provider must comply with any relevant legislation, rules or regulations as in force at the time in the delivery of the Services.

7. Continuous service improvement

- 7.1. Both Parties acknowledge the need for continuous improvement over the duration of this Contract.
- 7.2. The Service Provider must put in place appropriate policies, processes, tools, methodologies and/or resources to continuously improve the service throughout the duration of the Contract and provide improved value for money.
- 7.3. During the period of the Contract, the Service Provider shall be required to make proposals to the Purchaser which will:
 - a) improve the Services;
 - b) improve technology or methodology used in connection with the Services; and
 - c) reduce costs, including, where appropriate, consequent reductions in prices charged to the Purchaser.
- 7.4. The Service Provider must put in place a process to capture, assess, report and make recommendations to the Purchaser on initiatives and proposals for continuous improvement in the provision of the services.
- 7.5. Examples of sources of initiatives may include, but are not restricted to:
 - a) Service Level reporting;
 - b) project lessons learned;
 - c) technology developments and new skills in the sector;
 - d) governance;
 - e) benchmarking; and
 - f) internal audit.

8. Invoicing

- 8.1. The Service Provider must maintain records of all invoices submitted by any subcontractors and make these available on request to the Purchaser, or their representatives, for audit purposes.
- 8.2. The Service Provider must put in place arrangements for secure electronic transfer of invoices to the Purchaser (such as a secure web portal) in compliance with the reasonable requirements of the Purchaser.
- 8.3. The Service Provider must ensure that invoices are validated prior to submission to the Purchaser, meaning that the data fields on the invoices are compliant with reasonable requirements of the Purchaser. For example, that dates are expressed in a particular format.
- 8.4. The Service Provider must put in place arrangements for ensuring that invoices are compliant with the Contract prior to submission.

9. Mobilisation Plan

- 9.1. The Mobilisation Period is the time from the date of signature of the Contract to the Commencement Date.
- 9.2. The Service Provider must submit a final Mobilisation Plan with sufficient supporting material, which must include a detailed timetable, programme plan and activity schedule, within 30 days of contract award.
- 9.3. The Mobilisation Plan must set out how the Key Individuals (Schedule 5) will be involved in delivery of the Mobilisation Plan.
- 9.4. The Mobilisation Plan must include clearly identified stages, milestones and quality gateways and a proposal for reporting to the Purchaser on progress against these. This proposal must include the evidence which could be available to the Purchaser on request in order to confirm that each milestone has been met.
- 9.5. The Service Provider must explain how they propose to project manage the Mobilisation Plan, illustrating practical project stages with important end of stage events set out with quality assurance review and approval processes described.
- 9.6. The Mobilisation Plan must set out clearly the interdependencies and sequencing of activities so that the impact of missing any milestone is clear.
- 9.7. The Mobilisation Plan must set out how all parts of the supply chain required to deliver services under the Contract will be put in place.
- 9.8. The Mobilisation Plan must set out how any technology proposed by the Service Provider will be specified, developed, tested and deployed including any software licences that may be necessary. The Mobilisation Plan must set out how the Service Provider will demonstrate to the Purchaser that the technology is fit for purpose, for example through sample testing, robust reviews and rigorous assertion of quality assured processes.
- 9.9. The Purchaser recognises that the Service Provider will need particular support during the Mobilisation Period. Equally, the Purchaser expects openness and transparency from the Service Provider with regard to any risks or issues with delivering against the Mobilisation Plan. Representatives from the Purchaser would expect to meet any relevant personnel from the Service Provider on a weekly basis during the Mobilisation Period to answer queries, monitor progress and troubleshoot.

10. Key Performance Indicators

- 10.1. KPIs are intended to reflect the key objectives of the Contract. The Service Provider shall provide the Services in such a manner so as to meet the KPIs detailed in the table below.
- 10.2. The Service Provider shall monitor its own performance against each KPI. Details of KPI performance are to be included in Quarterly/Monthly Performance Report (or in a form acceptable to the Purchaser), an example is provided below:

Table 1: Key Performance Indicators

No	Key Performance Indicator	Milestone
1	All requests for support received must be processed and allocated to appropriate advocacy representation within 2 working days.	95%

v. 24 February 2021

2	Initial appointments with Individuals should be arranged within 3 working days of the referral to the advocacy worker or service partner	95%
3	Acknowledge receipt of complaint/concern within 2 working days of receipt and provide a formal response within 5 working days of receipt (copied to the SG contract manager for information).	90%
4	Any complaints which cannot be resolved by Service provider regarding the system or services must be sent to SG contract manager within 6 working days of receipt.	90%
5	Serious issues to be escalated to the Scottish Government within 24 hours	100%
6	Service Provider must issue satisfaction survey to 100% of Individuals within two days of their service requirements ending	95%
7	Service Provider must make payment to any sub-contractors within 30 days of receipt of a valid invoice	100%

v. 24 February 2021

This and the following [] pages comprise Schedule 5 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 5 – KEY INDIVIDUALS

To be entered at contract award.

v. 24 February 2021

This and the following [] pages comprise Schedule 6 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 6 – APPROVED SUB-CONTRACTORS

To be entered at contract award.

approved Sub-Service Provider(s)

Relevant obligations

1. e.g. Subco Limited (SC123456)

e.g. high risk consultancy services

2.

v. 24 February 2021

This and the following [] pages comprise Schedule 7 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

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>(Contract Document)</i>			
<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

v. 24 February 2021

This and the following [] pages comprise Schedule 8 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 8 – PARENT COMPANY GUARANTEE

1. We [here insert the full name of the parent company], a company incorporated under the Companies Acts (Company number []) and having our Registered Office at [] refer to the Contract dated [] and [] between the Scottish Ministers and [insert name of contractor], a company incorporated under the Companies Acts (Company number []) and having its Registered Office at [] (“the Company”) of which we are the ultimate holding company, for the provision [specify nature of the services] (“the Contract”) and in security of the Company's obligations thereunder guarantee the same in the following manner:-

1.1 We guarantee that the Company shall perform all its obligations contained in the Contract.

1.2 If the Company shall in any respect fail to perform its obligations under the Contract or shall commit any breach thereof, we undertake, forthwith on first demand by the Scottish Ministers, to perform or to take whatever steps may be necessary to achieve performance of said obligations under the Contract and shall indemnify and keep indemnified the Scottish Ministers against any loss, damages, claims, costs and expenses which may be incurred by them by reason of any such failure or breach on the part of the Company.

1.3 Our guarantee and undertakings hereunder shall be unconditional and irrevocable, and without prejudice to the foregoing generality we shall not be released or discharged from our liability hereunder by:

1.3.1 any waiver or forbearance by the Scottish Ministers of or in respect of any of the Company's obligations under the Contract whether as to payment, time, performance or otherwise howsoever, or by any failure by the Scottish Ministers to enforce the Contract or this instrument, or

1.3.2 any alteration to, addition to or deletion from the Contract or the scope of the work to be performed under the Contract, or

1.3.3 any change in the relationship between ourselves and the Company; or

1.3.4 the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganisation, administrative or other receivership or dissolution of the Company, and any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction,

and our guarantee and undertakings shall continue in force until all the Company's obligations under the Contract and all our obligations hereunder have been duly performed.

2. This Guarantee shall be construed and take effect in accordance with Scots Law.

3. Our obligations under this Guarantee may be enforced by the Scottish Ministers at their discretion without first having taken any steps or proceedings against the Company or any other person.

4. We shall, on demand by the Scottish Ministers, execute such documents or take such action as the Scottish Ministers may require, for protecting the Scottish Ministers rights under this Guarantee.

5. If at any time any provision of this Guarantee is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of the other provisions of this Guarantee shall not be affected or impaired.

v. 24 February 2021

6. No single or partial exercise by the Scottish Ministers of any right, power or remedy provided by law or under this Guarantee shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
7. The rights, powers and remedies provided in this Guarantee are cumulative with, and not exclusive of, any rights, powers and remedies provided by law.
8. All notices and other communications required or permitted to be given in terms of this Contract, or any proceedings relating to it, shall be in writing and will be sufficiently served:
 - 8.2 if delivered by hand; or
 - 8.2 if sent by fax; or
 - 8.3 if sent by prepaid recorded or special delivery post; or
 - 8.4 if sent by email

to the address specified below or to such other address as is from time to time notified to the other party in accordance with the provisions of this Clause 8:

Scottish Ministers:

[to be completed]

[Guarantor]

[to be completed]

9. Any such notice or communication shall be deemed to have been served,
 - 9.1 if delivered by hand, on the date of delivery;
 - 9.2 if sent by fax, 4 working hours after the time at which the fax was sent;
 - 9.3 if sent by pre-paid recorded or special delivery post, on the date of delivery; or
 - 9.4 if sent by electronic mail, 4 working hours after the time at which the email was sent,
 - 9.5 provided that, if in accordance with the above provisions, any such notice or communication is delivered or received outside working hours on any working day, such notice or communications shall be deemed to have been served at the start of the working hour on the next working day thereafter.
 - 9.6 For the purposes of this Clause 9:

‘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; and

‘working hour’ means an hour between 0900 hours and 1700 hours on a working day.

10. Each person giving a notice or making a communication hereunder by fax or email shall promptly confirm such notice or communication by post to the person to whom such notice or communication was addressed but the absence of any such confirmation shall not affect the validity of any such notice or communication or time upon which it is deemed to have been served: IN WITNESS WHEREOF these presents typewritten on this and the [2] preceding pages are executed as follows:

v. 24 February 2021

SIGNED for and on behalf of [DN: insert name of the Company]

At.....

On.....

Signature.....

Full name

Position

Address.....

.....

In the presence of

Signature.....

Full name

Address.....

.....

v. 24 February 2021

This and the following [] pages comprise Schedule 9 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 9 – DATA PROTECTION

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

“UK GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

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

[Include description here]

The types 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 Clause 14 of the Contract.

This and the following [] pages comprise Schedule 10 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 10 – EXIT MANAGEMENT

11. THE EXIT PERIOD

- 11.1. The Exit Period is the period beginning on the Exit Management Date and ending 3 months thereafter.
- 11.2. The Service Provider must guarantee that any sub-contractor engaged by the Service Provider to perform any part of the service complies with this requirement. If a sub-contractor 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.

12. MAINTENANCE OF SERVICE DURING THE EXIT PERIOD

- 12.1. The Service Provider must provide sufficient resource to manage the Contract and fulfil all its duties without any deterioration in service during the Exit Period.
- 12.2. The Service Provider must, if so required, continue to provide management of the Contract, or any part of it to ensure all outstanding liabilities of the Service Provider are fulfilled.

13. CONTINUITY OF SERVICE TO NEW PROVIDER

- 13.1. Should the Contract continue either totally, partially or in an amended format and another service provider be appointed to continue the provision of the Services 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.
- 13.2. 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.

14. RE-TENDERING OF SERVICES

- 14.1. The Service Provider recognises that any re-tendering exercise commenced by the Purchaser in respect of all or part of the Services at any time during the Contract term must be fair and open; and in order to

v. 24 February 2021

facilitate a smooth, timely and orderly re-tendering the Service Provider shall (promptly and in the timescale set out by the Purchaser):

- provide all reasonable assistance that the Purchaser may require in connection with any re-tendering process;
- comply with the Purchaser's requests in connection with any re-tendering process, which may include requests for such assistance and information as specified
- not knowingly do or omit to do anything which may adversely affect the ability of the Purchaser to ensure an orderly re-tendering process.

15. DATA TRANSFER

15.1. Without prejudice to clause 18 (Audit) of the Contract, during the period of up to 6 months after the date of such expiry or termination if so required by the Purchaser, the Service Provider must make available to the Purchaser, or any organisation appointed by the Purchaser to provide the services for the Contract or any part of them, information and assistance and all relevant data collected in the execution of the Contract, both electronically and in hard copy, as directed by the Purchaser.

v. 24 February 2021

This and the following [] pages comprise Schedule 11 to the foregoing Contract between the Scottish Ministers and «F3: Service Provider name»

SCHEDULE 11 – NOT USED