

VARIATION AGREEMENT **New Classifications Policy**

This template Variation should be amended to suit the individual contract in accordance the instructions within Cabinet Office Procurement Policy Note – Implementing the New Classifications Policy
Information note 9/13 21 Oct 2013.

Note: This page is not part of this Agreement; it contains information to help you in the drafting of your contract. Please delete this page after you have read it.

It is important to properly monitor any variations to a Contract. It is simpler to resolve a dispute if the Contract reflects the true nature and intention of the parties by way of formal variations as the Contract changes over time.

To help you structure your contract and prompt you for the information required you should follow the instructions given below. These either ask you to choose between a number of options or to insert some information.

Drafting Instructions

1. Below is an example of an instruction that tells you to delete the instruction (including the square brackets and shading) and insert the start date of this Agreement.

[insert start date]

2. There are also some places where optional text is given in square brackets and the relevant instructions are given in drafting notes below in bold type. An example is given below:

[Clause [x] shall be amended to include the following definitions:]

[Note: Include the wording in square brackets if you are including additional definitions under the Original Contract.]

If you decide to include the text in square brackets, just delete the square brackets and the drafting note. If you decide not to include it, you should delete the text in the square brackets and the drafting note.

3. If the word "**[OR]**" appears in a clause, it is giving you an option from several clauses. Once you have selected the appropriate option, delete the other options and "**[OR]**".
4. When you have finished drafting your contract it should contain no square brackets or drafting notes. You may wish to leave some of the optional text in square brackets during the contract negotiations to show that these provisions are yet to be concluded.

THIS AGREEMENT is made on [insert in manuscript the date this Agreement is signed]

BETWEEN:-

- (1) **THE SECRETARY OF STATE FOR** , whose Head Office is at, (the "**Department**"); and
- (2) **[INSERT COMPANY NAME]** (No: [insert registered number]) whose registered office is situated at [insert the full registered office address] ("**Contractor**").

[OR]

- (2) **[INSERT INDIVIDUAL'S NAME]**, a partner in the partnership of [insert name of the partnership] of [insert the full address] ("**Contractor**").

[OR]

- (2) **[INSERT INDIVIDUAL'S NAME]**, trading as [insert the trading name] of [insert the full address] ("**Contractor**").

[Note: Choose the appropriate paragraph 2 from those above and then delete the others. The contracting party details should reflect those in the original contract that is being varied.]

RECITALS:-

- (A) The Department and the Contractor entered into a [insert type of original contract e.g. Contract for the Provision of Services] dated [insert date of original contract] with the Department's reference number of [insert the unique reference number of the Original contract] ("**Original Contract**") for the purposes of [insert brief details of purpose of original contract e.g. of the supply of administrative services].
- (B) The Department and the Contractor have agreed to vary the terms of the Original Contract as set out in this Agreement.
- (C) The Department's reference number for this Variation Agreement is [insert the variation number e.g. 01, 02, 03 etc.].

IT IS AGREED as follows:-

1. CONSIDERATION

In consideration of each of the parties entering into this Agreement (such consideration being agreed by the parties to be good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged and agreed), the parties have agreed to vary the Original Contract in accordance with Clause [insert clause number relating to variation of agreement in Original Contract].

2. **VARIATION OF THE ORIGINAL CONTRACT**

2.1 The parties agree with effect from the date of this Agreement the Original Contract shall be varied as set out in Annex 1 attached.

(D) Subject to the variations set out in Annex 1, the Original Contract shall continue in full force and effect in all respects.

(E) In addition to the amendments set out in Annex 1, the Original Contract shall be construed and interpreted with such further consequential amendments as are necessary to give effect to the amendments set out in Annex 1 of this Agreement, as if such further amendments were also expressly set out in Annex 1.

(D) Except as provided in Clause (E) and Annex 1, the parties agree that no other liabilities, financial or otherwise, shall accrue to the Department because of this Variation Agreement.

3. **SEVERABILITY**

The provisions of this Agreement are intended by the parties to be severable in the event that any part of it is held to be illegal or unenforceable (in whole or in part) and such part shall not affect the validity and enforceability of the remaining provisions or the remainder of the affected provision under this Agreement.

4. **AUTHORITY AND COSTS**

Each party undertakes that it has full power and authority to enter into and shall be responsible for its own costs arising in relation to this Agreement.

5. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

5.1 Subject to Clause (E) below, this Agreement is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person who is not a party to this Agreement. Accordingly, the parties confirm that no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

(D) It is the intention of the parties that any other department, officer or agency of the Crown, may as required from time to time act as the Department's agent in enforcing the Department's rights under this Agreement.

6. **GOVERNING LAW AND JURISDICTION**

The parties agree that this Agreement and any dispute arising under or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be governed by and construed in accordance with the laws of England, and the parties submit to the jurisdiction of the English Courts.

EXECUTED by the parties on the first date in this Agreement.

**Authorised to sign for and on behalf of
the Department**

**Authorised to sign for and on behalf of
the ***insert name of the Contractor*****

Signature

Signature

Date

Date

Name in Capitals

Name in Capitals

Address in full

Address in full

Annex 1

New Government Security Classifications

The new Government Security Classifications will be implemented from 2 April 2014, replacing the current six-level marking scheme (Unclassified, Protect, Restricted, Confidential, Secret and Top Secret).

This will introduce a new simpler three-level system of OFFICIAL, SECRET and TOP SECRET across the Civil Service. The Security Classifications Policy and related guidance is published on the Gov.UK website

<https://www.gov.uk/government/publications/government-security-classifications>

[Either]

No changes shall be made by the contractor in the way they handle or mark any Government information under this contract until those changes have been specifically agreed by the Authority by means of a subsequent Variation.

[Or]

No changes will be made to how this contract operates as there are only [6] months to contract expiry.

[Or]

Attached is an amended Security schedule detailing how items currently marked & handled under the present arrangements shall be marked & handled from 2 April 2014

[And/Or]

The Contracts will be managed at [OFFICIAL] level.

[And/Or]

The [Detailed Pricing Information Annex] and [] and [] may be marked 'OFFICIAL-SENSITIVE'.