



Variation Form Agreement

THIS VARIATION FORM AGREEMENT is made on 8th March 2021

Between:

- (1) **THE MINISTER FOR THE CABINET OFFICE (“Cabinet Office”)** as represented by Crown Commercial Service (formerly Government Procurement Service), a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP (**“Authority”**);

and

- (2) **SUPPLIER NAME** which is a company registered in England and Wales under company number and whose registered office is at **ADDRESS (“Supplier”)**

WHEREAS

1. The Parties hereto entered into an agreement dated 29th July 2019 for provision of Non Clinical Temporary and Fixed Term Staff to Public Sector Contracting Authorities (the “Framework Contract”).

NOW IT IS AGREED as follows:

1. Status of this Variation Form

This Variation Form is supplemental to the Framework Contract. Except as expressly amended by this Variation Form and any previous Variation Form, the Framework Contract shall remain in full force and effect. Terms defined in the Framework Contract shall have the same meaning in this Variation Form, unless otherwise provided by this Variation Form.



2. Amendments

With effect from 8th March 2021, the following variations shall apply to the Framework Contract and for the avoidance of doubt, all existing and future Call-Off Contracts:

2.1 The following definitions shall be added to Joint Schedule 1 (**DEFINITIONS**) of the Framework Contract:

“Inside IR35” the circumstances under which a Temporary Worker will provide the Services under the Assignment are such that Section 50 Income Tax (Earnings and Pensions) Act 2003 (**“ITEPA”**) or Section 61N ITEPA (as relevant) applies (i.e. worker is treated as receiving earnings from employment);

“Off-Payroll IR35 Legislation” means ITEPA Part 2, Chapter 8 and Chapter 10;

“Outside IR35” the circumstances under which the Temporary Worker will provide the Services are such that neither section 50 ITEPA or section 61N ITEPA (as relevant) applies (i.e. worker is not treated as receiving earnings from employment);

“Personal Services Company or PSC” means a personal services company incorporated as a limited company in the United Kingdom, which has been set up to provide the services of a single Temporary Worker, who is usually the sole shareholder and company director of the business; and

“Status Determination Statement (SDS)” means the written conclusion of the Contracting Authority’s assessment of the Temporary Worker undertaken pursuant to the Off-Payroll Legislation.

2.2 A new Joint Schedule 13 (IR35 Legislation) shall be added to the Framework Contract as follows:

9.5 Off-Payroll IR35 Legislation

9.5.1 The Contracting Authority acknowledges that it is solely responsible for determining if any role specified in a Call-Off Contract is Inside IR35 or Outside IR35 pursuant to the Off-Payroll IR35 Legislation and shall be responsible for promptly providing the Supplier and the Temporary-Work Seeker within the statutory time limits with an up-to-date Status Determination Statement for any Temporary Work-Seeker engaged via a Personal Services Company (irrespective of whether the Contracting Authority determines that they are Inside or Outside IR35).

9.5.2 The Contracting Authority will provide such information as the Supplier may reasonably require in a timely manner to enable the Supplier to comply with



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its obligations under the Off-Payroll IR35 Legislation. For the avoidance of doubt, the Contracting Authority shall be responsible for dealing with any appeals under IR35 Legislation.

- 9.7 The Contracting Authority will notify the Supplier immediately if it has reason to believe that the Assignment is Inside IR35 and/or the nature of the Services or the Assignment and/or its IR35 status has changed or will change and shall promptly provide a new Status Determination Statement if requested or if otherwise necessary.
- 9.8 The Contracting Authority shall be liable for all Losses incurred, suffered or paid by the Supplier (including reasonable legal expenses) arising out of or in connection with any of the following:
- (a) any incorrect Status Determination Statement by the Contracting Authority; and/or
 - (b) any treatment by the Contracting Authority of a Contractor who has been categorised under this Framework Contract following a Status Determination Statement as Outside IR35, which treatment causes or contributes to HMRC treating the Contractor as being Inside IR35.
- 9.9 The Supplier shall be liable for all Losses incurred, suffered or paid by the Contracting Authority (including reasonable legal expenses) arising out of or in connection with:
- (a) the failure by the Supplier to deduct any tax, national insurance or other statutory deductions, or make any required employer contributions for national insurance or the apprentice levy, where the Supplier had been given an Inside IR35 Status Determination Statement by the Contracting Authority which confirmed that such sums should have been deducted/paid; or
 - (b) the Contracting Authority's non-provision of an Status Determination Statement to a Temporary Worker where both:
 - (i) the Contracting Authority had expressly informed Supplier in writing that it did not want the Supplier to supply any Personal Services Company to it; and
 - (ii) subsequent to such notification, the Supplier supplies a Personal Services Company to the Contracting Authority without their knowledge.
- 9.10 The Contracting Authority acknowledges that save for clause 9.9 of this Variation Form, the Supplier shall have no liability with respect to the Off-



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Payroll IR35 Legislation including but not limited to any awards, fees, penalties which may arise from the Off Payroll IR35 Legislation.

- 9.11 The Parties agree that it shall not be necessary for the Supplier to comply with the Dispute Resolution Procedure or to notify the Contracting Authority in respect of any acts or omissions of the Contracting Authority in connection with the Contracting Authority’s treatment of Temporary Workers which may cause an IR35 liability, or any IR35 status determinations made by the Contracting Authority (or decided by the Contracting Authority to be unnecessary) in respect of Temporary Workers.
- 9.12 It is agreed that the indemnity provided by the Supplier at 31.3, bullet point 2, of the Core Terms of the Framework Contract shall not apply where a Personal Services Company is supplied by the Supplier to the Contracting Authority, as the liability relating to the supply of Personal Services Companies is set out in Clauses 9.5 to 9.11 of this Variation.
- 9.13 Notwithstanding anything under Framework or Call-Off Contract to the contrary, the manner in which a Temporary Work-Seeker engaged by the Supplier under a contract for services via a PSC, provides the services during the Assignment, shall not be under or subject to the supervision, direction or control of the Contracting Authority or the Supplier. For the avoidance of doubt, the Contracting Authority shall remain responsible for the PSC whilst on Assignment.

The Variation must be agreed and signed by both parties and shall be effective from the effective date specified in the Variation.

Signed by an authorised signatory for and on behalf of the **SUPPLIER**

Signature

Print Name

Job Title

Date

Signed by an authorised signatory for and on behalf of the **AUTHORITY**



Michael Rice

Signature

Print Name Mike Rice.....

Job Title Senior Category Manager.....

Date 8 March 2021.....