



# **FORMAL CONTRACT AGREEMENT**

**between**

**HM Revenue & Customs**

**and**

**World Careers Network Plc (WCN)**

**for the provision of**

**E-RECRUITMENT SERVICES**

**Version: 1.0**

**Contract ref:** PS-2013- E-Recruitment System

**eSourcing ref:** (Optional)

**Common Procurement Vocabulary (CPV):** 48900000,  
48781000, 48000000

**Start Date:** 31/01/2014

**Expiry Date: 30/01/2018**

# Contents

<b>Form of Agreement</b> .....	<b>3</b>
<b>Terms and Conditions</b> .....	<b>3</b>
<b>A GENERAL PROVISIONS</b> .....	<b>3</b>
A1 Definitions and Interpretation .....	
A2 Initial Contract Period .....	
A3 Contractor's Status .....	
A4 Client's Obligations .....	
A5 Notices .....	
A6 Mistakes in Information .....	
A7 Conflicts of Interest .....	
A8 Inspection of Premises .....	
A9 Access to Client's Premises .....	
A10 Licence to occupy Premises .....	
A11 Staff Vetting and Government Baseline Security Standard .....	
A12 Security of Premises .....	
A13 Property .....	
<b>B PAYMENT TERMS AND CONTRACT PRICE</b> .....	<b>14</b>
B1 Contract Price .....	
B2 Payment Terms and VAT .....	
B3 Recovery of Sums Due .....	
B4 Compliance with Value Added Tax and Other Tax Requirements .....	
B5 Arrears of Value Added Tax .....	
B6 Price adjustment on extension of the Initial Contract Period .....	
B7 Euro .....	
<b>C STATUTORY OBLIGATIONS AND REGULATIONS</b> .....	<b>3</b>
C1 Prevention of Corruption .....	
C2 Prevention of Fraud .....	
C3 Discrimination .....	
C4 The Contracts (Rights of Third Parties) Act 1999 .....	
C5 Environmental Requirements .....	
C6 Health and Safety .....	
<b>D DATA SECURITY AND PROTECTION OF INFORMATION</b> .....	<b>3</b>
D1 Client Data .....	
D2 Data Protection Act .....	
D3 Official Secrets Acts and related Legislation .....	
D4 Confidential Information .....	
D5 Freedom of Information .....	
D6 Security Requirements .....	
D7 Publicity, Media and Official Enquiries .....	
D8 Intellectual Property Rights .....	
D9 Audit and the National Audit Office .....	
D10 Client's Right to Publish the Contract .....	
<b>E CONTROL OF THE CONTRACT</b> .....	<b>3</b>
E1 Transfer, Sub-Contracting and Novation .....	

E2	Waiver .....	
E3	Variation .....	
E4	Severability .....	
E5	Remedies Cumulative .....	
E6	Extension of Initial Contract Period .....	
E7	Entire Agreement .....	
<b>F</b>	<b><u>LIABILITIES</u></b> .....	<b>3</b>
F1	Liability, Indemnity and Insurance .....	
F2	Warranties and Representations.....	
F3	Professional Indemnity.....	
<b>G</b>	<b><u>DEFAULT, DISRUPTION AND TERMINATION</u></b> .....	<b>3</b>
G1	Termination on insolvency and change of control .....	
G2	Termination on Default .....	
G3	Break.....	
G4	Consequences of Expiry or Termination .....	
G5	Disruption.....	
G6	Recovery upon Termination .....	
<b>H</b>	<b><u>DISPUTES AND LAW</u></b> .....	<b>3</b>
H1	Governing Law and Jurisdiction .....	
H2	Dispute Resolution.....	
<b>I</b>	<b><u>SUPPLY OF SERVICES</u></b> .....	<b>3</b>
I1	The Services .....	
I2	Manner of Carrying Out the Services.....	
I3	Remedies in the event of inadequate performance .....	
I4	Key Personnel.....	
I5	Provision and Removal of Equipment.....	
I6	Offers of Employment .....	
I7	TUPE .....	
<b>SCHEDULES</b> .....		
Schedule A	Specification	<b>49</b>
Schedule B	Pricing	<b>60</b>
Schedule C	Specific Responsibilities of the Parties	<b>66</b>
Schedule D	Contract Management & Management Information	<b>183</b>
Schedule E	Service Levels & KPI's	<b>185</b>
Schedule F	Exit Management	<b>187</b>
Schedule G	Certificates & Additional Information	<b>188</b>
Schedule H	Security Plan	<b>189</b>
Schedule I	Customer Organisations	<b>198</b>
Schedule J	Not Used	<b>200</b>

## %LForm of Agreement

This Agreement is made between Her Majesty's Revenue and Customs, the Contracting Authority, of 100 Parliament Street, London, SW1 2BQ and World Careers Network Plc whose main or registered office is at 5-7 Bridgeworks, The Crescent, London, SW19 8DR together referred to as "the Parties" and has a commencement date of 31/01/2014

It is agreed that:

This Form of Agreement together with the Terms and Conditions and Schedules are the documents that collectively form the "Contract".

The Contract effected by the signing of this Form of Agreement constitutes the entire agreement between the Parties relating to the subject matter of the Contract and supersedes all prior negotiations, representations or understandings whether written or oral.

Signed for and on behalf of:

HM Revenue and Customs	World Careers Network Plc (WCN)
Signature:	Signature:
Full Name: Redacted; Fol Exemption 40 Personal Information	Full Name: Redacted; Fol Exemption 40 Personal Information
Position: Date:	Position: Date:
Contact details:	Contact details
Address: 5 <sup>th</sup> Floor West, Ralli Quays, 3 Stanley Street, Salford M60 9LA	Address: 5-7 Bridgeworks The Crescent London SW19 8DR
Telephone:	Telephone:

# **%LTerms and Conditions**

## **A. GENERAL PROVISIONS**

### **A.1. Definitions and Interpretation**

**A.1.1.** In this Contract unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Approval” means the written consent of the Client.

“Baseline Standard” means the HMG Baseline Personnel Security Standard staff vetting procedures, issued by the Cabinet Office Security Policy Division and Corporate Development Group.

“Client” means CS Resourcing (CSR) acting as the Lead Organisation for the administration of the contract on behalf of Her Majesty’s Revenue & Customs (HMRC).

“Client Data” means:

- (a) data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:
  - (i) are supplied to the Contractor by or on behalf of the Client; or
  - (ii) the Contractor is required to generate, process, store or transmit pursuant to this Agreement; and/or
- (b) any Personal Data for which the Client is the Data Controller.

“Commencement Date” means the effective date shown within the Form of Agreement.

“Commercially Sensitive Information” means Information notified to the Client in writing (prior to the commencement of this Contract) which has been clearly marked by the Contractor as Commercially Sensitive Information, comprising of information:

- (a) which is provided by the Contractor to the Client in confidence; and/or
- (b) that constitutes a trade secret.

“Confidential Information” means all Information:

- (a) however it is conveyed or on whatever media it is stored;
- (b) which comes (or has come) to the attention of or into the possession of a Party before, on or after execution of the Contract; and
- (c) which has been designated as confidential by either Party in writing or which ought to be considered as confidential (whether or not it is marked at the time of provision to show that it is imparted in confidence);

- (d) including but not limited to Information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA;
- (e) and which Information is not:
  - (i) in the public domain at the time of disclosure (otherwise then by breach of Clause D4 (Confidential Information)); or
  - (ii) received from a third Party (who has lawfully acquired it) without restriction as to its disclosure; or
  - (iii) independently developed without access to the Confidential Information

“Contract” means this written agreement between the Client and the Contractor consisting of these Clauses and any attached Schedules.

“Contracting Authority” means any Contracting Authority as defined in Regulation 3 of the Public Contracts Regulations 2006.

“Contractor” means the person, firm or company with whom the Client enters into the Contract.

“Contract Period” means the period from the Commencement Date to:

- (a) the date of expiry set out in Clause A2 (Initial Contract Period); or
- (b) following an extension pursuant to Clause E6 (Extension of Initial Contract Period), the date of expiry of the extended period;

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Contract.

“Contract Price” means the price (exclusive of any applicable VAT) payable to the Contractor by the Client under the Contract, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with Clause B6 (Price Adjustment on Extension of Initial Contract Period).

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies.

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other Default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other.

“DPA” means the Data Protection Act 1998 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown body in relation to such legislation.

“E-Sourcing Messaging Facility” means the ability to send and receive messages via the E-Sourcing application.

“Environmental Information Regulations” means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown body in relation to such regulations.

“Equipment” means the Contractor’s Equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

“Fees Regulations” means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

“FOIA” means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown body in relation to such legislation.

“Fraud” means any offence under Laws creating offences in respect of fraudulent acts or at common Law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law 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 under the same or similar circumstances.

“Goods” means the Goods to be supplied as specified in the Specification.

“Information” has the meaning given under section 84 of the FOIA.

“Initial Contract Period” means the period from the Commencement Date to the date of expiry set out in Clause A2 (Initial Contract Period), or such earlier date of termination of the Contract in accordance with the Law or the provisions of the Contract.

“Installation Works” means, as the context so requires,

- (a) collectively, all works which the Contractor is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Specification; or
- (b) where there are a series of works to be carried out during the Contract Period to install the Goods in accordance with the Specification, each set of Installation Works

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registrable 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 registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.



“Key Personnel” means those persons named in the Specification as being Key Personnel.

“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of Law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply.

“Month” means calendar Month.

“Outgoing Contractor” means the Person, firm or company currently providing the Services and whose replacement is envisaged pursuant to the Contract.

“Party” means a Party to the Contract.

“Premises” means the location where the Services are to be supplied, as set out in the Specification.

“Pricing Schedule” means the Schedule containing details of the Contract Price.

“Property” means the Property, other than real Property, issued or made available to the Contractor by the Client in connection with the Contract.

“Quality Standards” means the Quality Standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Specification.

“Regulatory Bodies” means those Crown bodies and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Client and “Regulatory Body” shall be construed accordingly.

“Replacement Contractor” means any third Party service provider appointed by the Client to supply any Services which are substantially similar to any of the Services and which the Client receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

“Request for Information” shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply).

“Relevant Convictions” means a conviction that is relevant to the nature of the Services and/or relevant to the work of the Client as previously agreed between the Client and the Contractor.

“Relevant Transfer” shall have the meaning set out in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”)

“Returning Employees” means those persons listed in a Schedule to be agreed by the Parties prior to the end of the Contract Period who it is agreed were

employed by the Contractor (and/or any sub-contractor) wholly and/or mainly in the provision of the Services immediately before the end of the Contract Period.

"Schedule" means a Schedule attached to, and forming part of, the Contract.

"Security Plan" means the Contractor's Security Plan prepared pursuant to the Client's instructions.

"Security Policy" means the Client's current Security Policy as updated from time to time.

"Transfer Date" means the date that a Relevant Transfer takes place and may or may not be coincidental to the Commencement Date.

"Services" means the Services to be supplied as specified in the Specification.

"Specification" means the description of the Services to be supplied under the Contract.

"Staff" means all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor's servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Contract.

"Tender" means the document(s) submitted by the Contractor to the Client in response to the Client's invitation to suppliers for formal offers to supply it with the Services.

"Variation" has the meaning given to it in Clause E3.1 (Variation).

"VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994.

"Working Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

**A.1.2.** The interpretation and construction of this Contract shall be subject to the following provisions:

- (a) Words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) Words importing the masculine include the feminine and the neuter;
- (c) Reference to a Clause is a reference to the whole of that Clause unless stated otherwise;
- (d) Reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) Reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

- (f) The words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;
- (g) Headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract.

## **A.2. Initial Contract Period**

**A.2.1.**The Contract shall take effect on the Commencement Date and shall expire automatically Four Years (4) after the commencement date on 30/01/2018, unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated, or extended under Clause E6 (Extension of Initial Contract Period).

## **A.3. Contractor’s Status**

**A.3.1.**At all times during the Contract Period the Contractor shall be an independent Contractor and nothing in the Contract shall create a Contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

## **A.4. Client’s Obligations**

**A.4.1.**Save as otherwise expressly provided, the obligations of the Client under the Contract are obligations of the Client in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Client in any other capacity, nor shall the exercise by the Client of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Client to the Contractor.

## **A.5. Notices**

**A.5.1.**Any notice or other communication which is to be given by either Party to the other shall be issued by the E-Sourcing Messaging Facility. Where, for legal or other reasons, this is not possible, notice shall be given by letter, (sent by hand or post, registered post or recorded delivery), or transmitted by facsimile or e-mail, confirmed in either case by written letter. Such notice or communication shall be deemed to have been given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

## **A.6. Mistakes in Information**

**A.6.1.**The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Client by the Contractor in connection with the supply of the Services and shall pay the Client any extra costs occasioned by any discrepancies, errors or omissions therein.

## **A.7. Conflicts of Interest**

**A.7.1.**The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict,

between the pecuniary or personal interests of the Contractor and the duties owed to the Client under the provisions of the Contract. The Contractor will disclose to the Client full particulars of any such conflict of interest which may arise.

**A.7.2.**The Client reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Client under the provisions of the Contract. The actions of the Client pursuant to this Clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

**A.7.3.**Clauses A7.1 and A7.2 shall apply during the continuance of the Contract.

### **A.8. Inspection of Premises**

**A.8.1.**Save as the Client may otherwise direct, the Contractor is deemed to have inspected the Premises before submitting its Tender and to have made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract.

A8.2 The Contractor acknowledges that it has inspected the Operating Environment and has advised the Client of any aspect of the Operating Environment that is not suitable for the provision of the Services and that the specified actions to remedy the unsuitable aspects of the Operating Environment, together with a timetable for and the costs of those actions, have been specified in the relevant parts of the Agreement.

A8.3 If the Contractor has either failed to inspect the Operating Environment or failed to notify the Client of any required remedial actions then the Contractor shall not be entitled to recover any additional costs or charges from the Client relating to any unsuitable aspects of the Operating Environment, except in respect of any latent structural defect in the Client's Premises. The onus shall be on the Contractor to prove to the Client that any work to the Client's Premises is required in respect of a latent structural defect and that the additional costs or charges are reasonable and necessary. The Contractor shall not incur such additional costs or charges without obtaining the Client's prior written permission.

### **A.9. Access to Client's Premises**

**A.9.1.**The Client may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Premises to:

(a) any member of the Staff; or

(b) any person employed or engaged by any member of the Staff,

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

**A.9.2.**At the Client's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Client may reasonably request.

**A.9.3.**The Contractor's Staff, engaged within the boundaries of the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.

**A.9.4.**If the Contractor fails to comply with Clause A9.2 within 14 days of the date of the request and in the reasonable opinion of the Client such failure may be prejudicial to the interests of the Crown, then the Client may terminate the Contract, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

**A.9.5.**The decision of the Client as to whether any person is to be refused access to the Premises and as to whether the Contractor has failed to comply with Clause A9.2 shall be final and conclusive.

**A.10. Licence to occupy Premises – NOT APPLICABLE TO THIS AGREEMENT.**

**A.11. Staff Vetting and Government Baseline Security Standard**

**A.11.1.**The Contractor shall comply with the HMG Baseline Personnel Security Standard (the Baseline Standard) in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor have been vetted and recruited in accordance with the Baseline Standard.

- A.11.2.**The Contractor hereby warrants and represents that the checks specified in HMG Baseline Personnel Security Standard (the Baseline Standard) have been carried out in respect of each person assigned to access Premises, Property or Information belonging to the Client and that the results of those checks are satisfactory.
- A.11.3.**The Contractor shall maintain full and accurate records of Baseline Standard checks such that the Client (or its authorised agents) may verify that the Contractor has carried out such checks in accordance with the Baseline Standard.
- A.11.4.**Subject to legal requirements in respect of confidentiality, the Contractor shall grant to the Client (or its authorised agents) the right of reasonable access to all its records of Baseline Standard checks and shall provide all reasonable assistance at all times for the purpose of carrying out an audit of the Contractor's compliance with the Baseline Standard.
- A.11.5.**The Client may require the Contractor to ensure that any person employed in the provision of the Goods or Services has undertaken a Criminal Records Bureau check. The Contractor shall ensure that no person who discloses that he/she has a Relevant Conviction, or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check or through the Criminal Records Bureau check or otherwise) is employed or engaged in the provision of any part of the Goods or Services.

## **A.12. Security of Premises**

- A.12.1.**The Client shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements. The Contractor shall comply with all reasonable security requirements of the Client while on the Premises, and shall ensure that all of its Staff comply with such requirements.
- A.12.2.**The Contractor shall take all steps reasonably required by the Client to prevent unauthorised persons from being admitted to the Client's Premises. The Client shall afford to the authorised personnel of the Contractor at all reasonable times and with prior agreement such access to the Client's Premises as may be necessary for the performance of the Contract provided always that the Client shall have the right to refuse admittance to or order the removal from the Premises any person employed by or acting on behalf of the Contractor or any sub-contractor who in the opinion of the Client (which shall be final) is not a fit and proper person to be on the Client's Premises. Action taken under this Condition shall be confirmed in writing to the Contractor by the Client and shall not relieve the Contractor of its obligations under the Contract. At all times personnel of the Contractor shall obey the Client's directions relating to safety.
- A.12.3.**Where Staff are required to have a pass for admission to the Client's Premises, the Client's representative shall, subject to satisfactory completion of Approval procedures, arrange for passes to be issued.
- A.12.4.**The Client shall provide the Contractor upon request copies of its written security procedures and shall afford the Contractor upon request with an opportunity to inspect its physical security arrangements.

## **A.13. Property**

- A.13.1.** Where the Client issues Property free of charge to the Contractor such Property shall be and remain the Property of the Client and the Contractor irrevocably licences the Client and its agents to enter upon any Premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Client. The Contractor shall take all reasonable steps to ensure that the title of the Client to the Property and the exclusion of any such lien or other interest are brought to the notice of all sub-contractors and other appropriate persons and shall, at the Client's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Client.
- A.13.2.** The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Client otherwise within 5 Working Days of receipt.
- A.13.3.** The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without prior Approval.
- A.13.4.** The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Goods or Services, in accordance with the Client's reasonable security requirements as required from time to time.
- A.13.5.** The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Client's Default. The Contractor shall inform the Client within 2 Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

## **B PAYMENT TERMS AND CONTRACT PRICE**

### **B1 Contract Price**

- B1.1** The Contract Prices and rates, as shown in the appropriate Schedules of the Contract, shall remain fixed for the initial forty eight Month period starting from the Operational Date. Prices will then be subject to review based on a price index previously agreed between the Client and the Contractor.
- B1.2** In the event that the Contract Price is increased or decreased as a result of any new legislation or regulation being made after the Commencement Date, the amount of any such increase or decrease shall be treated as a Variation to the Contract and will be assessed on an individual basis. Such Variations will not be allowed where new legislation or regulations are enacted after the Commencement Date but were made public prior to the Commencement Date. Any such Variations to price, which can be foreseen by the Contractor prior to the Commencement Date, will be deemed to have been included in the Contract Price.

### **B2 Payment Terms and VAT**

- B2.1** The Client shall pay all sums due to the Contractor within 30 days of receipt of a valid invoice, submitted in accordance with the Client's reasonable instructions.

- B2.2 The Contractor shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services supplied and is supported by any other documentation reasonably required by the Client to substantiate the invoice.
- B2.3 Where the Contractor enters into a sub-contract with a supplier or sub-contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- B2.4 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable and the Client shall pay the VAT to the Contractor following its receipt of a valid VAT invoice.
- B2.5 The Contractor shall indemnify the Client on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Client at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this Clause B2.5 shall be paid by the Contractor to the Client not less than 5 Working Days before the date upon which the tax or other liability is payable by the Client.
- B2.6 The Contractor shall not suspend the supply of the Goods or Services unless the Contractor is entitled to terminate the Contract under Clause G2.3 (Termination on Default) for failure to pay undisputed sums of money. If any amount payable under this Contract is not paid within 30 days of the due date for payment, interest shall be payable by the Client at a rate of 5% above the base rate of the Bank of England, from the due date to the date of actual payment.

### **B3 Recovery of Sums Due**

- B3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of the Contract), that sum may be deducted from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or Contract with the Client or the Crown.
- B3.2 Any overpayment by either Party shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

### **B4 Compliance with Value Added Tax and Other Tax Requirements**

- B4.1 The Contractor shall at all times comply with the Value Added Tax Act 1994 and all other statutes relating to direct or indirect taxes.
- B4.2 Failure to comply may constitute a material breach of this Contract and the Client may exercise the rights and provisions conferred by Condition G2 (Termination on Default) hereof.
- B4.3 The Contractor shall provide to the Client the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or Self Assessment reference of any agent, supplier or sub-contractor of the Contractor prior to the commencement of any work under this Contract by that agent, supplier or sub-contractor. Upon a request by the



Client, the Contractor shall not employ or will cease to employ any agent, supplier or sub-contractor.

## **B5 Arrears of Value Added Tax**

- B5.1 Where an amount, including any assessed amount, is due from the Contractor as Value Added Tax under the Value Added Tax Act 1994 (as amended) an equivalent amount may be deducted by the Client from the amount of any sum due to the Contractor under the Contract.
- B5.2 The Client shall give the Contractor at least 14 days notice in writing before exercising the right of deduction under Clause B5.1. The notice shall specify the amount to be deducted and shall contain a description of the VAT due from the Contractor in respect of which the deduction is made.

## **B6 Price adjustment on extension of the Initial Contract Period**

- B6.1 The Contract Price shall apply for the Initial Contract Period. In the event that the Client agrees to extend the Initial Contract Period pursuant to Clause E6 (Extension of Initial Contract Period) the Client shall, in the 6 Month period prior to the expiry of the Initial Contract Period, enter into good faith negotiations with the Contractor (for a period of not more than 30 Working Days) to agree a Variation in the Contract Price.
- B6.2 If the Parties are unable to agree a Variation in the Contract Price in accordance with Clause B6.1, the Contract shall terminate at the end of the Initial Contract Period.
- B6.3 If a Variation in the Contract Price is agreed between the Client and the Contractor, the revised Contract Price will take effect from the first day of any period of extension and shall apply during such period of extension.
- B6.4 Any increase in the Contract Price pursuant to Clause B6.1 shall not exceed the percentage change in the Price Index previously agreed between the Client and the Contractor between the Commencement Date and the date 6 Months before the end of the Initial Contract Period.

## **B7 Euro**

- B7.1 Any requirement of Law to account for the Services in Euro (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor free of charge to the Client.
- B7.2 The Client shall provide all reasonable assistance to facilitate compliance with Clause B7.1 by the Contractor.

## **C STATUTORY OBLIGATIONS AND REGULATIONS**

### **C1 Prevention of Corruption**

- C1.1 The Contractor shall not offer or give, or agree to give, to the Client or any other Crown body or any person employed by or on behalf of the Client or any other Crown body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other Contract with the Client or any other Crown body, or for showing or refraining from

showing favour or disfavour to any person in relation to the Contract or any such Contract.

C1.2 The Contractor warrants that it has not paid commission or agreed to pay commission to the Client or any other Crown body or any person employed by or on behalf of the Client or any other Crown body in connection with the Contract.

C1.3 If the Contractor, its Staff or anyone acting on the Contractor's behalf, engages in conduct prohibited by Clauses C1.1 or C1.2, the Client may:

- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Services and any additional expenditure incurred by the Client throughout the remainder of the Contract Period; or
- (b) recover in full from the Contractor any other loss sustained by the Client in consequence of any breach of those Clauses.

## **C2 Prevention of Fraud**

C2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Client.

C2.2 The Contractor shall notify the Client immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

C2.3 If the Contractor or its Staff commits Fraud in relation to this or any other Contract with the Crown (including the Client) the Client may:

- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Client resulting from the termination, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Services and any additional expenditure incurred by the Client throughout the remainder of the Contract Period; or
- (b) recover in full from the Contractor any other loss sustained by the Client in consequence of any breach of this Clause.

## **C3 Discrimination**

C3.1 The Contractor shall not unlawfully discriminate either directly or indirectly because of race, colour, ethnic or national origin, disability, sex, sexual orientation, gender reassignment, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (which replaces the following: Sex Discrimination Act 1975, the Race Relations Act 1976, the Equal Pay Act 1970, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2007, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006, the Equality Act 2006), the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

C3.2 The Contractor shall take all reasonable steps to secure the observance of Clause C3.1 by all Staff.

#### **C4 The Contracts (Rights of Third Parties) Act 1999**

C4.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This Clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

#### **C5 Environmental Requirements**

C5.1 The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Client's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

#### **C6 Health and Safety**

C6.1 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.

C6.2 The Contractor shall promptly notify the Client of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Client shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.

C6.3 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Client in respect of Staff and other persons working there.

C6.4 The Contractor shall notify the Client immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

### **D DATA SECURITY AND PROTECTION OF INFORMATION**

#### **D1 Client Data**

D1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to Client Data.

D1.2 The Contractor shall not store, copy, disclose, or use Client Data except as necessary for the performance by the Contractor of its obligations under the Contract or as otherwise expressly authorised in writing by the Client.

D1.3 To the extent that Client Data is held and/or processed by the Contractor, the Contractor shall supply that Client Data to the Client as may be requested by the Client and in the format specified by the Client.

- D1.4 The Contractor shall take responsibility for preserving the integrity of Client Data and shall take all necessary steps to prevent the corruption or loss of Client Data.
- D1.5 The Contractor shall perform secure back-ups of all Client Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Client's instructions. The Contractor shall ensure that such back-ups are available to the Client at all times upon request and are delivered to the Client at agreed intervals.
- D1.6 The Contractor shall ensure that any system on which the Contractor holds Client Data, including back-up data, is a secure system that complies with the Client's current Security Policy. If any Client Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Client may:
- (a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of the Client Data to the extent required by the Client and in accordance with the Client's security requirements and the Contractor shall do so as soon as practicable but not later than any agreed timescale; and/or
  - (b) itself restore or procure the restoration of the Client Data, and shall be reimbursed by the Contractor any reasonable expenses incurred in doing so to the extent required by the Client and in accordance with the Client's security requirements.
- D1.7 If at any time the Contractor suspects or has reason to believe that Client Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Client immediately and inform the Client of the remedial action the Contractor proposes to take.

## **D2 Data Protection Act**

- D2.1 For the purposes of this Clause D2, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing" shall have the meaning prescribed under the DPA.
- D2.2 The Contractor shall (and shall ensure that all Staff) comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.
- D2.3 Notwithstanding the general obligation in Clause D1.2, where the Contractor is processing Personal Data as a Data Processor for the Client the Contractor shall:
- (a) Process the Personal Data only in accordance with instructions from the Client (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Client to the Contractor);
  - (b) Comply with all applicable Laws;
  - (c) Process the Personal Data only to the extent and in such manner as is necessary for the provision of the Contractor's obligations under this Contract or as is required by Law or any Regulatory Body;

- (d) Implement appropriate technical and organised measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- (e) Take reasonable steps to ensure the reliability of Staff and agents who may have access to the Personal Data;
- (f) Obtain prior written consent from the Client in order to transfer the Personal Data to any sub-contractor for the provision of the Services;
- (g) Not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Client;
- (h) Ensure that all Staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause D2;
- (i) Ensure that none of the Staff and agents publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Client;
- (j) Not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Client or in compliance with a legal obligation imposed upon the Client; and

D2.4 Notify the Client within 5 Working Days if it receives:

- (a) A request from a Data Subject to have access to that person's Personal Data; or
- (b) A complaint or request relating to the Client's obligations under the DPA;

D2.5 Provide the Client with reasonable cooperation and assistance in relation to any such complaint or request made, including by:

- (a) Providing the Client with full details of the complaint or request;
- (b) Assisting the Client to comply with any such request in accordance with the Client's reasonable instructions; and
- (c) Providing the Client with any Personal Data it holds in relation to a Data Subject (within the timescales reasonably required by the Client).

D2.6 The provision of this Clause D2 shall apply during the Contract Period and indefinitely after its expiry.

### **D3 Official Secrets Acts and related Legislation**

D3.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and

- (b) Section 182 of the Finance Act 1989; and
- (c) Section 18 and Section 19 of the Commissioners for Revenue and Customs Act 2005

D3.2 In the event that the Contractor or its Staff fail to comply with this Clause, the Client reserves the right to terminate the Contract with immediate effect.

#### **D4 Confidential Information**

D4.1 Except to the extent set out in this Clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
- (b) not disclose the other Party's Confidential Information to any other person without the Information owner's prior written consent.

D4.2 Clause D4.1 shall not apply to the extent that:

- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause D5 (Freedom of Information);
- (b) such Information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the Information owner;
- (c) such Information was obtained from a third Party without obligation of confidentiality;
- (d) such Information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- (e) it is independently developed without access to the other Party's Confidential Information.

D4.3 The Contractor may only disclose the Client's Confidential Information to the Staff who are directly involved in the provision of the Goods and Services and who need to know the Information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

D4.4 The Contractor shall not, and shall procure that the Staff do not, use any of the Client's Confidential Information received otherwise than for the purposes of the Contract.

D4.5 Where deemed appropriate by the Client, and at the written request of the Client, the Contractor shall procure that its Staff sign a confidentiality undertaking prior to commencing any work in accordance with the Contract.

D4.6 Nothing in this Contract shall prevent the Client from disclosing the Contractor's Confidential Information (including the Management Information obtained under Schedule D to this Contract):

- (a) to the Crown or any other Contracting Authority. The Crown and any Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to the Crown or other Contracting Authorities on the basis that the Information is confidential and is not to be disclosed to a third Party which is not part of the Crown or any Contracting Authority;
- (b) to any consultant, Contractor or other person engaged by the Client or any person conducting an Office of Government Commerce gateway review;
- (c) for the purpose of the examination and certification of the Client's accounts; or
- (d) for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.

D4.7 The Client shall use all reasonable endeavours to ensure that any Crown body, Contracting Authority, employee, third Party or sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to Clause D4.6 is made aware of the Client's obligations of confidentiality.

D4.8 Nothing in this Clause D4 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in disclosure of the other Party's Confidential Information or an infringement of its Intellectual Property Rights.

## **D5 Freedom of Information**

D5.1 The Contractor acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Client to enable the Client to comply with its Information disclosure obligations.

D5.2 The Contractor shall and shall procure that any sub-contractors shall:

- (a) transfer to the Client all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receiving a Request for Information;
- (b) provide the Client with a copy of all Information in its possession or power in the form that the Client requires within 5 Working Days (or such other period as the Client may reasonably specify) of the Client's request; and
- (c) provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

D5.3 The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

- D5.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Client.
- D5.5 If the Client receives a Request for Information relating to Information previously considered by the Parties to be Commercially Sensitive Information that is exempt under the FOIA the Client shall:
- (a) consider whether the Information is, in fact, exempt and;
  - (b) consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the Information (unless the Information benefits from an absolute exemption) and;
  - (c) consult with the Contractor prior to disclosure of the Information whenever reasonably practicable.
- D5.6 Without prejudice to Clause D5.5 the Client shall consult with the Contractor before disclosing any Confidential Information of the Contractor unless the Client is obliged under the FOIA to disclose such Information without consulting the Contractor.
- D5.7 The Client shall not be liable for any loss or damage suffered by the Contractor, whether in Contract, tort or any other way, as a result of the Client disclosing Information in response to a request made under the FOIA.
- D5.8 The Contractor shall ensure that all Information is retained for disclosure in accordance with any legislation or guidelines from time to time in place and shall permit the Client to inspect such records as requested from time to time.

## **D6 Security Requirements**

- D6.1 In the performance of this Contract, the Contractor shall comply with (and shall ensure that its Staff comply with) the Client's specific security requirements as described in the Specification of Requirements at Schedule A as appropriate. Failure to do so may result in the termination of the Contract in accordance with Clause G2. The Contractor shall be obliged to inform the Client of any security incident, regardless of its size or perceived impact on the Client's business, as soon as the Contractor becomes aware of such an incident, and shall maintain auditable records of such events.
- D6.2 Where required by the Client, the Contractor shall comply, and shall procure the compliance of its Staff, with the HMRC Security Policy and the Security Plan at Schedule H of this Contract and the Contractor shall ensure that its Security Plan fully complies with the Security Policy.
- D6.3 The Client shall notify the Contractor of any changes or proposed changes to the Security Policy.
- D6.4 If the Contractor believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Goods or Services it may submit a Change Request. In doing so, the Contractor must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate these costs. Any such change shall then be agreed in accordance with the change procedures previously agreed between the Client and the Contractor.



- D6.5 Unless and/or until such a change is agreed by the Client pursuant to Clause D6.4 the Contractor shall continue to perform the Services in accordance with its existing obligations under the Contract.
- D6.6 The Contractor shall, as an enduring obligation for the Contract Period, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.
- D6.7 Notwithstanding Clause D6.6, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Client Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- D6.8 Any cost arising out of the actions of the parties taken in compliance with the provisions of Clause D6.7 shall be borne by the parties as follows:
- (a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Contractor); and
  - (b) by the Client if the Malicious Software originates from the Client Software or the Client Data (whilst the Client Data was under the control of the Client).

## **D7 Publicity, Media and Official Enquiries**

- D7.1 Without prejudice to the Client's obligations under the FOIA, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party, which shall not be unreasonably withheld or delayed.
- D7.2 Both Parties shall take all reasonable steps to ensure that their servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with Clause D7.1.
- D7.3 The Contractor shall not use Client or Customer Organisation's name or brand in any promotion or marketing or announcement without the prior written consent of the Client.
- D7.4 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or Services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such Approval or endorsement.

## **D8 Intellectual Property Rights**

- D8.1 All Intellectual Property Rights in any guidance, Specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "IP Materials") furnished to or made available to the Contractor by the Client shall remain the Property of the Client and the Contractor shall not, and shall ensure that its Staff shall not (except when necessary for the performance of the Contract) without Prior Approval, use or disclose any Intellectual Property Rights in the IP materials.
- D8.2 The Client acknowledges that ownership in all Intellectual Property Rights in any guidance, Specifications, instructions, toolkits, plans, data, drawings,

databases, patents, patterns, models, designs or other material (the "IP Materials") prepared by or for the Contractor on behalf of the Client for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract shall remain with the Contractor.

- D8.3 The Contractor hereby grants to the Client a non-exclusive licence to use, reproduce, modify, develop and maintain the material prepared by or for the Contractor on behalf of the Client for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract including but not limited to all Intellectual Property Rights in the same. Such licence shall be non-exclusive, perpetual, royalty free and irrevocable.
- D8.4 The Contractor shall not infringe any Intellectual Property Rights of any third Party in supplying the Services and the Contractor shall, during and after the Contract Period, indemnify and keep indemnified and hold the Client and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Client or the Crown may suffer or incur as a result of or in connection with any breach of this Clause, except where any such claim arises from:
- (a) items or materials based upon designs supplied by the Client; or
  - (b) the use of data supplied by the Client which is not required to be verified by the Contractor under any provision of the Contract.
- D8.5 The Client shall notify the Contractor in writing of any claim or demand brought against the Client for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor.
- D8.6 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor.
- D8.7 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Client and, at its own expense and subject to the consent of the Client (not to be unreasonably withheld or delayed), use its best endeavours to:
- (a) modify any or all of the Goods or Services without reducing the performance or functionality of the same, or substitute alternative Goods or Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply to such modified Goods or Services or to the substitute Goods or Services; or
  - (b) procure a licence to use and supply the Goods or Services which are the subject of the alleged infringement on terms which are acceptable to the Client, and in the event that the Contractor is unable to comply with Clauses D8.7(a) or (b) within 20 Working Days of receipt of the Contractor's notification the Client may terminate the Contract with immediate effect by notice in writing.
- D8.8 The Contractor grants to the Client a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Client reasonably requires in order to exercise its rights

and take the benefit of this Contract including the Goods or Services provided.

## **D9 Audit and the National Audit Office**

D9.1 The Contractor shall keep and maintain until 6 years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Goods or Services supplied under it, all expenditure reimbursed by the Client, and all payments made by the Client. The Contractor shall on request afford the Client or the Client's representatives such access to those records as may be requested by the Client in connection with the Contract.

## **D10 Client's Right to Publish the Contract**

D10.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Client shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the Client to publish the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.

D10.2 The Client may consult with the Contractor to inform its decision regarding any redactions but the Client shall have the final decision at its absolute discretion.

D10.3 The Contractor shall assist and cooperate with the Client to enable the Client to publish this Contract

## **E CONTROL OF THE CONTRACT**

### **E1 Transfer, Sub-Contracting and Novation**

E1.1 Except where Clause E1.4 and E1.5 applies the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract including, but not limited to, any security requirements specific to this Contract.

E1.2 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.

E1.3 Where the Client has consented to the placing of sub-contracts, copies of each sub-contract shall, at the request of the Client, be sent by the Contractor to the Client as soon as reasonably practicable.

E1.4 Notwithstanding Clause E1.1, the Contractor may assign to a third Party (the "Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract. Any assignment under this Clause E1.4 shall be subject to:

- (a) deduction of any sums in respect of which the Client exercises its right of recovery under Clause B3 (Recovery of Sums Due); and
- (b) all related rights of the Client under the Contract in relation to the recovery of sums due but unpaid;

E1.5 In the event that the Contractor assigns the right to receive the Contract Price under Clause E1.4, the Contractor shall notify the Client if future payments are to be made directly to the Assignee and shall provide the Client with the relevant Information. The provisions of Clause B2 (Payment Terms and VAT) shall continue to apply in all other respects after the assignment and shall not be amended without the Approval of the Client.

E1.6 Subject to Clause E1.8, the Client 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 Client; or
- (c) any private sector body which substantially performs the functions of the Client,

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

E1.7 Any change in the legal status of the Client such that it ceases to be a Contracting Authority shall not, subject to Clause E1.8, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Client.

E1.8 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Clause E1.6 to a body which is not a Contracting Authority or if there is a change in the legal status of the Client 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 Client in Clauses G1 (Termination on insolvency and change of control) and G2 (Termination on Default) shall be available to the Contractor in the event of, respectively, the bankruptcy or insolvency, or Default of the Transferee;
- (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 previous consent in writing of the Contractor.

E1.9 The Client may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Contract. In such circumstances the Client shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor'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.

E1.10 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

- E1.11 The Agreement is binding on and shall inure to the benefit of the Parties and their respective permitted successors in title and assignees.
- E1.12 The Agreement is personal to the Contractor. The Contractor shall not assign, novate or otherwise transfer or dispose of any of its rights or obligations under the Agreement without the prior written consent of the Client, which may be withheld at the Client's absolute discretion, and any attempt by the Contractor to assign, novate or otherwise transfer or dispose of its rights or obligations in violation hereof shall be null and void as between the Parties.
- E1.13 The Client hereby consents that, by giving the Contractor prior written notice, the Client (or its predecessor departments) may assign, novate, sub-contract or otherwise dispose of, and be released from, any or all of its rights and/or obligations under the Agreement:
- to any Contracting Authority; or
  - to any successor Client following a reorganisation within government or to any body (including any private sector body) other than a Contracting Authority which substantially performs any of the functions that previously had been performed by the Client (or its predecessor departments) (provided that
    - (i) there will be, in the Contractor's reasonable opinion, no change to the risks and their allocation within the Agreement; and
    - (ii) in the case of a private sector body only, if such body does not have a credit rating substantially similar to that of the Client, then the Parties shall agree a reasonable adjustment to the Service Charges to compensate the Contractor for any increase in its funding costs necessarily incurred as a result of such assignment, novation or other disposal); or(only with the prior written consent of the Contractor (which shall not be unreasonably withheld or delayed)) to any other person, provided that the Client's assignee or successor in title undertakes in writing to the Contractor to be bound by the obligations of the Client under the Agreement.
- E1.14 Any change in the legal status of the Client such that it ceases to be a Contracting Authority shall not affect the validity of the Agreement. In such circumstances, the Agreement shall be binding on any successor body to the Client.
- E1.15 If the Agreement is assigned or novated by the Client other than as contemplated under Clause [E1.13] above:
- the rights of termination of the Client in Clause [E1.13] above shall be available, mutatis mutandis, to the Supplier in the event of the Change of Control, bankruptcy, insolvency or default of the transferee; and
  - following the assignment or novation by the Client, the transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Agreement or any part thereof with the previous consent in writing of the Contractor.

- E1.16 Notwithstanding anything to the contrary contained in the Agreement, either Party may also provide a copy of the Agreement to a prospective assignee or successor in title, provided that such assignee or successor in title is subject to a suitable non-disclosure agreement containing obligations of confidentiality at least equivalent to those contained in Clause [D4] above.

## **E2 Waiver**

- E2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- E2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause A5 (Notices).
- E2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **E3 Variation**

- E3.1 Subject to the provisions of this Clause E3.1, the Client may request a Variation of the Specification provided that such Variation does not amount to a material change to the Specification. Such a change is hereinafter called a "Variation".
- E3.2 The Client may request a Variation by notifying the Contractor in writing giving the Contractor sufficient Information to assess the extent of the Variation and any additional cost that may be incurred by the Contractor. The Client shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limits shall be reasonable having regard to the nature of the Variation. If the Contractor accepts the Variation it shall confirm the same in writing.
- E3.3 In the event that the Contractor is unable to provide the Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Client may;
- (a) allow the Contractor to fulfil its obligations under the Contract without the Variation to the Specification;
  - (b) terminate the Contract with immediate effect, except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at Clause H2.

## **E4 Severability**

- E4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force

and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

#### **E5 Remedies Cumulative**

E5.1 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

#### **E6 Extension of Initial Contract Period**

E6.1 This Contract contains the option to extend for a further period of up to 1 (one) year subject to the agreement of both parties. The Contract terms and conditions will apply throughout any such extended period.

#### **E7 Entire Agreement**

E7.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. 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 shall not exclude liability in respect of any Fraud or Fraudulent misrepresentation.

E7.2 In the event of, and only to the extent of, any conflict between the Clauses of the Contract, any document referred to in those Clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the Clauses of the Contract;
- (b) the Schedules; and
- (c) any other document referred to in the Clauses of the Contract.



## **F LIABILITIES**

### **F1 Liability, Indemnity and Insurance**

F1.1 Neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused directly or indirectly by its negligence; or
- (b) Fraud; or
- (c) Fraudulent misrepresentation; or
- (d) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

F1.2 Subject to Clauses F1.3 and F1.4, the Contractor shall indemnify the Client and keep the Client indemnified against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of or in consequence of the supply, or the late or purported supply, of the Goods or Services, or the performance or non-performance by the Contractor of its obligations under the Contract, or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to the Client's Property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any negligent act or omission of the Contractor.

F1.3 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is solely caused by the negligence or wilful misconduct of the Client or by breach by the Client of its obligations under the Contract.

F1.4 Subject always to Clause F1.1, the liability of either Party for Defaults shall be subject to the following financial limits:

- (a) the aggregate liability of either Party for all Defaults resulting in direct loss of or damage to the Property of the other under or in connection with the Contract shall in no event exceed one million pounds; and
- (b) the annual aggregate liability under the Contract of either Party for all Defaults (other than a Default governed by Clauses D8.4 (Intellectual Property Rights) or F1.4(a)) shall in no event exceed the greater of one million pounds or 100% of the Contract Price paid or payable by the Client to the Contractor in the year in which the liability arises;
- (c) The aggregate liability of the Contractor under Clause D8.4 (Intellectual Property Rights) where applicable shall in no event exceed four million pounds.

F1.5 Subject always to Clause F1.1, in no event shall either Party be liable to the other for any:

- (a) loss of profits, business, revenue or goodwill; and/or
- (b) loss of savings (whether anticipated or otherwise); and/or

(c) indirect or consequential loss or damage.

- F1.6 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including in respect of death or personal injury, loss of or damage to Property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor and shall be maintained for the Contract Period
- F1.7 The Contractor shall hold employer's liability insurance to a minimum of £5,000,000 in respect of Staff in accordance with any legal requirement from time to time in force.
- F1.8 The Contractor shall give the Client, 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.
- F1.9 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- F1.10 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in Clause F1.2.
- F1.11 NOT APPLICABLE TO THIS AGREEMENT

## **F2 Warranties and Representations**

- F2.1 The Contractor warrants and represents that:
- (a) 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 representative of the Contractor;
  - (b) in entering the Contract it has not committed any Fraud;
  - (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Client prior to execution of the Contract;
  - (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of the Contractor's 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;

- (e) 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;
- (f) 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 Contractor 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 Contractor's assets or revenue;
- (g) 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;
- (h) in the 3 years prior to the date of the Contract:
  - (i) 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;
  - (ii) it has been in full compliance with all applicable securities and tax Laws and regulations in the jurisdiction in which it is established; and
  - (iii) 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.

### **F3 Professional Indemnity**

- F3.1 The Contractor shall effect and maintain appropriate professional indemnity insurance cover during the Contract Period and shall ensure that all agents, professional consultants and sub-contractors involved in the supply of the Services do the same. To comply with its obligations under this Clause and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, sub-contractor or consultant involved in the supply of the Services has a limit of indemnity of not less than one million pounds for each individual claim or such higher limit as the Client may reasonably require (and as required by Law) from time to time. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 12 Months thereafter.
- F3.2 Any excess or deductibles under the insurance referred to in Clause F3.1 shall be the sole and exclusive responsibility of the Contractor or the Contractor's agents, professional consultants or sub-contractors, as applicable.
- F3.3 The terms of any insurance or the amount of insurance cover shall not relieve the Contractor of any liabilities arising under the Contract.
- F3.4 The Contractor shall, on request, provide the Client with copies of all insurance policies referred to in Clause F3.1 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.

F3.5 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by this Clause then the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

## **G DEFAULT, DISRUPTION AND TERMINATION**

### **G1 Termination on insolvency and change of control**

G1.1 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is a company and in respect of the Contractor:

- (a) 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; or
- (b) 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); or
- (c) 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; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) 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; or
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in G1.1(a)-(g) occurs under the Law of any other jurisdiction.

G1.2 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is an individual and:

- (a) an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or

- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986; or
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

G1.3 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) it is for any reason dissolved; or
- (c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (d) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (e) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (f) any of the following occurs in relation to any of its partners:
  - (i) an application for an interim order is made pursuant to Section 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, his creditors; or
  - (ii) a petition is presented for his bankruptcy; or
  - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets.

G1.4 The Client may terminate the Contract with immediate effect by notice in writing where the Contractor is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) it is for any reason dissolved; or
- (c) an application 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 within Part II of the Insolvency Act 1986; or

- (d) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986; or
- (e) a petition is presented for its winding up (which is not dismissed within 14 days or its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986; or
- (f) a receiver, or similar officer is appointed over the whole of any part of its assets; or
- (g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (h) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986.

G1.5 References to the Insolvency Act 1986 in Clause G1.3(a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

G1.6 The Contractor shall notify the Client immediately if the Contractor undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988 ("Change of Control"). The Client may terminate the Contract by notice in writing with immediate effect within six Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Client becomes aware of the Change of Control,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

## **G2 Termination on Default**

G2.1 Either Party may terminate the Contract, or terminate a provision of any part of the Contract by written notice to the other Party with immediate effect if the other Party commits a Default and:

- (a) has not remedied the Default to the satisfaction of the injured Party within 25 Working Days or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the injured Party, capable of remedy; or
- (c) the Default is a material breach of the Contract.

G2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Client in respect of any

charge levied for its transmission and any other costs charged in connection with such Default in accordance with Clause D1.

- G2.3 If the Client fails to pay the Contractor any undisputed sums of money when due, the Contractor shall notify the Client in writing of such failure to pay. If the Client fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Client exercising its rights under Clause B3 (Recovery of Sums Due).

### **G3 Break**

- G3.1 The Client shall have the right to terminate the Contract or to terminate a provision of any part of the Contract at any time by giving 3 Months' written notice to the Contractor. The Client may extend this period of notice at any time before it expires subject to agreement on the level of performance to be provided by the Contractor during the period of extension.

### **G4 Consequences of Expiry or Termination**

- G4.1 Where the Client terminates the Contract under Clause G2 (Termination on Default) and then makes other arrangements for the supply of Goods or Services, the Client may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Client throughout the remainder of the Contract Period. The Client shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under Clause G2 (Termination on Default), no further payments shall be payable by the Client to the Contractor (for Goods or Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Client), until the Client has established the final cost of making the other arrangements envisaged under this Clause.
- G4.2 Subject to Clause F1, where the Client terminates the Contract under Clause G3 (Break), the Client shall indemnify the Contractor against any commitments, liabilities or expenditure which represent an unavoidable direct loss to the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Client shall only indemnify the Contractor for those unavoidable direct costs that are not covered by the insurance available. The Contractor shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Client, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under Clause G3 (Break).
- G4.3 The Client shall not be liable under Clause G4.2 to pay any sum which:
- (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
  - (b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period; or

- (c) is a claim by the Contractor for loss of profit, due to early termination of the Contract.

G4.4 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Client or the Contractor under Clauses B2 (Payment Terms and VAT), B3 (Recovery of Sums Due), C1 (Prevention of Corruption), D2(Data Protection Act), D3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989, Section 18 and Section 19 Commissioners for Revenue and Customs Act 2005), D4 (Confidential Information), D5 (Freedom of Information), D8 (Intellectual Property Rights), D9 (Audit and National Audit Office), E5 Remedies Cumulative), F1 (Liability, Indemnity and Insurance), G4 (Consequences of Expiry or Termination), G6 (Recovery upon Termination) and H1 (Governing Law and Jurisdiction).

**G5 Disruption**

- G5.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Client, the Client's employees or any other Contractor employed by the Client.
- G5.2 The Contractor shall immediately inform the Client of any actual or potential industrial action, whether such action is by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- G5.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- G5.4 If the Contractor's proposals referred to in Clause G5.3 are considered insufficient or unacceptable by the Client acting reasonably, then the Contract may be terminated with immediate effect by the Client by notice in writing.
- G5.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Client, the Contractor may request a reasonable allowance of time and in addition, the Client will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

**G6 Recovery upon Termination**

- G6.1 At the end of the Contract Period (howsoever arising) the Contractor shall immediately deliver to the Client upon request all Property (including all materials, documents, information and access keys) used in the performance of its obligations under the Contract that are in its possession or under its control or in the possession or under the control of any permitted suppliers or sub-contractors and in the event the Contractor fails to do so, the Client may recover immediate possession thereof and the Contractor hereby grants a



licence to the Client or its appointed agents to enter (for the purposes of such recovery) any Premises of the Contractor where any such items may be held.

- G6.2 At the end of the Contract Period (howsoever arising) and/or after the Contract Period the Contractor shall provide such assistance to the Client and the Replacement Contractor as the Client may reasonably require in order to ensure an effective handover of all work in progress at the material time. Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide such assistance free of charge otherwise the Client shall pay the Contractor's reasonable costs of providing such assistance provided that the Contractor shall take all reasonable steps to mitigate such costs.

## **H DISPUTES AND LAW**

### **H1 Governing Law and Jurisdiction**

H1.1 Subject to the provisions of Clause H2, the Client and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-Contractual obligations and other matters arising from or connected with the Contract are to be governed and construed according to English Law.

### **H2 Dispute Resolution**

- H2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.
- H2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- H2.3 If the dispute cannot be resolved by the Parties pursuant to Clause H2.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clause H2.5 unless (a) the Client considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.
- H2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Contractor and the Staff shall comply fully with the requirements of the Contract at all times during the Contract Period.
- H2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the "Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or, if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days' notice to either Party that the Mediator is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") or other mediation provider to appoint a Mediator.
  - (b) The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant Information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the CEDR or other mediation provider to provide guidance on a suitable procedure.
  - (c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

- (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- (e) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
- (f) If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

## **I SUPPLY OF SERVICES**

### **I1 The Services**

- 11.1 The Contractor shall supply the Services during the Contract Period in accordance with the Client's requirements as set out in the Specification and the provisions of the Contract in consideration of the payment of the Contract Price. The Client may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.
- 11.2 If the Client informs the Contractor in writing that the Client reasonably believes that any part of the Services does not meet the requirements of the Contract or differs in any way from those requirements, and this is other than as a result of a Default by the Client, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Client.
- 11.3 Subject to the Client providing written consent, in accordance with Clause I5 (Provision and Removal of Equipment), timely supply of the Services shall be of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date.

### **I2 Manner of Carrying Out the Services**

- 12.1 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Client prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- 12.2 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

### **I3 Remedies in the event of inadequate performance**

- 13.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under the Contract, then the Client shall notify the Contractor, and where considered appropriate by the Client, investigate the complaint. The Client may, in its sole discretion, uphold the complaint and take further action in accordance with Clause G2 (Termination on Default) of the Contract.
- 13.2 In the event that the Client is of the reasonable opinion that there has been a material breach of the Contract by the Contractor, then the Client may, without prejudice to its rights under Clause G2 (Termination on Default), do any of the following:
- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Client that the Contractor will once more be able to supply all or such part of the Services in accordance with the Contract;
  - (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third Party to supply such part of the Services; and/or
  - (c) terminate, in accordance with Clause G2 (Termination on Default), the whole of the Contract.
- 13.3 Without prejudice to its right under Clause B3 (Recovery of Sums Due), the Client may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Client or a third Party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided that the Client uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.
- 13.4 If the Contractor fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Client shall instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 Working Days or such other period of time as the Client may direct.
- 13.5 In the event that:
- (a) the Contractor fails to comply with Clause 13.4 above and the failure is materially adverse to the interests of the Client or prevents the Client from discharging a statutory duty; or
  - (b) the Contractor persistently fails to comply with Clause 13.4 above,
- the Client may terminate the Contract with immediate effect by notice in writing.

## **I4 Key Personnel**

- 14.1 Where Key Personnel are essential to the proper provision of specific Services to the Client, those Key Personnel shall not be released from supplying the Services without the agreement of the Client, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.
- 14.2 Any replacements to the Key Personnel shall be subject to the agreement of the Client. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 14.3 The Client shall not unreasonably withhold its agreement under Clause 14.2. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

## **I5 Provision and Removal of Equipment – NOT APPLICABLE TO THIS AGREEMENT**

## **I6 Offers of Employment**

- 16.1 For the duration of the Contract Period and for a period of 12 Months thereafter neither the Client nor the Contractor shall employ or offer employment to any of the other Party's Staff who have been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

## **I7 TUPE**

### Definitions and Interpretation

- 17.1 In this Clause 7 (except where context otherwise requires) the following words and expressions will have the following meanings:

"Disclosure Letter" means the disclosure letter communicated between the Parties

"Service Provider" means whosoever will provide the Services after the Transfer Date

"Subsequent Transfer Date" means the date from which the Replacement Contractor will provide the Services

"Transferring Employees" means all those employees of the Outgoing Contractor wholly and/or mainly engaged in the Services immediately before the Transfer Date save for those who object to their transfer pursuant to Regulation 4(7) of TUPE.

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

- 17.2 The Parties hereby acknowledge that, pursuant to TUPE, there will be a Relevant Transfer on the Transfer Date and the contracts of employment for the Transferring Employees made between the Outgoing Contractor and the

Transferring employees, together with the collective agreements listed in the Disclosure Letter (save insofar as such contracts and such agreements relate to benefits pertaining to age, invalidity, or survivors under any occupational pension scheme), will take effect as if originally made between the Service Provider and the Transferring Employees (or the relevant trades union as the case may be).

- 17.3 The Client shall indemnify and keep indemnified and hold the Service Provider harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Service Provider may suffer or incur as a result of or in connection with:
- (a) any claim or demand by any Transferring Employee (whether in contract, tort, under statute, pursuant to European Law or otherwise) including, without limitation, any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, age, disability, sexual orientation, religion or religious belief, a protective award or a claim or demand of any other nature in each case arising directly or indirectly from any act, fault or omission of the Client or Outgoing Contractor in respect of any Transferring Employee on or before the Transfer Date;
  - (b) any failure by the Client or Outgoing Contractor to comply with their 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 Transferee to comply with its duties under Regulation 13 of TUPE;
  - (c) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union, body, or person representing any Transferring Employees arising from or connected with any failure by the Client or Outgoing Contractor to comply with any legal obligation to such trade union, body or person.
- 17.4 The Service Provider shall indemnify the Client (for both itself and the Outgoing Contractor) against all costs, claims, liabilities, and expenses (including reasonable legal expenses) incurred by the Client or Outgoing Contractor in connection with or as a result of:
- (a) any claim or demand by any Transferring Employee (whether in contract, tort, under statute, pursuant to European Law or otherwise) including, without limitation, any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, age, disability, sexual orientation, religion or religious belief, a protective award or a claim or demand of any other nature, in each case arising directly or indirectly from any act, fault, or omission of the Service Provider or any sub-contractor in respect of any Transferring Employee on or after the Service Transfer Date;
  - (b) any failure by the Service Provider or any sub-contractor to comply with its obligations under Regulation 13 of TUPE;
  - (c) any claim (including any individual entitlement of a Transferring Employee under or consequent on such claim) by any trades union or other body or person representing the Transferring Employee arising from or connected with any failure by the Service Provider or any sub-contractor to comply with any legal obligation to such trade union, body or person;
  - (d) any change or proposed change in the terms and conditions of employment or working conditions of the Transferring Employees on or after the Transfer Date, or to the terms and conditions of employment or working conditions of any person who would have been a Transferring

Employee but for their resignation or decision to treat their employment as terminated under Regulation 4(9) TUPE on or before the Transfer Date as a result of any such changes.

- 17.5 The Client shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to and including the Transfer Date (including bonuses or commission which are payable after the Transfer Date but attributable in whole or in part to the period on or before the Transfer Date), and will indemnify/keep indemnified and hold the Service Provider (both for itself and any sub-contractor ) harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses (including reasonable legal expenses) and other liabilities which the Service Provider or any sub-contractor may incur in respect of the same.
- 17.6 The Service Provider shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including, without limitation, all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period after the Transfer Date (including any bonuses, commission, premiums, subscriptions and any other prepayments which are payable before the Transfer Date but which are attributable in whole or in part to the period after the Transfer Date and will indemnify/keep indemnified and hold the Client (both for itself and the any Outgoing Contractor) harmless from and against all actions, suits, claims, damages, costs and expenses (including reasonable legal expenses) and other liabilities which the Client may incur as a result of the same.
- 17.7 The Contract envisages that, subsequent to the commencement of the provision of the Services by the Contractor, the identity of the provider of the Services may change (whether as a result of termination or expiry of this Contract, or part, or otherwise) resulting in Services identical or substantially similar to the Services (or any part thereof) being undertaken by the Client or a Replacement Contractor in substitution. Such change in the identity of the supplier of such Services shall be a "Subsequent Transfer". The parties acknowledge that a Subsequent Transfer will be a Relevant Transfer within the meaning of TUPE and in such event, the Client, or a Replacement Contractor, would inherit liabilities in respect of the Transferring Employees.
- 17.8 Not later than 12 Months prior to the end of the Contract Period or if earlier within 28 days of notice being given of termination of the Contract (or any other reasonable time indicated by the Client), the Outgoing Contractor, shall fully and accurately disclose to the Client all Information that the Client may reasonably request in relation to the Contractor's Staff including the following:
- (a) the total number of Staff whose employment/engagement shall terminate at the end of the Contract Period, save for any operation of Law;
  - (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlements of the Staff referred to in Clause 17.8(a);
  - (c) the terms and conditions of employment/engagement of the Staff referred to in Clause 17.8(a), their job titles and qualifications;

- (d) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened;
- (e) a list of agency workers, agents and independent contractors engaged by the Contractor and any sub-contractor;
- (f) details of any employees who may be regarded as a key employee in the context of the maintenance of the Services; and
- (g) details of all collective agreements with a brief summary of the current state of negotiations with such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

17.9 At intervals to be stipulated by the Client (which shall not be more frequent than every 30 days) and immediately prior to the end of the Contract Period the Outgoing Contractor shall deliver to the Client a complete update of all such information disclosed pursuant to Clause 17.8.

17.10 At the time of providing the Information disclosed pursuant to Clauses 17.8 and 17.9, the Outgoing Contractor shall warrant the completeness and accuracy of all such Information and the Client may assign the benefit of this warranty to any Replacement Contractor.

17.11 The Client may use the Information it receives from the Outgoing Contractor pursuant to Clause 17.8 and 17.9 for the purposes of TUPE and/or any re-tendering process in order to ensure an effective handover of all work in progress at the end of the Contract Period. The Outgoing Contractor shall provide the Client and/or Replacement Contractor with such assistance as it shall reasonably request and shall allow the Client and/or Replacement Contractor to communicate and meet with the Staff and/or their representatives.

17.12 If the Outgoing Contractor becomes aware that any Information it has provided pursuant to Clause 17.8 and/or 17.9 has become untrue, inaccurate or misleading, it shall notify the Client immediately and provide the Client with up to date Information as soon as reasonably practicable.

17.13 The preceding Clause 17.12 applies during the Contract Period and indefinitely thereafter.

17.14 The Outgoing Contractor undertakes to the Client that during the 12 Months prior to the end of the Contract Period or, if earlier, at time after notice has been served to terminate the Contract and in respect of that part of the Services which will be ceased to be provided by the Outgoing Contractor at the Subsequent Transfer Date, the Outgoing Contractor shall not and shall procure that any sub-contractor shall not without the prior consent of the Client (such consent not to be unreasonably withheld or delayed):

- (a) 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 Staff (other than where such amendment or variation has previously been agreed between the Outgoing Contractor and the Staff 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);



- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any of the Staff from or in the provision of the Services (other than where such transfer or removal:
  - (i) was planned as part of the individual's career development;
  - (ii) takes place in the normal course of business; and
  - (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided any such transfer, removal, reduction or variation is not in anyway related to the transfer of the Services));
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.



## **A. e-Recruitment Service Specification**

### **A1 AGREEMENT OVERVIEW**

#### **A1.1 The Agreement**

A1.1.1 The Agreement is for a Contract for the provision of an e-Recruitment Service (the Service) by a single service provider (the Contractor) for use by a wide range of Central Government Departments, Executive Agencies, Non-Departmental Public Bodies and other Public Bodies (collectively referred to as 'Customer Organisations') under the control of Civil Service Resourcing (CS Resourcing) as the Lead Organisation.

CS Resourcing is one of four expert services established as part of the creation of Civil Service HR and will provide recruitment, resourcing and talent management across the Civil Service.

Further information about CS Resourcing can be found at

<http://www.civilservice.gov.uk/networks/hr/civil-service-resourcing>

A1.1.2 CS Resourcing is operationally autonomous but for Civil Service governance purposes, HM Revenue & Customs (HMRC) acts as CS Resourcing's parent Central Government Department. HMRC is the Contracting Authority (the Authority) and will retain overall authority for the Agreement.

Further information about HMRC can be found at <http://www.hmrc.gov.uk/>

A1.1.3 The Authority published a Prior Information Notice (PIN) relating the Agreement in the Official Journal of the European Union (OJEU) under:

- Contracting Authority: HM Revenue & Customs
- Title, UK-Salford: Recruitment Services
- despatch date: 22/08/2012
- reference: 267237/2112-EN

A1.1.4 The Authority used a competitive procurement exercise, to establish the Contract terms with the Contractor, compliant with Public Contract Regulations 2006 (the Regulations) applicable to a Part A Service, as defined in Schedule 3 of the Regulations.

A1.1.5 In accordance with the Regulations in respect of a Part A Service, the Contract Notice for the tender was published in OJEU under:

- Contracting Authority: HM Revenue & Customs
- Title: UK-Salford: Miscellaneous software package and computer systems;
- CPV Code: 48900000, 48781000, 48000000
- Despatch date 25/03/2013;; and
- Reference: 2013/S 061-102510

- A1.1.6 The Authority has confirmed from the outset of the Agreement that CS Resourcing:
- a. is responsible for Specifying and agreeing the Service Requirements with the Contractor for the duration of the Contract;
  - b. is responsible for ensuring that the Service provided by the Contractor will meet the requirements of, and will be utilised by, a wide range of Customer Organisations; and
  - c. is the Lead Organisation for the administration of the Contract in terms of Category and Contract Management Activity (the Lead Organisation)
- A1.1.7 The Agreement makes provision for the Contractor to provide a Managed Service, whereby the Lead Organisation is responsible for the delivery of the service directly to Customer Organisations using its own resources and/ or using the resources provided by the Contractor. Under a Managed Service Arrangement the Lead Organisation is responsible for:
- a. all payments and contractual formalities with the Contractor, including providing details of the Customer Organisations entitled and intending to make use of the service;
  - b. dispute resolution, contract amendment/ variations administration, management information (MI) co-ordination and distribution, monitoring of performance against key performance indicators (KPIs) and Service Levels and claiming and distributing Service Credits; and
  - c. establishing formal contracts or Service Level Agreements, as may be appropriate, with the Customer Organisations making use of the Services to ensure that a formal commercial arrangement exists for the Customer Organisations to make payments to the Lead Organisation and for the Lead Organisation to then make payments to the Contractor for any services rendered by the Contractor.
- A1.1.8 Prior to the Contractor delivering any aspect of the Service to a Customer Organisation, the Contractor must ensure that the Customer Organisation has received the necessary permissions from the Lead Organisation to make use of the Service under the Contract terms.

## **A1.2 Users of the Agreement**

- A1.2.1 This Agreement is constructed to allow Central Government Departments, Executive Agencies, Non-Departmental Public Bodies and other Public Bodies (Customer Organisations) to utilise the Service using the terms and conditions, specification, cost schedules and other documents contained within this Agreement.
- A1.2.2 The link below provides a list of current potential users of this Agreement  
<https://www.gov.uk/government/organisations>
- A1.2.3 The Authority has established that a number of Customer Organisations will, and are enabled by the Authority to, make use of the e-Recruitment Service under the Lead Organisation's Managed Service arrangement, as listed in Schedule I of this Agreement.
- A1.2.4 During the term of the contract the Authority may vary the contract to add further Customer Organisations

## **A2 SERVICE OVERVIEW**

### **A2.1 General**

- A2.1.1 The Contractor must provide an e-Recruitment Service that supports the Lead Organisation and its Customer Organisation's recruitment and vacancy filling processes, together with redeployment and surplus management activities.
- A2.1.2 In the provision of the e-Recruitment Service, the Contractor is required to provide a secure web based e-Recruitment system which the Lead Organisation and its Customer Organisations will use for:
- a. Vacancy Posting (posting a job onto a Jobs Portal with no further e-Recruitment system use) and;
  - b. Full Solution (vacancy posting followed by the full end-to-end vacancy filling process) as described at A2.1.6
- A2.1.3 The Contractor must ensure that the e-Recruitment system has an end-to-end vacancy filling process that complies with Government policies on vacancy filling, equality, diversity and data security.
- A2.1.4 As part of the e-Recruitment Service, the Contractor will work in partnership with the Lead Organisation to identify any Government policy changes that would impact on the end-to-end process used by the Lead Organisation or its Customer Organisations and will be responsible for updating the e-Recruitment System so as to ensure that the system remains compliant with any Government policy changes
- A2.1.5 The Contractor must provide an e-Recruitment Service and specifically an e-Recruitment system as referred to at A3 below, which is able to accommodate the recruitment requirements of a wide range of Public Sector Customer Organisations.
- A2.1.6 The contractor must provide an e-recruitment system that is able to support the Lead Organisation's requirement for Civil Service departments to use the system for the following stages of recruitment used in the Civil Service:
- Stage 1** Filling of internal vacancies within single departments,  
**Stage 2** Filling of internal vacancies within the Civil Service. Open to surplus staff only, and for a 10 working day period, open to surplus staff only  
**Stage 3** Filling of internal vacancies within the Civil Service, with the opportunity of promotion.  
**Stage 4** Filling vacancies externally – external recruitment open to all applicants including Civil and non-Civil Servants.
- A2.1.7 The Service provided by the Contractor, and more specifically the e-Recruitment system, must support different types of recruitment which include, but are not limited to, permanent, fixed term, temporary, professional/specialist, Fast Stream, graduate, secondments, work-experience, voluntary, internships, apprenticeships, administrative, management and executive .

Further information about the Civil Service Fast Stream can be found at <http://www.civilservice.gov.uk/networks/hr/civil-service-resourcing>

- A2.1.8 The e-Recruitment System must allow UK and Overseas job applicants to access and use the system using multiple types of web-enabled multimedia devices with a variety of operating systems.
- A2.1.9 The Contractor must ensure that use of the system is intuitive and allows job applicants to submit all of the information required for the recruitment process without the need for face to face training.
- A2.1.10 The Contractor will be required to provide on-line user guides, and where requested, downloadable copies in PDF or equivalent formats, which provide recruiters, vacancy holders and job applicants with step by step instructions in using the e-Recruitment System.
- A2.1.11 The Contractor must work in collaboration with the Lead Organisation to provide continuous improvements to the Service, at no additional cost, to ensure vacancies are filled in a shorter period of time by:
  - a. helping the Lead Organisation to streamline all steps in the vacancy filling process;
  - b. assisting the Lead Organisation's internal resource to be more effective with their applications; and
  - c. improving the efficiency of the e-Recruitment system to optimise;
    - i. the job applicant's experience; and
    - ii. the recruiter and vacancy holder's experience.

## **A2.2 Operational Date, Implementation & Data Migration**

- A2.2.1 The Contractor must provide an e-Recruitment system with an Operational Date on or before 1<sup>st</sup> February 2014. For the avoidance of doubt this means that;
  - a) the jobs portal must be fully tested, implemented and operational;
  - b) the full system must be fully tested, implemented and operational; and
  - c) the system must be ready to accept recruitment exercises/campaigns from all Customer Organisations

on or before the Operational Date
- A2.2.2 Any delay in achieving the Operational Date on the part of the Contractor will result in a reduction to the overall contract price equivalent to any week (including any part week) period for which the system is inaccessible
- A2.2.3 To ensure that the Operational Date is met the Contractor must provide an implementation plan which will confirm how the Operational Date will be achieved
- A2.2.4 The Contractor will not be required to facilitate the migration of any data from the existing system as part of the implementation process.

## **A2.3 Volumes**

- A2.3.1 The Contractor must provide an e-Recruitment Service and an e-Recruitment system that can accommodate fluctuating volumes of vacancy filling exercises and job applicant numbers at any one time.
- A2.3.2 For indicative and planning purposes only, in terms of the Lead Organisation's legacy e-Recruitment system:

- a. there were 235,000 registered internal users of the system as at 28<sup>th</sup> February 2013
- b. for the 12 month period to 31 January 2012 , there were approximately 14,000 vacancy adverts published for 38,000 posts with 240,000 applications received
- c. externally advertised campaigns for clerical and graduate vacancies often receive applications in the tens of thousands
- d. a single and exceptional requirement in January 2012 dealt with 60,000 applications to fill 2,000 vacancies; and
- e. the number of Stage 4 (as defined at A2.1.6) applications received since commencement of the current e-recruitment system on 30 September 2011 is 170,000, made up of 25,000 internal (from within the Civil Service) applications and 145,000 external (from outside of the Civil Service)

A2.3.3 The volume of users of the e-Recruitment system will be the subject of future departmental recruitment and strategies and the changing shape and size of the Civil Service. For indicative purposes the Authority estimates that the total number of Civil Service employees at the end of 2012 who could have potentially made use of the e-Recruitment system was approximately 450,000

A2.3.4 The expectation is that 35 current Customer Organisations, as listed in Schedule I, using the existing full e-Recruitment system will migrate to the new system at the Operational Date. Headcount for these Customer Organisations is currently 320,000 (71% of the total headcount in paragraph A2.3.3 above)

A2.3.5 The expectation is that the figure of 71% given in A2.3.4 will rise to 88% by 31 January 2015 and to 95% by 31 January 2016. Only marginal further increases are expected in the final 2 years of the contract period.

## **A2.4 Specific Requirements**

- A2.4.1 In the provision of an e-Recruitment Service the Contractor will be required to provide, as detailed at Section A4 below:
- a. an e-Recruitment system; and
  - b. e-Recruitment Support Services

## **A3 E-RECRUITMENT SYSTEM REQUIREMENTS**

### **A3.1 General**

A3.1.1 In the provision of an e-Recruitment Service the Contractor must provide an e-Recruitment System.

A3.1.2 The Authority's e-Recruitment system requirements are provided in the annexed document:

Document Name: e-Recruitment System, Statement of Requirements;  
Version: 2.1 – Final;

Date: 21<sup>st</sup> January 2013;  
Prepared by: CS RESOURCING.

- A3.1.3 Should the requirements change during the term of the agreement the Lead Organisation will be responsible for updating the Statement of Requirements document and advising the Contractor accordingly in writing as part of the formal agreement variation process.

#### **A4 E-RECRUITMENT SUPPORT SERVICE REQUIREMENTS**

##### **A4.1 General**

- A4.1.1 In the provision of an e-Recruitment Service the Contractor must provide the following e-Recruitment Support Service requirements:

- a. Recruitment Campaign Support Services;
- b. Commercial Services;
- c. Marketing Services;
- d. Category Management
- e. Contract Management
- f. Management Information Reporting
- g. User System Support

##### **A4.2 Recruitment Campaign Support Services**

- A4.2.1 The Contractor is required to advise the Lead Organisation, how the e-Recruitment system can interface in automated ways with job boards and other advertising outlets, of other services which can be accessed through hyperlinks and of ways to exploit syndication and social media

##### **A4.3 Commercial Services**

- A4.3.1 In terms of a Fully Managed arrangement, the Contractor must provide the Lead Organisation with a full breakdown of the services provided to each of the Customer Organisations receiving the Service, including all associated charges, in a format that would readily allow the Lead Organisation to chargeback the costs to the Customer Organisations receiving the services.

##### **A4.4 Marketing Services**

- A4.4.1 The Contractor is required to provide marketing material to allow the Lead Organisation to promote the use of the e-Recruitment Service across the Public Sector.

##### **A4.5 Category Management**

- A4.5.1 The Contractor shall appoint and provide contact details for a Category Manager upon award to the Contract. Where the contract performance can be enhanced the Client reserves the right to stipulate that the Supplier Category Manager must be changed.



A4.5.2 The Contractor's Category Manager tasks shall include, but shall not be limited to:

- a. Identification and communication of opportunities for cost savings and improvements;
- b. Recording and agreeing changes to improve the service;
- c. Trend analysis;
- d. Preparation for Category review meetings including the provision of MI;
- e. Fulfilling requests for information from the Client;
- f. Savings analysis;
- g. Preparation of proposals;
- h. Information security;
- i. Incident Handling and responses; and
- j. Identifying areas for improvement to the Client using management information and trend analysis

A.4.5.3 Category Review meetings shall include, but not be restricted to the following topics:

- a. Overall performance against key performance indicators
- b. Volume and expenditure trends
- c. Compliance and satisfaction levels
- d. Sustainability strategy and performance
- e. Business Continuity issues and updates
- f. Demand management and trend analysis
- g. Proposals for improvements in any area of the contract
- h. Review of market conditions/intelligence
- i. Trading Conditions and Financial Stability
- j. Review of risk assessment
- k. Consideration of security incidents and trends, other security issues and review of Security Plan

A.4.5.4 The Lead Organisation may make ad hoc requests to the Category Manager for management information in support for Freedom of Information requests, Parliamentary Questions or Ministerial responses, all of which shall be provided at no additional cost. The Supplier shall note that such responses are often required within 1 working day or less and should be prepared to work to whatever deadline the Lead Organisation proposes/ stipulates.

A.4.5.5 The Category Manager shall ensure that the relevant staff in the Supplier organisation are fully briefed on the nature and details of the service provision and any changes as a result of any improvements identified.

A4.5.6 The Contractor shall bear all costs associated with Category Management including any direct costs associated with attendance at Category Management meetings (Contractor staff travel and subsistence) which may be held at either the Client's or the Contractor's premises

#### **A4.6 Contract Manager/Contract Management Team**

A4.6.1 The Contractor must provide a Representative/Contract Manager/Contract Management team (Contract Manager) to facilitate the business as usual activities associated with the provision of an e-Recruitment Service.

- A4.6.2 The Contract Manager will liaise with the Lead Organisation's representative/contract manager/contract management team as may be applicable given the nature and the extent of services required.
- A4.6.3 The specific contract management activities required are provided in Schedule D – Contract Management
- A4.6.4 The primary contract management activity from both parties will be to monitor, maintain and improve the service performance as detailed in Schedule E: Service Levels and Service Credits.

#### **A4.7 Management Information (MI) Reporting**

- A4.7.1 The Contractor shall provide accurate monthly and on occasions ad-hoc MI covering all facets of the Service offering as detailed at Schedule D to the nominated individual in the Lead Organisation. This should be sent via email and in Excel format on the seventh working day after calendar month end.
- A4.7.2 The Contractor will provide the report on both a cumulative and month-by-month basis, which should include the following as a minimum:

##### **System Performance**

- a. System availability

##### **Summary of Expenditure**

- b Number of Customer Organisations making use of the service
- c Number of applicants registered to use the service

##### **System User Support Summary**

- d Performance levels
- e Call volumes
- f Response times
- g Identification of trends

##### **Customer complaints**

- h Number of complaints received
- l Number of complaints resolved/unresolved within the agreed timescales/number unresolved
- j Classification of complaints by type (to be agreed with the Lead Organisation) with associated numbers
- k Customer complaints log with summary of corrective actions and progress status

##### **Security Incident Reporting**

- l Contractor reported
- m Customer Organisation reported
- n Analysis of reported incidents, resolved, incidents, unresolved incidents in accordance with agreed response times
- o Contractors performance against agreed reporting and completion deadlines

##### **Contract developments and innovations**

- p Value for money improvements
- q Service quality improvements
- r Contractor achievements

#### **A4.8 User System Support**

The Contractor must provide user system support, and shall bear all costs associated with its provision as part of the core service, during working hours Monday to Friday 07:00 -19:00. The User System Support will support the following functions:

**A4.8.1 Candidate Support:**

- a. Candidate support must be provided directly to all applicants and vacancy holders by the Contractor. This must include (but not be limited to) issues regarding logging in, registration problems, technical faults with application forms, general assistance with system usage and integrated online test queries.
- b. Support should be provided by email and other compatible digital means, with the ability to highlight and prioritise urgent queries that are linked to vacancy closing dates.

**A4.8.2 Technical User Support (Supported Users):**

- a. User support will be provided to nominated individuals within the Lead Organisation and Customer Organisations (supported users). These issues will include (but not be limited to) resolution of technical faults, answering helpdesk questions on using the system and managing potential changes (including testing support).
- b. Support should be provided by email or query form for routine queries. A telephone service should be provided for urgent technical faults. Calls should be answered and initial action taken immediately.

**A4.8.3 Recruitment Advice and Guidance:**

There will be no requirement for the Contractor to provide recruitment advice and guidance this will be provided by the Lead Organisation for Customer Organisations

**A4.8.4 Training**

4.8.1 The User Support function shall be able to provide, when reasonably required, training in the use of the e-Recruitment System to the Lead Organisation's staff responsible for the vacancy filling process.

4.8.2 This training shall be in respect of but not exclusive to:

- a. The registration process for recruiters;
- b. Posting vacancies on the e-Recruitment site;
- c. Accessing job applicant information;
- d. Using the system to process applications through the system; and
- e. Sending out results of the applications to applicants.

4.8.3 This training shall be in respect of but not exclusive to:

- a. The initial implementation of the e-Recruitment system to the Lead Organisation or its Customer Organisations
- b. Any subsequent system changes.

## **B. Pricing Schedules**

### **B1 System Provision**

- B1.1 The Contractor must ensure that the proposed charges at Contract Award relate to the system being enabled for use by all Customer Organisations, which includes vacancies being branded with the Customer Organisation logo, as listed in Schedule I and should take into account whether the Customer Organisations will use the e-Recruitment system:
- a) to post vacancy adverts only
  - b) for the full solution (which includes posting job adverts)
- B1.2 During the term of the contract the Lead Organisation may vary the contract to allow further Customer Organisations to make use of the contract, which will result in updates to Schedule I being provided to the Contractor periodically
- B1.3 The assumption is that each incremental Customer Organisation added will accept a standardised single solution with only the addition of brands and minimal personalisation within the standard solution.
- B1.4 The Contractor must charge for the system provision calculated on a maximum aggregated number of employees basis, across all Customer Organisations approved to make use of the e-Recruitment service.
- B1.5 To arrive at an overall anticipated Contract Value the Contractor must provide their proposed charges using the Standard Charging structure contained in the following Tables.
- B1.6 To assist with contract management, the Contractor is required to provide a breakdown of all costs as part of their Tender Response and specifically in response to the cost effectiveness questionnaire.
- B1.7 The charges required in Table A & B fit into a banding structure to take account of Customer Organisations:
- a) on-boarding at different time intervals; and
  - b) rationalising the number of staff employed
- B1.8 Table A, Vacancy Posting Only, will be the core service available to all users for the posting of Vacancies. The charges in this table must include all running costs including licences, support and standard data warehousing etc. The charges must include the cost of supported users (a supported user is one with permission to contact the Contractor help desk) at a ratio of 1 supported user to every 25000 employees. Additional supported users can be purchased as detailed in Table D.

REDACTED

Line Item Charges in the following Tables

FoI Exemption 43 – Commercial Interests

<b>Table A – Vacancy Posting Only</b>		
<b>Row</b>	<b>Maximum Number of Employees</b>	<b>Cost Per Month – Vacancy Posting</b>
1	250 000	
2	300 000	
3	350 000	
4	400 000	
5	450 000	
6	500 000	
7	550 000	
8	600 000	

B1.9 Table B, Full Solution, will be a supplementary service whereby the Client can use additional functionality within the e-Recruitment system for the end to end vacancy filling process for vacancies. The charges in this table are the further charges only made in ADDITION to the charges detailed in Table A and reflect that 71% of the Maximum Number of Employees will make use of the Full Solution

<b>Table B – Full Solution</b>		
<b>Row</b>	<b>Maximum Number of Employees</b>	<b>Cost Per Month –</b>
1	187 500	
2	225 000	
3	262 500	
4	300 000	
5	337 500	
6	375 000	
7	412 500	
8	450 000	

B1.10 Table C Implementation, the charges in this table relate to the implementation costs (build/performance testing etc) the Contractor will incur prior to the Operational Date. The implementation charges must be charged as a separate line item and included in the first monthly invoice (Feb 2014).

Any reasonable configuration requirement requests should be included as part of the build and implementation charge. Where the Contractor can demonstrate that configuration requests amount to more than the equivalent

of 200 Change Request days then such charges will be reimbursed at the Change Request daily rate detailed in Table E

<b>Table C Implementation</b>		
<b>Row</b>	<b>Description</b>	<b>Charge</b>
1	<b>Build, Configuration &amp; Implementation</b>	
2	<b>Other Charges</b>	
<b>Total</b>		

<b>Table D – On-boarding</b>		
<b>Row</b>	<b>Description</b>	<b>Charge</b>
1	<b>Interface Configuration</b>	
2	<b>Consultancy</b>	
3	<b>Training &amp; Support</b>	
4	<b>One (1) Supported User</b>	
5	<b>Full Solution</b>	
6	<b>Other Charges</b>	
<b>Total</b>		

B1.11 Table D, On-boarding, the charges in this table relate to the costs associated with the on-boarding of a new Customer Organisation. The main costs will relate to an organisation on-boarding on a vacancy only posting basis, but includes the option at Row 5 for the on-boarding charges associated with on-boarding a Full Solution.

Any on-boOn-boarding charges will be invoiced separately in the month when the Customer Organisation is provided with access to the e-Recruitment system.

B1.12 Table E, Anticipated Value Contract Total is an aggregation of the charges listed in Tables A – D used in a manner so as to arrive at an Anticipated Contract Value Total for the contract period of 4 years/48 Months. The charges listed in Tables A and B will be invoiced monthly and the quantity relating to rows 1 – 8 are the indicative bandings of Maximum Number of Employees throughout the 48 Month term of the contract. The actual amount invoiced will reflect the banding of Actual Maximum Number of Employees authorised to make use the system in any one month.

The charges referred to at Rows 11 and 12 are as referred to in Schedule F, Exit Management.

**Table E – Anticipated Value Contract Total**

Row	Maximum Number of Employees	Unit Cost (A)	Quantity (B)	Cost Per Month (A) x (B)
1	Table A 250 000 + Table B 187 500		1 month	
2	Table A 300 000 + Table B 225 000		5 months	
3	Table A 350 000 + Table B 262 500		3 months	
4	Table A 400 000 + Table B 300 000		3 months	
5	Table A 450 000 + Table B 337 500		33 months	
6	Table A 500 000 + Table B 375 000		1 month	
7	Table A 550 000 + Table B 412 500		1 month	
8	Table A 600 000 + Table B 450 000		1 month	
	Sub-Total Months		48 months	
9	Implementation Cost ( Total From Table C)		1 OFF	
10	On-boarding (Total From Table D)		x10	
11	Contract Exit Service per Month		3 months	
12	Contract Exit Archive Facility per Month		12 months	
13	Change Request Charge per Day		400 days	
<b>Anticipated Contract Value Total</b>				

## B2 Service Levels

B2.1 Costs should be provided for 2 levels of service:

- a) Vacancy Posting (posting a job advertisement onto the e-Recruitment system with no further system use), all organisations using the system will use the vacancy posting service, and;
- b) Full Solution (vacancy posting followed by the full end-to-end e-Recruitment vacancy filling process) currently approximately 71% of the organisations using the system use the full solution

Details of the Customer Organisations currently using Vacancy Posting only and Full Solution are provided in the table contained in Schedule I, it is envisaged that the proportion of customer organisations using the Full Solution will increase over the term of the contract.

## B3 Maximum Number of Employees

B3.1 The expectation is that 35 current Customer Organisations using the existing full e-Recruitment system will migrate to the new system at the Operational Date. Headcount for these Customer Organisations is currently approximately 320,000 (71% of the total headcount in paragraph A2.3.3). The expectation is that the figure of 71% given in A2.3.3 will rise to 88% by 31 January 2015 and to 95% by 31 January 2016. Only marginal further increases are expected in the final 2 years of the contract period.

B3.2 The total maximum employee figure provided to the Contractor for the Operational Date will be reviewed on a quarterly basis following the Operational Date to take into account the addition of any new customer organisations or the withdrawal from the contract of an existing customer organisation

B3.3 The 'Maximum Number of Employees' band into which the total number of employees across all of the organisations utilising the contract falls will form the basis of the charge for all of the users under this contract. Therefore, if the addition of an organisation takes the total employees figure into a higher incremental band, the rate attributable to that band will be applied to all employees/customer organisations charged for under the contract from the quarterly payment due.

**B4 Change Requests**

B4.1 Over the term of the contract it is anticipated that Change Requests will be required, initially during the implementation period but also to on-board further organisations and deal with changes in the requirement. The Contractor is required to provide a charge per day for performing Change Request activities in Table E, Row 13.

The quantity shown in column B of Table E is the minimum quantity the Lead Organisation anticipate will be required during the term of the contract based on the quantity of days detailed in the following Table.

<b>Description</b>	<b>Number of Envisaged Change Request Days</b>
Year 1	100
Year 2	100
Year3	100
Year4	100
Total	400

**B5 Non Standard Additional Charges**

B5.1 Table F - Non-Standard Additional Charges are a list of charges relating to potential additional Non Standard features which may or may not be required during the term of the contract subject to budget availability. These charges are to assist with the Contract Management during the term of the contract only and were not included in the Anticipated Value Contract Total comparison as part of the Tender evaluation process.

**Table F - Non-Standard Additional Charges**



<p><b>Emails</b></p> <p>The system should provide standard emails which are issued to candidates at the relevant stage in the recruitment process e.g. 'Rejected after online test'.</p> <p>The Lead Organisation will confirm whether they wish to have additional emails added into the standard build (N.B. Any department specific email can be branded (Logo/Layout) at additional cost. Department specific emails can only be set to be 'manually' sent i.e. cannot be linked to automatic status movements such as 'Rejected after failing eligibility')</p> <p><b>Charge for this additional service should be provided</b></p>	
<p><b>Customer Branding – Additional Full Brand</b></p> <p>The brand referred to here is the look/feel of the application form as the candidate completes an online form (Logos/colours/font size). screens before and after the application form completion (The portal, Job Advert and candidate status message screens) are branded as CS Resourcing bar the Department name and logo appearing against vacancy listings.</p> <p>The standard implementation within CS Resourcing will allow for one candidate facing brand design to be replicated by the Contractor. The Department logo upload to display against job listings is already included in the implementation (and most Departments who already post have an active logo).</p> <p>The Lead Organisation to confirm any requirement for additional brands as well as any timing of re-brand if in the pipeline.</p> <p><b>Charge for the provision of additional branding</b></p>	
<p><b>Customer Branding – Additional Logo's</b></p> <p>As a more cost effective route to branding sub-units a Customer Organisation may opt to maintain a single brand, but rotate the logo based on group/division brand selected. This will give a consistent look and feel for the organisation whilst allowing individual divisions the addition of a logo alongside or instead of the parent logo.</p> <p>The Lead Organisation will confirm if there is a requirement for additional logos and the quantity required.</p> <p><b>Charge for additional Branding – Logo</b></p>	
<p><b>Pre-Screening Questions</b></p> <p>The standard product in will have a single pre-screen with a series of questions. Pre-screens are Yes/No questions designed to prevent applicants who do not meet the minimum criteria from starting an application with appropriate messaging.</p> <p>The Lead Organisation will confirm the nature of the pre-screen question groups required (Number of groups/questions to be specified).</p> <p><b>Charge for additional Pre-Screens.</b></p>	

<p><b>Bulk Upload of Interview/Assessment Results</b>  The Lead Organisation will have the facility to upload candidates in bulk for the following standard system scoring forms:  - Sift evaluation pack  - Interview evaluation pack</p> <p>This facility allows the bulk upload of the results of any number of candidates from a spreadsheet, by-passing the need for Vacancy Holders/Assessment teams to re-key hundreds or thousands of items of data. The bulk upload facility can only be actioned by the Lead Organisation by agreement.</p> <p><b>Charge for requirement to bulk upload candidate data.</b></p>	
<p><b>Basic Letters</b>  Basic letters will typically be one to two pages and contain basic merged information from a candidates record e.g. Address, vacancy applied to, grade applied to etc.</p> <p>The Lead Organisation will confirm if Basic letters are required and quantity.</p> <p><b>Charge for provision of Basic Letter facility</b></p>	
<p><b>Complex Letters</b>  Complex letters will typically be three to ten pages and contain complex merged information from a candidate's record, vacancy detail and candidate information.</p> <p>The Lead Organisation will confirm if Complex letters are required and quantity.</p> <p><b>Charge for provision of Complex Letter facility</b></p>	
<p><b>Contracts</b>  Complex Contracts will typically be three to ten pages and contain complex merged information from a candidate's record, vacancy detail and candidate information.</p> <p>The Lead Organisation to confirm if Contracts are required and quantity.</p> <p><b>Charge for provision of Contracts</b></p>	
<p><b>Consultancy –</b>  Consultancy services must be included within the build and implementation costs above to fully meet the stated requirements. Additional services - interpretation of benchmarking data and bottom up analysis to provide staffing targets would incur an additional cost of</p>	
<b>Enhanced Management Information</b>	
<b>Additional Management Information Extracts</b>	
<b>Additional Test Environment</b>	
<b>Data Warehousing – Single Daily file of limited data</b>	
<b>Data Warehousing – Full Data Warehousing Daily</b>	
<b>“Apply” surplus candidates automatically to appropriate new vacancies</b>	



## **C. Specific Responsibilities of the Parties**

### **C1 The Lead Organisation shall be responsible for:**

- C1.1 The Lead Organisation will work with the incumbent supplier to ensure any necessary data requirement/migration is facilitated to ensure the appropriate data set/s are available to the Contractor as required during the Implementation period
- C1.2 The Lead Organisation will be responsible for updating the Statement of Requirements document and advising the Contractor accordingly should the requirements change during the term of the agreement
- C1.3 The Lead Organisation will provide a Contract/Category manager/s to liaise with the Contractor Contract/Category manager/s to address performance and delivery issues.
- C1.4 The Lead Organisation/Customer Organisations will provide any necessary recruitment advice and guidance to users

### **C2 The Contractor shall be responsible for:**

- C2.1 Providing the service so as to meet the specification detailed in this contract and as per their response to the ITT, attached to this Schedule at Appendix A.
- C2.2 Ensuring that prior to delivering any aspect of the Service to a Customer Organisation the Contractor must ensure that the Customer Organisation has the necessary permissions from the Lead Organisation
- C2.3 Working with the Lead Organisation to identify any changes in Government policy that will impact on the end-to-end process used by the Lead Organisation and updating the e-Recruitment system so as to ensure the system remains compliant with Government policy changes
- C2.4 Provision of accurate Management Information on a monthly, and if required ad-hoc basis, covering all facets of the Service
- C2.5 Providing a breakdown and agreeing proposed charges with the Client Contract Manager prior to invoices being sent.

Contractors Response Redacted in its entirety -  
Fol Exemptions 41 – Information provided in confidence  
Fol Exemptions 43 – Commercial Interests



## **D. Contract Management and Management Information**

### **D1 General Contract Management**

- D1.1 The Client reserves the right to conduct site audits as part of the contract management activity.
- D1.2 The Contractor shall offer access to any part of their premises to representatives from the Client for the purpose of commercial assurance, risk assessment, security assurance, familiarisation on procedures etc.
- D1.3 The Contractor shall offer access to relevant documentation requested by representatives from the Client for the purpose of commercial assurance, risk assessment, security assurance, familiarisation on procedures etc.
- D1.4 The Contractor shall bear all costs associated with Contract Management including any direct costs associated with attendance at Contract Management meetings (travel, subsistence), which may be held at either the Client's or the Contractor's premises

### **D2 Efficiency Savings**

- D2.1** As part of routine Contract management activities the Contractor will be required to work with the Lead Organisation to realise any possible efficiency savings during the term of the contract. Possible efficiency savings will be reviewed during Monthly Performance Review meetings and any savings realised annually will be distributed between the Contractor and the Lead Organisation as agreed in advance.

### **D3 Reviews**

- D3.1 After the commencement of the Agreement the Contractor shall attend performance review meetings with the Lead Organisation to consider the progress of the contract, discuss the MI reports and to review any operational issues that have arisen in the preceding month review meetings will take place between the Contractors Contract Manager and the Lead Organisation's Contract/Category Manager/s on the following basis:

- Operational Weekly
- Performance Review Monthly
- Contract Review Quarterly

The nature of the meetings (face to face, telephone conference) is to be agreed between the Contractor and the Lead Organisation in advance.

### **D4 Variation**

- D4.1 This Contract can be varied at any time by mutual agreement of the parties subject to a notice period of 30 working days, such agreement to be in writing and signed by the representatives of both parties using Standard Document SD 23.

### **D5 Extension**

D5.1 This Contract contains the option to extend for a further period of up to 1 (one) year subject to the agreement of both parties. The Contract terms and conditions will apply throughout any such extended period

**D6 Contact details**

HMRC Contract Manager	Contractor's Contract Manager
Name: Address: Redacted; FoI Exemption 40 Personal Information	Name: Address: Redacted; FoI Exemption 40 Personal Information

D6.1 Specific Contract Management Requirements

**Service Quality**

- a) Number of outstanding actions against last SLA review (contract management process)
- b) High quality MI on 'time-to-hire'
- c) High quality MI on service quality
- d) Number of complaints received within month A4.7.2
- e) Volume of calls handled
- f) Candidate ratings of service – customer satisfaction
- g) Client ratings of service – customer satisfaction
- h) Details regarding use of the system by the individual Customer Organisations including
- i) Customer Organisation's correct use of the system 'First Time'
- j) Customer Organisation's behaviour
- k) System Users's use of the system
- l) System User's behaviour

Full details of this requirement to be agreed between the Contractor and the Lead Organisation post award



## Schedule E Service Levels and KPIs

### E-Recruitment Service Level Agreement – KPIs Supplier to CS Resourcing

#### E1 System

- E1.1 The system must provide service availability of 99.5% within core hours (Monday – Friday 07:00-19:00) and at a minimum of 99.0% outside core hours.
- E1.2 A supported service for CS Resourcing and its Customers must be available between 07.00 to 19.00 Monday to Friday and an unsupported service for the remainder of the time.
- E1.3 0.1% of service outages (unplanned downtime) during core operating hours
- E1.4 1% of service outages (unplanned downtime) during outside of core operating hours
- E1.5 0.1% of planned downtime during core operating hours
- E1.6 1% of planned downtime during outside of core operating hours
- E1.7 99.9% availability during core operating hours
- E1.8 99% availability during non core operating hours
- E1.9 Website response time – 1 second – see note 2.
- E1.10 0.1% of system timeouts – minor disruption to service

#### E2 Support

- E2.1 80% of client queries resolved within 2 working days
- E2.2 100% of client queries resolved within 5 working days
- E2.3 90% of candidate queries resolved within 2 working days
- E2.4 80% of customer issues that were solved by the first phone call
- E2.5 90% of phone calls answered within 5 rings

**Note 1:** percentages linked to downtime, availability, etc. will be based on yearly calculations

**Note 2:** Industry advice regarding response times

- o **0.1 second** is about the limit for having the user feel that the system is reacting instantaneously, meaning that no special feedback is necessary except to display the result.
- o **1.0 second** is about the limit for the user's flow of thought to stay uninterrupted, even though the user will notice the delay. Normally, no special feedback is necessary during delays of more than 0.1 but less than 1.0 second, but the user does lose the feeling of operating directly on the data.
- o **10 seconds** is about the limit for keeping the user's attention focused on the dialogue
- o **10 seconds +** the user is likely to abandon

#### **E3 SERVICE CREDITS**

- E3.1 The Contractor's maximum annual liability under this Contract shall be ten

percent (10%) of the Annual Service Charge.

- E3.2 The Lead Organisation shall be entitled to Service Credits calculated to the nearest penny in the event that any Service Level falls below the relevant Service Level Target measured on an annual basis (see Note 1).

**E4 Service Credits are calculated as set out below:**

- E4.1 Where the Service Level Target has not been met the amount of the Service Credit shall be calculated using the formula:

**System**

[X]% of the Annual Charge for every 0.1% Service Level Target not met

*(Final figure to be agreed prior to contract signature)*

**Support**

[X]% of the Annual Charge for every 1% of the Service Level Target not met

*(Final figure to be agreed prior to contract signature)*

- E4.2 Service Credits are cumulative (that is Service Credits for all Service Level Targets that have not been met or exceeded shall be added together to make the total Service Credit payable for that Year).
- E4.3 Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. Any such Service Credits shall be applied by way of an itemised deduction by the Contractor from the invoice for Charges in the Final Month of the measured Year in respect of which the Service Credits have been calculated.
- E4.4 The Parties agree that Service Credits are a non-exclusive remedy, without prejudice to any rights or remedies of the Lead Organisation under the Agreement or at Law including any entitlement that the Lead Organisation may have to damages and/or to terminate.

## Schedule F Exit Management

- F1.1 The cessation of this contract will not automatically result in the cessation of the services initiated under the auspices of the contract, there may be a requirement for the Contractor to complete any campaigns or individual recruitments initiated prior to the contract end date to completion even if this extends beyond the Contract end date.
- F1.2 Should it be necessary for the Contractor to complete a campaign/ recruitment exercise which extends beyond the end date of the contract then the Contractor will be required to continue providing the Service, on a month by month basis, until such time as all outstanding work is completed, with the expectation that such outstanding work will be completed within 3 months.
- F1.3 As part of the Contract Exit strategy, the Lead Organisation may require the Contractor to provide an archive facility to allow the lead organisation to access all of the data stored on the system, on a month by month basis, with the expectation that such a facility will not be required for a period greater than 12 months
- F1.4 To ensure that the Lead Organisation has access to all of the stored data at all times, at the cessation of the contract the Contractor may be required to provide, in a format agreed with the Lead Organisation, an export file of all of the data contained within the database, in machine readable form
- F1.5 The Lead Organisation shall have the right to modify and copy the export file for any purpose whatsoever.
- F 1.6 One month prior to the Contract end date the Lead Organisation will agree with the Contractor:
- the length of time required to complete all outstanding work;
  - whether an archive facility will be required and for what period; and
  - whether an export file of the data on the system will be required.
- F1.7 Once the requirements listed in F1.6 are agreed, the charges established during the Tender and provided in Schedule 3, Pricing Schedules, will be used to calculate and agree the total charge applicable.
- F1.8 Once the total charges applicable is agreed, an invoicing plan for the applicable charges during the Contract Exit period will be agreed in advance of the Contract end date.

## **Schedule G Certificates and additional Information**

(Insert copies of any certificates requested from the Contractor as part of the requirement e.g. ISO accreditation etc. if relevant, and any other Information not included elsewhere that will for part of the Contract)

## Schedule H Security Plan

### 1. Background

- 1.1 The Contractor is required to prepare a Security Plan pursuant to Clause D6.2 of the Contract and in accordance with the Client's Security Policy.

The Client has developed a standard set of requirements and questions, contained within the e-Sourcing event questionnaire, to facilitate the formulation of the plan and to ensure consistency across relevant contracts.

The Contractor is required to provide answers to the standard set of questions contained within this 'Security' questionnaire to formulate the initial Security Plan.

The Contractor's response to the Security Questionnaire, with any subsequent amendments as may be agreed as part of a clarification process, will be included in the signed version of any resulting agreement as confirmation that the content of the Security Plan has been agreed with the Client.

Please confirm that you understand that that the requirements provided in this questionnaire and your responses to the following standards questions will form the initial Security Plan and will be included in the final signed version of any resulting agreement.

### 2. Transfer of Client Data

- 2.1 Any proposed transfer of Client data, whether hard copy or electronic, must be approved by the Client's appropriate Data Guardian in writing. If the Contractor is unsure whether the necessary approval has been obtained the data transfer must not proceed.

Where electronic data transfers are necessary in the performance of the Contract, they should be made by automated electronic secure transmission via the Government Secure Internet (GSI) with the appropriate level of security control. Individual data records (unless as part of a bulk transfer of an anonymised respondent survey data) will require specific transfer arrangements. Transfer of aggregated data such as results, presentations, draft and final reports may also need discussion and agreement, again in advance of any such transfer.

Whenever possible, putting data on to removable media should be avoided. Where this is unavoidable:

- hard drives and personal digital assistants must not be used except in the circumstances set out in the Client's Data Security booklet; and
- CD-ROM/DVD/floppy/USB sticks are only to be used after discussion and agreement with the Client in advance of any such transfer.
- If the use of removable media is approved, data must be written to them in a secure, centralised environment and be encrypted to HMRC standards.

If you anticipate transferring data, especially using removable media, during the delivery of this project please set out proposed transfer procedures for consideration;

### 3 Sub-Contractors

- 3.1 The requirements set out in this Security Plan also apply to any sub-contractors engaged by the Contractor to perform any of the services under the Contract.

If you intend to involve sub-contractors at any stage during the Contract please list them below and provide details of how you will ensure their compliance with all aspects of this Security Plan.

- 3.2 Please also confirm your understanding and agreement that the transfer of any data to third parties is prohibited without prior written consent from the Client.

### 4 Data Records

- 4.1 If appropriate, please provide details of any database you anticipate using in the delivery of this Contract that will include personal information relating to an individual comprising more than the agreed number of individual customer records.

Please identify the precise data to be held, in what format/medium and the locations where this data will be processed.

- 4.2 Please provide details of any paper records and files you anticipate using in the delivery of this call off that will include personal information relating to an individual comprising more than the agreed number of individual customer records. Please identify the precise data to be held, in what paper format and the locations where this data will be stored, managed and processed. Please also set out the means of secure storage and retrieval.

### 5 Contractor personnel

- 5.1 Please provide details of the measures do you have in place to ensure your staff are vetted to the standard required by the Client.
- 5.2 How will you ensure that all your staff requiring access to the Client Data are aware of the confidential nature of the Client Data and comply with their legal and specific obligations under the Contract?
- 5.3 Please provide details of the ongoing training you provide to staff in respect of data security, including the identification and reporting of security incidents.

### 6 Client Data Security and Data Protection

- 6.1 Please provide details of your organisation's business continuity and disaster recovery plans in terms of the Client Data under this Contract.

- 6.2 Please provide details of the overall security and access control of your systems (including use and control of back up systems) and how they meet Client requirements as per the Client's Security Policy.
- 6.3 Please provide details of the technical and organisational measures you have in place, or are proposing to implement in order to protect Client data from unauthorised or unlawful use or processing.
- 6.4 Please describe how you will protect Client data against accidental loss, destruction, damage, alteration or disclosure
- 6.5 Please describe how you will ensure that Client data is not stored, copied, disclosed, generated or used except as necessary for the performance of your obligations under the Contract or as otherwise expressly authorised in writing by the Client.

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- 6.6 Please confirm your data Protection Commissioner registration number and details of how you ensure that your organisation and personnel comply with the Data Protection Act 1988 in accordance with Clause D2 of the Contract.
- 6.7 Please confirm that Client Data will not be processed or stored outside the United Kingdom without the express permission of the Client.

## 7 Confidentiality

- 7.1 In accordance with Clause D4.5, the Client may request that the Contractor's personnel who have access to Client data, and/or are directly involved in the service provision, sign a copy of the Client's confidentiality agreement, which is provided as an attachment to this question.

Please confirm that, in the event that your bid is successful, you will provide signed hard copies of the confidentiality agreement for all personnel involved in this Contract.

## 8 Other Security Requirements

- 8.1 Premises - Please provide details of the security measures in place for restricting access to your premises including alarm systems and security staff etc.

- 8.2 Portable media – Please provide details of the policies you have in place for the use of portable media and storage devices including the level of encryption and controlled access procedures exceptionally loaded with Client Data.
- 8.3 Malicious software – Please provide details of the anti-virus software you use and how regularly you update it.

9 Incident handling

- 9.1 Please set out your proposed incident handling procedures in the event of electronic and hard copy data loss including but not limited to, items of portable media and equipment such as PCs, Laptops, Blackberry's, USB's, discs or similar. Such loss to include theft, attempted theft, misuse or inappropriate accessing of data within your organisation and those of any subcontractors or partners you may use to deliver the contract. This must include any remedial action the you would propose to mitigate the data loss, outline a documented reporting process and identify and provide contact details for a nominated member of your staff with responsibility for investigating the incident.

10 Disciplinary Procedures

- 10.1 Please describe your disciplinary procedures in the event of a security breach involving Client Data.

11 Exit Requirements

- 11.1 All Client Data held electronically (including back ups) or in hard copy form by the Contractor, must either be returned or destroyed at the end of the project or when access to that data is no longer required, whichever is earliest. When equipment that holds or has held data is disposed of or destroyed, all data must be rendered unreadable and irretrievable. Please set out how you will meet these requirements.

12 Signed Undertaking

- 12.1 Please confirm that you understand that your responses to the Security Questionnaire will be included in any in the final signed version of any resulting agreement and is signed in acceptance that the signatory's organisation, and any other organisations accessing Client Data on behalf of the Contractor, will comply with all requirements herein unless specifically agreed in advance with the Client.



## Schedule I Customer Organisations

Customer Organisations	Services	
	Advertisement Only	Full Solution
Ministry of Defence (including MoD, DSG, DSTL)		Y
DWP (including DWP Corp & Shared Services, JC+, PDCS, CMEC,)		Y
HSE		Y
Home Office (including HO, CRB, IPS, UK Border Agency)		Y
HM Revenue and Customs (HMRC including VOA and CSR)		Y
GORS		Y
Crown Prosecution Service		Y
Charity Commission		Y
Ofsted		Y
Department for International Development		Y
Department for Environment Food and Rural Affairs,		Y
Centre for Environment Fisheries and Aquaculture Science		Y
Food & Environment Research Agency		Y
Rural Payments Agency		Y
Animal Health & Veterinary Laboratories Agency		Y
Veterinary Medicines Directorate		Y
Department for Transport Centre (DfTc)		Y
Driver and Vehicle Licensing Agency (DVLA)		Y
Driving Standards Agency		Y
Highways Agency		Y
Maritime and Coastguard Agency		Y
Vehicle Certification Agency		Y
Vehicle and Operator Services Agency (VOSA)		Y
Treasury Solicitor		Y
UK Statistics Authority		Y
Export Credits Guarantee/UK Export Finance		Y
Attorney General's Office	Y	
Serious Fraud Office	Y	

<b>Customer Organisations</b>	<b>Services</b>	
Business, Innovation and Skills 2	Y	
Advisory Conciliation and Arbitration Service	Y	
Companies House	Y	
Insolvency Service	Y	
Office of Fair Trading	Y	
Office of Gas and Electricity Market	Y	
National Measurement Office	Y	
UK Intellectual Property Office	Y	
Skills Funding Agency	Y	
Meteorological Office	Y	
Cabinet Office excl agencies	Y	
Central Office of Information	Y	
Office of the Parliamentary Counsel	Y	
Department for Education 2	Y	
Department for Communities and Local Government 2	Y	
Fire Service College	Y	
Ordnance Survey	Y	
Planning Inspectorate	Y	
Queen Elizabeth II Conference Centre	Y	
Department for Culture Media and Sport 2	Y	
Royal Parks	Y	
Department for Energy and Climate Change	Y	
Foreign and Commonwealth Office (excl agencies)	Y	
Department of Health (excl agencies)	Y	
Food Standards Agency	Y	
Medicines and Healthcare Products Regulatory Agency		Y
NHS Business Services Authority	Y	
HM Treasury	Y	
Debt Management Office	Y	
Government Actuary's Department	Y	
National Savings and Investments	Y	
Ministry of Justice (excl agencies)	Y	
HM Courts Service	Y	

<b>Customer Organisations</b>	<b>Services</b>	
Land Registry	Y	
National Archives	Y	
The Office of the Public Guardian	Y	
Tribunals Service	Y	
National Offender Management Service	Y	
UK Supreme Court	Y	
Wales Office	Y	
Office of Qualifications and Examinations Regulation	Y	
Office of Rail Regulation	Y	
Buying Solutions/ Gov Procurement Services	Y	

**Schedule J (Not Used)**  
(Add details here)