

Variation to Contract Form

Contract Title : **Provision of Private Enforcement Services to HMCTS – London, Midlands, North East regions**

Variation Number : 17/01

Date Effective From : 1st June 2017

Between:

The Secretary of State for Justice ("the Authority") & Collectica Ltd ("the Contractor") agree

1. The Contract is varied as follows:

Variation to Contract

- 1.1 The Contract has been extended to the 30th April 2018. With the option to extend for up to a further 4 months.
- 1.2 Standard Terms and Conditions

The following clauses have been amended or inserted as attached in Annex A, and will be included as part of this Variation Agreement:

- 8 - Commencement and Duration
- 18 – TUPE
- 43 – Exit Management
- 44 – Exit procedures
- 45 – Knowledge Retention

All other Terms and Conditions remain unchanged.

2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed:

For the Authority

Signature: [REDACTED]

Name: [REDACTED]

Title: [REDACTED]

Date: [REDACTED]

For the Contractor

Signature: [REDACTED]

Name: [REDACTED]

Title: [REDACTED]

Date: [REDACTED]

Annex A: Amendments to Conditions of Contract – Section 2

8. Commencement and Duration

8.2 The Department shall have the option to extend the Contract for additional period(s) at the Department's discretion provided that the cumulative duration of any such extensions does not exceed up to four months beyond 30th April 2018, and provided that the Department provides the Contractor with at least two month's written notice of each such extension.

18. TUPE

18.1 The Department and the Contractor acknowledge that, subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of the termination of this agreement in whole or in part or otherwise) resulting in the Services being undertaken by a Replacement Contractor. Such change in the identity of the supplier of such services shall be a "Service Transfer". A Service Transfer may constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE").

18.2 The Contractor shall provide the Department, or such bidders as the Department nominates, with information about those employees who are wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services ("the Contractor Employees") as follows:

18.2.1 upon termination or at any time in the twelve (12) months preceding expiry of the Contract ("Retender Period"), all information necessary for bidders to prepare their bids; and

18.2.2 after receipt by the Contractor of a notification from the Department of a Service Transfer or intended Service Transfer, all information necessary to comply with TUPE and any then current Government guidance (including but not limited to the Cabinet Office Guidance on Staff Transfers in the Public Sector – Statement of Practice (January 2000) as amended from time to time); and

18.2.3 this information shall be provided at the time and in the format reasonably requested by the Department and, in any event, not later than five (5) days after receiving such a request and at no cost to the Department.

18.3 The Contractor shall co-operate with any replacement contractor and provide them with as much information as they reasonably require to ensure a smooth transition in the period after the Department notifies the Contractor of a Service Transfer or Intended Service Transfer and the date from which the Replacement Contractor is contractually obliged to provide the Services ("the Transition Period").

18.4 The Contractor shall not change the staff it uses to perform the Contract, nor alter their terms and conditions of employment (including but not limited to rates of pay) unless the Contractor has the Department's express prior written agreement, from the earliest of:

18.4.2 the commencement of the Retender Period;

18.4.3 the date on which the Authority gives notice to the Contractor of the termination of the Contract; and

18.4.4 the date on which the Department gives notice to the Contractor of a Service Transfer or intended Service Transfer.

- 18.5 During the Transition Period, the Department or such bidders as the Department nominates shall be entitled to reasonable direct access to the Contractor's Employees. Such access shall be for the purpose of conducting group meetings or individual meetings as is reasonably required.
- 18.6 The Contractor shall procure any consents which may be required by the Data Protection Act 1998 and related legislation in order to comply with these provisions.
- 18.7 Any Non-Disclosure Agreement entered into between the Contractor and bidders and/or a replacement contractor in respect of this Contract or the Transition Agreement shall be on substantially similar terms as the Confidentiality clause (Clause 22) in this Contract.
- 18.8 In the event that a Service Transfer constitutes a relevant transfer for the purposes of TUPE the provisions in clauses 18.18.9 to 18.2.10 shall apply.
- 18.9 The Contractor shall comply with all its obligations in respect of the Contractor Employees arising under TUPE in respect of the period up to (and including) the date on which the relevant transfer under TUPE takes place (the "Transfer Date") and shall perform and discharge all its obligations in respect of all the Contractor Employees arising in respect of the period up to (and including) the Transfer Date. Any necessary apportionments in respect of any periodic payments shall be made between the Contractor and the Replacement Contractor.
- 18.10 The Contractor shall indemnify the Authority and/or the Replacement Contractor against all claims, demands, actions, costs and expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses, damages and fines arising from any or as a result of:
- 18.10.2 any act or omission of the Contractor in respect of any Contractor Employee or any employee representative (as defined by TUPE) whether occurring before, on or after the Transfer Date;
- 18.10.3 the employment or termination of employment by the Contractor of any Contractor Employee in the period up to and including the Transfer Date (other than where a claim arises out of the resignation of a Contractor Employee on or before the Transfer Date on account of substantial detrimental changes to his contract of employment that have been proposed by the Replacement Contractor);
- 18.10.4 any failure by the Contractor to comply with its obligations under regulation 13 of TUPE (other than where any such failure is as a result of a failure by the Replacement Contractor to comply with its obligations under TUPE); and
- 18.10.5 a failure of the Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Contractor Employees in respect of the period up to (and including) the Transfer Date.
- 18.11 Where a provision in this clause 18 imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority or Replacement Contractor as the case may be.

43. EXIT MANAGEMENT

- 43.1 Upon termination the Contractor shall render reasonable assistance to the Authority to the extent reasonably necessary to effect an orderly assumption by a Replacement Contractor in accordance with the procedure set out in clause 44.

44. EXIT PROCEDURES

- 44.1 Where the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate with the Authority and any such third party as reasonably requested by the Authority and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- 44.2 The following commercial approach shall apply to the transfer of the Services if the Contractor:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
 - (b) reasonably incurs additional costs, the Parties shall agree a Variation to the Price based on the Contractor's rates either set out in Schedule 2 or forming the basis for the Price.
- 44.3 When requested to do so by the Authority, the Contractor shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.
- 44.4 Within one Month of receiving the software licence information described above, the Authority shall notify the Contractor of the licences it wishes to be transferred and the Contractor shall provide for the approval of the Authority a plan for licence transfer.

45. KNOWLEDGE RETENTION

- 45.1 The Contractor shall co-operate with the Authority as reasonably requested by the Authority, in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information reasonably requested by the Authority. The Contractor shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

