


# Award Form

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

1.	<b>Buyer</b>	SECRETARY OF STATE FOR BUSINESS AND TRADE (the Buyer). Its offices are on: Old Admiralty Building, London, SW1A 2DY
2.	<b>Supplier</b>	Name: OCO GLOBAL Ltd Address: 6 Citylink Business Park, 6 Albert Street, Belfast, Northern Ireland BT12 4HQ Registration number: NI045268
3.	<b>Contract</b>	This Contract between the Buyer and the Supplier is for the supply of Deliverables, being to provide the Export Service Hub located within the North America region. The hub will deliver in-market export support services to UK based businesses that are seeking to source export opportunities, see Schedule 2 (Specification) for full details. This opportunity is advertised in this Contract Notice in Find A Tender, reference 2024/S 000-024232 (FTS Contract Notice).
4.	<b>Contract reference</b>	<b>CR_4756</b>
5.	<b>Buyer Cause</b>	<ul style="list-style-type: none"> <li>Any material breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier.</li> </ul>
6.	<b>Collaborative working principles</b>	The Collaborative Working Principles apply to this Contract. See Clause 3.1.3 for further details.
7.	<b>Financial Transparency Objectives</b>	The Financial Transparency Objectives do not apply to this Contract. See Clause 6.3 for further details.

8.	<b>Start Date</b>	15 <sup>th</sup> January 2025
9.	<b>Expiry Date</b>	31 <sup>st</sup> March 2028
0.	<b>Extension Period</b>	<p>Two further periods of up to 12 months each on the same terms with a maximum expiry date of 31<sup>st</sup> March 2030</p> <p>Extension exercised where the Buyer gives the Supplier no less than 3 Months' written notice before this Contract expires</p>
1.	<b>Ending this Contract without a reason</b>	<p>The Buyer shall be able to terminate this Contract in accordance with Clause 14.3.</p> <p>Provided that the amount of notice that the Buyer shall give to terminate in Clause 14.3 shall be 90 Days.</p>
2.	<b>Incorporated Terms</b> (together these documents form the " <b>this Contract</b> ")	<p>The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> <li>(a) Any Special Terms (see <b>Section 14 (Special Terms)</b> in this Award Form)</li> <li>(b) Core Terms</li> <li>(c) Schedule 36 (Intellectual Property Rights)</li> <li>(d) Schedule 1 (Definitions)</li> <li>(e) Schedule 6 (Transparency Reports)</li> <li>(f) Schedule 20 (Processing Data)</li> <li>(g) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> <li>(i) Schedule 2 (Specification)</li> <li>(ii) Schedule 3 (Charges)</li> <li>(iii) Schedule 5 (Commercially Sensitive Information)</li> <li>(iv) Schedule 7 (Staff Transfer)</li> <li>(v) Schedule 8 (Implementation Plan &amp; Testing)</li> <li>(vi) Schedule 10 (Service Levels)</li> <li>(vii) Schedule 11 (Continuous Improvement)</li> <li>(viii) Schedule 13 (Contract Management)</li> <li>(ix) Schedule 14 (Business Continuity and Disaster Recovery)</li> <li>(x) Schedule 16 (Security)</li> <li>(xi) Schedule 19 (Cyber Essentials Scheme)</li> <li>(xii) Schedule 21 (Variation Form)</li> </ul> </li> </ul>

		<p>(xiii) Schedule 22 (Insurance Requirements)</p> <p>(xiv) Schedule 23 (Guarantee)</p> <p>(xv) Schedule 24 (Financial Difficulties)</p> <p>(xvi) Schedule 25 (Rectification Plan)</p> <p>(xvii) Schedule 26 (Sustainability)</p> <p>(xviii) Schedule 27 (Key Subcontractors)</p> <p>(xix) Schedule 29 (Key Supplier Staff)</p> <p>(xx) Schedule 30 (Exit Management)</p> <p>h) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above.</p>
13.	<b>Special Terms</b>	<p>Special Term 1</p> <p>(i) The Supplier must obtain written confirmation from the Buyer that it has met the security requirements of the Buyer's IRAP team at least 2 weeks before the Start Date or such other date as is agreed between the Parties in writing.</p> <p>(ii) Failure by the Supplier to obtain written confirmation that it has met the security requirements of the Buyer's IRAP team by the date set out in (i) above shall be a Material Default.</p>
14.	<b>Buyer's Environmental Policy</b>	See Schedule 26 (Sustainability)
15.	<b>Social Value Commitment</b>	The Supplier agrees, in providing the Deliverables and performing its obligations under this Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and report on the Social Value KPIs as required by Schedule 10 (Service Levels)
16.	<b>Buyer's Security Requirements and Security and ICT Policy</b>	<p>Security Requirements: as set out in Schedule 16 (Security).</p> <p><b>Security Policy:</b> as set out in Schedule 16 (Security).</p> <p>For the purposes of Schedule 16 (Security) the Supplier is required to comply with the Security Policy.</p> <p>For the purposes of Supplier Staff vetting, the Supplier is required to comply with the Security Policy.</p>

17.	<b>Charges</b>	Details in Schedule 3 (Charges) Indexation is applicable as detailed in Schedule 3 (Charges)
18.	<b>Estimated Year 1 Charges</b>	
19.	<b>Reimbursable expenses</b>	Not recoverable as set out in Schedule 3 (Charges)
20.	<b>Payment method</b>	As set out in Schedule 3 (Charges)
21.	<b>Service Levels</b>	Service Credits will accrue in accordance with Schedule 10 (Service Levels)  The Service Credit Cap is: 15% of the annual value of the contract charges  The Service Period is: 1 Month or such other period as may be set against a Service Level in Annex A of Part of Schedule 10 (Service Levels). A Critical Service Level Failure is where:  (i) KPI's 01, 02 and 04 each score 'Requires Improvement' or below for a minimum of 3 consecutive months;
22.	<b>Liability</b>	In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of <b>£5 million</b> or <b>150%</b> of the Estimated Yearly Charges  In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, being <b>20 million</b>
23.	<b>Cyber Essentials Certification</b>	<ul style="list-style-type: none"> <li>● Cyber Essentials Scheme Plus Certificate (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme)</li> </ul>
24.	<b>Progress Meetings and Progress Reports</b>	The Supplier shall attend Progress Meetings with the Buyer every month in accordance with Schedule 13 (Contract Management)  The Supplier shall provide the Buyer with Progress Reports every week in accordance with Schedule 8 (Implementation Plan and Testing)
25.	<b>Guarantor</b>	Not applicable

26.	<b>Virtual Library</b>	<p>In accordance with Paragraph 2.2. of Schedule 30 (Exit Management)</p> <ul style="list-style-type: none"> <li>the period in which the Supplier must create and maintain the Virtual Library, is as set out in that Paragraph and</li> <li>the Supplier shall update the Virtual Library every month</li> </ul>
27.	<b>Supplier's Contract Manager</b>	<div>██████████</div> <div>██████████████████</div> <div>██████████████████████████</div> <div>██████████</div>
28.	<b>Supplier Authorised Representative</b>	<div>██████████</div> <div>██████████</div> <div>████████████████████</div> <div>██████████████████</div>
29.	<b>Supplier Compliance Officer</b>	<div>██████████████</div> <div>██████████</div> <div>██████████████████████████</div> <div>██████████████</div>
30.	<b>Supplier Data Protection Officer</b>	<div>██████████████</div> <div>██████████████</div> <div>██████████████████████████</div> <div>██████████████</div>
31.	<b>Supplier Marketing Contact</b>	<div>██████████████</div> <div>██████████████</div> <div>██████████████████████████</div> <div>██████████████</div>
32.	<b>Key Subcontractors</b>	Not Applicable

33. Buyer  
Authorised  
Representative

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:		Signature:	
Name:		Name:	
Role:		Role:	
Date:	18/1/2025	Date:	20/1/2025

Core Terms – Mid-Tier, Crown Copyright 2023

## **Core Terms – Mid-tier**

## Contents

1.	Definitions used in the contract	1
2.	How the contract works	1
3.	What needs to be delivered	2
4.	Pricing and payments	4
5.	The buyer's obligations to the supplier	5
6.	Record keeping and reporting	5
7.	Supplier staff	7
8.	Supply chain	7
9.	Rights and protection	9
10.	Intellectual Property Rights (IPRs)	10
11.	Rectifying issues	10
12.	Escalating issues	11
13.	Step-in rights	11
14.	Ending the contract	12
15.	How much you can be held responsible for	15
16.	Obeying the law	16
17.	Insurance	16
18.	Data protection and security	16
19.	What you must keep confidential	18
20.	When you can share information	19
21.	Invalid parts of the contract	20
22.	No other terms apply	20
23.	Other people's rights in this Contract	20
24.	Circumstances beyond your control	20
25.	Relationships created by the contract	21
26.	Giving up contract rights	21
27.	Transferring responsibilities	21
28.	Changing the contract	22
29.	How to communicate about the contract	23
30.	Dealing with claims	23
31.	Preventing fraud, bribery and corruption	24



32.	Equality, diversity and human rights	25
33.	Health and safety	25
34.	Environment	26
35.	Tax	26
36.	Conflict of interest	27
37.	Reporting a breach of the contract	27
38.	Further Assurances	27
39.	Resolving disputes	27
40.	Which law applies	28

## 1. Definitions used in the contract

Interpret this Contract using Schedule 1 (Definitions).

## 2. How the contract works

- 2.1 If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:
  - 2.1.1 make changes to the Award Form;
  - 2.1.2 create new Schedules;
  - 2.1.3 exclude optional template Schedules; and
  - 2.1.4 use Special Terms in the Award Form to add or change terms.
- 2.2 The Contract:
  - 2.2.1 is between the Supplier and the Buyer; and
  - 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- 2.3 The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.
- 2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:
  - 2.4.1 the Buyer's requirements for the Deliverables;
  - 2.4.2 the Buyer's operating processes and working methods; and
  - 2.4.3 the ownership and fitness for purpose of the Buyer Assets, and it has advised the Buyer in writing of:
    - 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
    - 2.4.5 the actions needed to remedy each such unsuitable aspect; and
    - 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions, and such actions, timetable and costs are fully reflected in this Contract.
- 2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - 2.5.1 verify the accuracy of the Due Diligence Information; and



2.5.2 properly perform its own adequate checks.

2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.

2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All deliverables**

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the Tender Response and this Contract;
- (b) using reasonable skill and care;
- (c) using Good Industry Practice;
- (d) using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- (e) on the dates agreed; and
- (f) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- (a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- (b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;
- (c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- (d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and

- (e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

### 3.2 **Goods clauses**

- 3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.12 The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation

then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### **3.3 Services clauses**

3.3.1 Late Delivery of the Services will be a Default of this Contract.

3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.

3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

## **4. Pricing and payments**

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.

4.2 All Charges:

4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and

4.2.2 include all costs connected with the Supply of Deliverables.

4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.

- 4.4 A Supplier invoice is only valid if it:
  - 4.4.1 includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
  - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

- 5.1 If Supplier Non-Performance arises from a Buyer Cause:
  - 5.1.1 the Buyer cannot terminate this Contract under Clause 14.4.1;
  - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
  - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
  - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2 Clause 5.1 only applies if the Supplier:
  - 5.2.1 gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
  - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
  - 5.2.3 mitigated the impact of the Buyer Cause.

## **6. Record keeping and reporting**

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.

- 6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
  - 6.3.1 on or before the Effective Date;
  - 6.3.2 at the end of each Contract Year; and
  - 6.3.3 within six (6) Months of the end of the Contract Period,
  - 6.3.4 and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.
- 6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
  - 6.4.1 Supplier's currently incurred or forecast future Costs; and
  - 6.4.2 forecast Charges for the remainder of this Contract,
  - 6.4.3 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5 The Buyer or an Auditor can Audit the Supplier.
- 6.6 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
  - 6.6.1 complies with the Supplier's operating procedures; and
  - 6.6.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.7 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
  - 6.7.1 all information within the permitted scope of the Audit;
  - 6.7.2 any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
  - 6.7.3 the Supplier Staff.
- 6.8 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
  - 6.9.1 correcting any identified Default;
  - 6.9.2 rectifying any error identified in a Financial Report; and
  - 6.9.3 repaying any Charges that the Buyer has overpaid.



6.10 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

6.10.1 tell the Buyer and give reasons;

6.10.2 propose corrective action; and

6.10.3 provide a deadline for completing the corrective action.

6.11 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

### **3. Supplier staff**

7.1 The Supplier Staff involved in the performance of this Contract must:

7.1.1 be appropriately trained and qualified;

7.1.2 be vetted using Good Industry Practice and the Security Policy (is used); and

7.1.3 comply with all conduct requirements when on the Buyer's Premises.

7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.

7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

### **4. Supply chain**

#### **8.1 Appointing Subcontractors**

8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

- (a) manage Subcontractors in accordance with Good Industry Practice;
- (b) comply with its obligations under this Contract; and
- (c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

## 8.2 **Mandatory provisions in Sub-Contracts**

8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

- (a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
- (b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
- (c) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- (d) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- (e) allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

## 8.3 **When Sub-Contracts can be ended**

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- (d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- (e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

## 8.4 **Competitive terms**

8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the

Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

#### **8.5 Ongoing responsibility of the Supplier**

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

### **9. Rights and protection**

9.1 The Supplier warrants and represents that:

9.1.1 it has full capacity and authority to enter into and to perform this Contract;

9.1.2 this Contract is entered into by its authorised representative;

9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;

9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;

9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;

9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;

9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and

9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.

9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.

9.3 The Supplier indemnifies the Buyer against each of the following:

9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and

9.3.2 non-payment by the Supplier of any tax or National Insurance.

9.4 All claims indemnified under this Contract must use Clause 30.

- 9.5 The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.
- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.
- 10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - 10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
  - 10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.5.1 shall apply.

## **11. Rectifying issues**

- 11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Buyer receives a requested Rectification Plan it can either:
  - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or
  - 11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:

11.3.1 will give reasonable grounds for its decision; and

11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

## **12. Escalating issues**

12.1 If the Supplier fails to:

12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and

12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

## **13. Step-in rights**

13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:

13.1.1 whether it will be taking action itself or with the assistance of a third party;

13.1.2 what Required Action the Buyer will take during the Step-In Process;

13.1.3 when the Required Action will begin and how long it will continue for;

13.1.4 whether the Buyer will require access to the Sites; and

13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.

13.2 For as long as the Required Action is taking place:

13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;

13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and

13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.

13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.

13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.

13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:

13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or

13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

#### **14. Ending the contract**

14.1 The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.

14.2 The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.

##### **14.3 Ending the contract without a reason**

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause 14.6.3 applies.

##### **14.4 When the Buyer can end this Contract**

14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 14.5.1 shall apply:

(a) there's a Supplier Insolvency Event;

- (b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
- (c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- (d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- (e) there's any Material Default of this Contract;
- (f) there's any Material Default of any Joint Controller Agreement relating to this Contract;
- (g) there's a Default of Clauses 2.8, 12, 31 or Schedule 28 (ICT Services) (where applicable);
- (h) the performance of the Supplier causes a Critical Service Level Failure to occur;
- (i) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- (j) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- (k) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- (l) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- (m) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- (n) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).

14.4.2 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses 14.5.1(b) to 14.5.1(g) apply.

#### **14.5 What happens if the contract ends**

14.5.1 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- (a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
- (g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

14.5.2 If either Party terminates this Contract under Clause 24.3:

- (a) each party must cover its own Losses; and
- (b) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5.3 The following Clauses survive the termination or expiry of this Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 14.5, 14.6.3, 15, 18, 19, 20, 21, 22, 23, 35.3.2, 39, 40, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

#### **14.6 When the Supplier (and the Buyer) can end the contract**

14.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

14.6.2 The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.

14.6.3 Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.6.1 or 27.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;



- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if this Contract had not been terminated; and
- (c) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

#### **14.7 Partially ending and suspending the contract**

- 14.7.1 Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.
- 14.7.2 The Buyer can only partially terminate or suspend this Contract if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.
- 14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:
  - (a) reject the Variation; or
  - (b) increase the Charges, except where the right to partial termination is under Clause 14.3.
- 14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

### **15. How much you can be held responsible for?**

- 15.1 Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.
- 15.2 Neither Party is liable to the other for:
  - 15.2.1 any indirect Losses; and/or
  - 15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:
  - 15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
  - 15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
  - 15.3.3 any liability that cannot be excluded or limited by Law.

15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 7.5, 9.3.2, 10.2, 35.3.2 or Schedule 7 (Staff Transfer) of this Contract.

15.5 In spite of Clause 15.1, The Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Schedule 7 (Staff Transfer) of this Contract.

15.6 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.

15.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.

15.8 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:

15.8.1 Deductions; and

15.8.2 any items specified in Clause 15.4.

15.9 If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## **16. Obeying the law**

16.1 The Supplier shall comply with the provisions of Schedule 26 (Sustainability).

16.2 The Supplier shall comply with the provisions of:

16.2.1 the Official Secrets Acts 1911 to 1989; and

16.2.2 section 182 of the Finance Act 1989.

16.3 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.

16.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

## **17. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

## **18. Data protection and security**

18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).

- 18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon reasonable request.
- 18.4 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.
- 18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
- 18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
  - 18.6.2 restore the Government Data itself or using a third party.
- 18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is at fault.
- 18.8 The Supplier:
- 18.8.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;
  - 18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - 18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;
  - 18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the

Parties are either Independent Controllers or Joint Controllers; and

18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

## **19. What you must keep confidential**

19.1 Each Party must:

19.1.1 keep all Confidential Information it receives confidential and secure;

19.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and

19.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;

19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;

19.2.3 if the information was given to it by a third party without obligation of confidentiality;

19.2.4 if the information was in the public domain at the time of the disclosure;

19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;

19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;

19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and

19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to

meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

19.4 The Buyer may disclose Confidential Information in any of the following cases:

19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;

19.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;

19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

19.4.4 where requested by Parliament;

19.4.5 under Clauses 4.6 and 20; and

19.4.6 on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive), Clause 13 (Step-in rights), Schedule 7 and Schedule 30 (if used).

19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.

19.6 Transparency Information and any information which is exempt from disclosure by Clause 20 is not Confidential Information.

19.7 The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## **20. When you can share information**

20.1 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.

20.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

20.2.1 publish the Transparency Information; and

20.2.2 comply with any Request for Information.

20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

## 21. Invalid parts of the contract

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

## 22. No other terms apply

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

## 23. Other people's rights in this Contract

23.1 The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").

23.2 Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

23.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

23.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## 24. Circumstances beyond your control

24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:

24.1.1 provides a Force Majeure Notice to the other Party; and

24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third

party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.

24.3 Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

## **19. Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **20. Giving up contract rights**

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **21. Transferring responsibilities**

27.1 The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.

27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot sub-contract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;

27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or

27.2.3 the proposed Subcontractor employs unfit persons.

27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

27.5 The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.

27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- 27.7.1 their name;
- 27.7.2 the scope of their appointment;
- 27.7.3 the duration of their appointment; and
- 27.7.4 a copy of the Sub-Contract.

## **28. Changing the contract**

28.1 Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.

28.2 The Supplier must provide an Impact Assessment either:

- 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
- 28.2.2 within the time limits included in a Variation Form requested by the Buyer.

28.3 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:

- 28.3.1 agree that this Contract continues without the Variation; and
- 28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).

28.4 The Buyer is not required to accept a Variation request made by the Supplier.

28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:

- 28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
- 28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.

28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

28.7 If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They



must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

28.7.2 of how it has affected the Supplier's costs.

28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

## **29. How to communicate about the contract**

29.1 All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

29.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

29.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **30. Dealing with claims**

30.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.

30.2 At the Indemnifier's cost the Beneficiary must both:

30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

30.2.2 give the Indemnifier reasonable assistance with the claim if requested.

30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.

30.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the

Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and

30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

### **31. Preventing fraud, bribery and corruption**

31.1 The Supplier must not during the Contract Period:

31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);

31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

31.2 The Supplier must during the Contract Period:

31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;

31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and

31.2.3 if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

31.3 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:

31.3.1 been investigated or prosecuted for an alleged Prohibited Act;

31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;

31.3.3 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and

31.3.4 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.

31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:

31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and

31.5.2 immediately terminate this agreement in accordance with Clause 14.4.1 and the consequences of termination in Clauses 14.5.1 shall apply.

31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:

31.6.1 Prohibited Act;

31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and

31.6.3 action it has decided to take.

## **32. Equality, diversity and human rights**

32.1 The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:

32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and

32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Contract.

## **33. Health and safety**

33.1 The Supplier must perform its obligations meeting the requirements of:

33.1.1 all applicable Law regarding health and safety; and

33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.

33.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of this Contract.

## **34. Environment**

34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **35. Tax**

35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.

35.2 Where the Charges payable under this Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:

35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and

35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.

35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:

35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and

35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and

35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **36. Conflict of interest**

36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.

36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 14.5.1(b) to 14.5.1(g) shall apply.

### **37. Reporting a breach of the contract**

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:

37.1.1 breach of Law;

37.1.2 Default of Clause 16.1; and

37.1.3 Default of Clauses 31 to 36.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

### **38. Further Assurances**

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### **39. Resolving disputes**

- 39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.
- 39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.
- 39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 39.3.1 determine the Dispute;
  - 39.3.2 grant interim remedies; and
  - 39.3.3 grant any other provisional or protective relief.
- 39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.
- 39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

#### **40. Which law applies**

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

# Schedule 1 (Definitions)

## 1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Contract, unless the context otherwise requires:
- 1.3.1 reference to a gender includes the other gender and the neuter;
- 1.3.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- 1.3.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023);
- 1.3.4 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
- 1.3.5 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- 1.3.6 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under this Contract;
- 1.3.7 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
- 1.3.8 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;

1.3.9 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;

1.3.10 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole; and

1.3.11 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

1.4 In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

**"Accounting Reference Date"** Means the date in each year to which a company's financial accounts are prepared

**"Accreditation Decision"** The decision of the Buyer, taken in accordance with the process set out in Paragraph 6 of Schedule 13 (Security), to issue the Supplier with a Risk Management Approval Statement or a Risk Management Rejection Notice in respect of the Information Security Management System.

**"Achieve"** in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "**Achieved**", "**Achieving**" and "**Achievement**" shall be construed accordingly;

**"Achieved Profit Margin"** The actual profit (in percentage or in real values) that has been generated by this item/transaction/ service.

**"Additional FDE Group Member"** means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);



<b>"Additional Services"</b>	The requirements detailed in Schedule 2 (Specification) Requirement ID's M.1, M.2, M.3 and M4.
<b>"Affected Party"</b>	the party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Allowable Assumptions"</b>	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Annual Contract Report"</b>	The annual contract report to be provided by the Supplier to the Buyer
<b>"Approval"</b>	the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed accordingly;
<b>"Associates"</b>	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
<b>"Audit"</b>	the Buyer's right to: <ul style="list-style-type: none"> <li>(a) verify the integrity and content of any Financial Report;</li> <li>(b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with this Contract);</li> <li>(c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> </ul>

- (d) verify the Open Book Data;
  - (e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;
  - (f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
  - (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;
  - (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
  - (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
  - (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
  - (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
- "Auditor"**
- (a) the Buyer's internal and external auditors;
  - (b) the Buyer's statutory or regulatory auditors;

	<p>(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>(d) HM Treasury or the Cabinet Office;</p> <p>(e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>(f) successors or assigns of any of the above;</p>
<b>"Award Form"</b>	the document outlining the Incorporated Terms and crucial information required for this Contract, to be executed by the Supplier and the Buyer;
<b>"Baseline Security Requirements"</b>	The Buyer's baseline security requirements, the current copy of which is contained in Annex 1 of Schedule 16 (Security), as updated from time to time by the Buyer and notified to the Supplier.
<b>"BCDR Plan" or "(Business Continuity and Disaster Recovery Plan)"</b>	A plan prepared by the Supplier for the approval of the Buyer in accordance with Schedule 14 (Business Continuity and Disaster Recovery).
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Business Partners"</b>	The wider export support 'ecosystem' that DBT works with to provide support to UK exporters, including (but not limited to) chambers of commerce, local enterprise partnerships, growth hubs, trade bodies, mayoral authorities, banks, professional services firms and other government departments.
<b>"Buyer"</b>	the public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of this Contract;

<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form;
<b>"Buyer Cause"</b>	has the meaning given to it in the Award Form;
<b>"Buyer's Confidential Information"</b>	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with this Contract;</p> <p>and information derived from any of the above;</p>
<b>"Buyer Existing IPR"</b>	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Crown Body, any Crown IPR, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise)
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Buyer Property"</b>	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
<b>"Buyer Software"</b>	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;

<b>"Buyer System"</b>	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
<b>"Buyer Third Party"</b>	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
<b>"Buyer Ticketing System"</b>	The software program used to process, manage and track SME Client referrals from submission to completion.
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of this Contract which comes into force after the Effective Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under this Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under this Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Client"</b>	An Export Ready UK business, a Business Partner or other individual / body referred to and receiving any kind of support via International Markets.
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in Schedule 5 (Commercially Sensitive Information (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier

	significant commercial disadvantage or material financial loss;
<b>"Collateral"</b>	Materials (other than Digital Services) that are used to support delivery of the International Markets service. These might include brochures, market guides, research reports, presentations, job aids, spreadsheets etc.
<b>"Comparable Supply"</b>	The supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " <b>confidential</b> ") or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
<b>"Contract Period"</b>	the term of this Contract from the earlier of the: (a) Start Date; or (b) the Effective Date, until the End Date;
<b>"Contract Reviews"</b>	A formal review of IM Supplier performance against Contract led by the DBT contract management team.

<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under this Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Core Terms"</b>	the Buyer's terms and conditions which apply to and comprise one part of this Contract set out in the document called <b>"Core Terms"</b> ;
<b>"Costs"</b>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <p>(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Workday, of engaging the Supplier Staff, including:</p> <ul style="list-style-type: none"> <li>(i) base salary paid to the Supplier Staff;</li> <li>(ii) employer's National Insurance contributions;</li> <li>(iii) pension contributions;</li> <li>(iv) car allowances;</li> <li>(v) any other contractual employment benefits;</li> <li>(vi) staff training;</li> <li>(vii) workplace accommodation;</li> <li>(viii) workplace IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</li> </ul>

- (ix) reasonable recruitment costs, as agreed with the Buyer;
- (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
- (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and
- (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;

but excluding:

- (a) Overhead;
- (b) financing or similar costs;
- (c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;
- (d) taxation;
- (e) fines and penalties;
- (f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and
- (g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);



<b>"COTS Software" or "Commercial off the shelf Software"</b>	non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;
<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Award Form;
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Crown IPR"</b>	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Customer Satisfaction Survey"</b>	Means the survey which is sent by the Supplier to all Client businesses supported by the service immediately after completion of services assessing Client satisfaction.
<b>"Data Hub"</b>	DBT's customer relationship management system and data science platform.
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;

<b>"Data Protection Legislation"</b>	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
<b>"Data Protection Liability Cap"</b>	has the meaning given to it in the Award Form;
<b>"Data Protection Officer"</b>	.
<b>"Data Subject"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"DBT"</b>	The Department for Business and Trade and any successors or assigns of its business or functions.
<b>"DBT HQ Function"</b>	The team in DBT UK Trade Delivery accountable for overseeing 'business as usual' delivery of the service, ensuring that DBT delivery partners overseas deliver to contractual commitments, providing shared delivery services, ongoing monitoring and evaluation and a centralised service reporting capability
<b>"DBT Sectors"</b>	The DBT HQ Function teams focusing on supporting trade in specific industrial sectors and working across DBT and other stakeholders to address sectoral barriers to trade and promote sector driven high value campaigns.
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under this Contract;
<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of this Contract in breach of

its terms) or any other default (including Material Default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Buyer;

**"Defect"**

any of the following:

- (a) any error, damage or defect in the manufacturing of a Deliverable; or
- (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or
- (c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; or
- (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;

**"Delay Payments"**

the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

**"Deliverables"**

Goods, Services or software that may be ordered and/or developed under this Contract including the Documentation;

<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of this Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Deliverable Item"</b>	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
<b>"Dependent Parent Undertaking"</b>	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
<b>"Digital Services"</b>	Refers to web-based and other computer systems and technology solutions supplied either through the Buyer or IM delivery partners to support delivery of the Service.
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Contract or in connection with the negotiation, existence, legal validity, enforceability or

	termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under this Contract as:</p> <ul style="list-style-type: none"><li>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li><li>(b) is required by the Supplier in order to provide the Deliverables; and/or</li><li>(c) has been or shall be generated for the purpose of providing the Deliverables;</li></ul>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	The Data Protection Act 2018;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;

<b>"Effective Date"</b>	the date on which the final Party has signed this Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
<b>"End Date"</b>	the earlier of: <ul style="list-style-type: none"> <li>(a) the Expiry Date as extended by the Buyer under Clause 14.2; or</li> <li>(b) if this Contract is terminated before the date specified in (a) above, the date of termination of this Contract;</li> </ul>
<b>"End User"</b>	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
<b>"Environmental Policy"</b>	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, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Enquiry"</b>	A request for support from one Client in any one country / State.
<b>"Escalation Meeting"</b>	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;

<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
<b>"Estimated Yearly Charges"</b>	<p>means for the purposes of calculating each Party's annual liability under Clause 15.1:</p> <ul style="list-style-type: none"> <li>(a) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>(b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</li> <li>(c) after the end of this Contract, the Charges paid or payable in the last Contract Year during the Contract Period;</li> </ul>
<b>"EU GDPR"</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Start Date or otherwise);
<b>"Exit Plan"</b>	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
<b>"Expiry Date"</b>	the date of the end of this Contract as stated in the Award Form;
<b>"Export Academy"</b>	The DBT service which hosts and provides one-to-many training for UK businesses on export related topics in markets and regions.
<b>"Export Account Manager"</b>	ITAs track and manage the relationship with client businesses across one or many Export Journeys. ITAs retain ownership of business relationships even where they are referred to the IM or other partners for delivery support.

<b>“Export Action Plan”</b>	A document created as part of the ITA service summarising the export strategy of a business and agreed forward work plan covering services to be delivered in the UK and potentially overseas.
<b>“Export Digital Enquiry Service” or “EDES”</b>	The DBT team which provides signposting and guidance to basic enquiries contacted through the <a href="https://great.gov.uk">great.gov.uk</a> platform. The team may refer eligible businesses to the IM service via the IM Referral Form.
<b>“Export Journey”</b>	means the experience of a Client business, covering their interactions with DBT and other service providers and the preparatory and practical steps they take from developing a strategy to realising export wins in their chosen markets.
<b>“Export Service Hub”</b>	A physical or virtual export support centre, established in each of DBT’s HMTC regions, that is the focus for providing support to businesses through the IM. The Export Service Hub manages enquiries and referrals, provides businesses with market advice, and sources and delivers in-market delivery services
<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
<b>“Export Support Directory (ESD)”</b>	Is the online referral platform managed by DBT which hosts the Overseas Referral Network
<b>“Export Support Service (ESS)”</b>	Export Support Service (ESS) ecosystem is the joined-up network of services that DBT provides to UK registered SMEs to support them on their exporting journey. The ESS ecosystem also includes International Trade Advisers (ITAs), the International Markets service, the Export Academy, Export Digital Enquiry Services (EDES), Export Champions and other services.
<b>“Export Win”</b>	Export Wins capture the deals that DBT supports and quantify their expected export value for an eligible UK



company which has resulted from significant support provided by DBT (or its suppliers).

**"Financial  
Distress  
Event"**

The occurrence of one or more the following events:

- (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;
- (b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;
- (d) any FDE Group entity commits a material breach of covenant to its lenders;
- (e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and

trading prospects in the reports from directors or external auditors;

(i) any of the following:

- (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
- (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
- (iii) non-payment by any FDE Group entity of any financial indebtedness;
- (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
- (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
- (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with this Contract; or

(j) **any two of the Financial Indicators** set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold;

- "FDE Group"** the Supplier and any Additional FDE Group Member;
- "Financial Report"** a report provided by the Supplier to the Buyer that:
- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
  - (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);
  - (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract; and
  - (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;
- "Financial Transparency Objectives"** means:
- (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;
  - (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
  - (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
  - (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;

- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;

**"FOIA"**

the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

**"Force Majeure Event"**

any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:

- (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;
- (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;
- (c) acts of a Crown Body, local government or regulatory bodies;
- (d) fire, flood or any disaster; or
- (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:
  - (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;
  - (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and

	<p>(iii) any failure of delay caused by a lack of funds,</p> <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
<b>"General Anti-Abuse Rule"</b>	the legislation in Part 5 of the Finance Act 2013; and any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
<b>"Good Industry Practice"</b>	At any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

<b>"Government Data"</b>	<p>(a) the 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, including any of the Buyer's Confidential Information, and which:</p> <ul style="list-style-type: none"> <li>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</li> <li>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</li> </ul> <p>(b) any Personal Data for which the Buyer is Controller;</p>
<b>"Government Procurement Card"</b>	<p>the Government's preferred method of purchasing and payment for low value goods or services  <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a>;</p>
<b>"Guarantor"</b>	<p>the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;</p>
<b>"Halifax Abuse Principle"</b>	<p>the principle explained in the CJEU Case C-255/02 Halifax and others;</p>
<b>"High Export Potential (HEP) Businesses"</b>	<p>A business contact that has a product or service to export and a minimum turnover of £500k per annum.</p>
<b>"HMRC"</b>	<p>His Majesty's Revenue and Customs;</p>
<b>"ICT System; Environment"</b>	<p>the Buyer System and the Supplier</p>
<b>"ICT Policy"</b>	<p>the Buyer's policy in respect of information and communications technology, referred to in the Award Form (if used), which is in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;</p>

<b>“IM Adviser”</b>	A person employed by the Supplier to provide market advice and source in-market services to Clients in accordance with Schedule 2 (Specification).
<b>“IM Delivery Partner”</b>	Any organisation, other than the Supplier, appointed by the Buyer to run the International Markets Service in designated markets around the world.
<b>“IM Referral Form”</b>	A standard proforma for ITA completion when referring Client businesses to the IM containing client profile data, summary of client interactions, ITA Export Account Manager details etc.
<b>“IM Supplier Customer Relationship Management (CRM) System (IM Supplier CRM System)”</b>	The IM Supplier CRM System that supports all export support processes allowing the Supplier to establish Client records and then track Client interactions with businesses referred to IM.
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <p>details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract;</p> <p>details of the cost of implementing the proposed Variation;</p> <p>details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</p> <p>a timetable for the implementation, together with any proposals for the testing of the Variation; and</p> <p>such other information as the Buyer may reasonably request in (or in response to) the Variation request;</p>
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where

	that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Incorporated Terms"</b>	the contractual terms applicable to this Contract specified in the Award Form;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Controller"</b>	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with this Contract;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of this Contract specified in the Award Form;
<b>"Insolvency Event"</b>	with respect to any person, means: <ul style="list-style-type: none"> <li>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:               <ul style="list-style-type: none"> <li>(i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</li> </ul> </li> <li>( ) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</li> <li>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to</li> </ul>



- obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
  - (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
  - (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
  - (f) where that person is a company, an LLP or a partnership:
    - (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
    - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;

## Schedule 1 (Definitions), Crown Copyright 2023

	<ul style="list-style-type: none"> <li>(i) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</li> <li>(ii) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</li> </ul>
	(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with this Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	<ul style="list-style-type: none"> <li>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</li> <li>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</li> <li>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</li> </ul>
<b>"IP Completion Day"</b>	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged

	infringement) of any IPR (excluding COTS Software where Part B of Schedule 36 (Intellectual Property Rights) is used), used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;
<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"ITA Service" or "International Trade Adviser" or "ITA"</b>	A UK based adviser working with UK clients as part of the ITA Service which helps Clients develop export-led growth strategies and provides support so they can become 'Export Ready'. If appropriate these firms are then referred to the International Markets service for regional advice and in-market support.
<b>"ITA Client Account"</b>	A business record on the Data Hub system that is established for each business that is in receipt of the ITA Service and then replicated on the IM Customer Relationship Management System where ITA businesses are referred overseas to Export Service Hubs for regional and in-market support.
<b>"ITA Regional Delivery Partner"</b>	Any organisation appointed by the Buyer to run the International Trade Advisor service in the UK regions in place at the Effective Date.
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
<b>"Joint Control"</b>	where two (2) or more Controllers jointly determine the purposes and means of Processing;
<b>"Joint Controllers"</b>	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
<b>"Key Staff"</b>	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);

<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <ul style="list-style-type: none"> <li>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</li> <li>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</li> <li>(c) with a Sub-Contract with this Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract,</li> </ul> <p>and the Supplier shall list all such Key Subcontractors in the Award Form;</p>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Effective Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>"Law Enforcement Processing"</b>	processing under Part 3 of the DPA 2018;
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest

	and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and " <b>Loss</b> " shall be interpreted accordingly;
<b>"Malicious Software"</b>	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
<b>"Management Information" or "MI"</b>	The operational data captured in the supplier CRM system including business characteristics and enquiry information, data from the IM referral form, and the service delivered to the Client by the Supplier.
<b>"Market Intelligence and Collateral"</b>	Off-the-shelf materials (market and sector facts, regulatory requirements, insights, facts and statistics etc.) maintained and collated by the Supplier to help Clients identify the most appropriate export markets / address market specific export barriers.
<b>"Marketing Contact"</b>	shall be the person identified in the Award Form;
<b>"Material Default"</b>	a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)
<b>"Milestone"</b>	an event or task described in the Implementation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>"Month"</b>	a calendar month and " <b>Monthly</b> " shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in

	accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>"New IPR Item"</b>	means a deliverable, document, product or other item within which New IPR subsists;
<b>"North America"</b>	For the purposes of this contract, North America shall mean the United States of America and Canada.
<b>"Notifiable Default"</b>	<p>means:</p> <p>(a) the Supplier commits a Material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
<b>"Object Code"</b>	software and/or data in machine-readable complied object code form;
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p>

- (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;

**"Open  
Book Data"**

complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of this Contract, including details and all assumptions relating to:

- (a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;
- (b) operating expenditure relating to the provision of the Deliverables including an analysis showing:
  - (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;
  - (iii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
  - (iv) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and
  - (v) Reimbursable Expenses, if allowed under the Award Form;

- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;
- (e) the Supplier Profit achieved over the Contract Period and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period;

**"Open Licence"**

means any material that is published for use, with rights to access, copy, modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> and the Open Standards Principles documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, and includes the Open Source publication of Software;

**"Open Licence Publication Material"**

means items created pursuant to this Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;

**"Open Source"**

computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;

**"Overhead"**

those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and



	insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>“Overseas Referral Network” or “ORN”</b>	A list of commercial providers that created by the Buyer and managed in North America by the Supplier and DBT regional teams in other global regions. Businesses and organisations offering services through the network are subject to preliminary due diligence by the Supplier and are selected on the basis that they are able to support delivery of services.
<b>Overseas Referral Network Provider Eligibility Checks</b>	The eligibility criteria set out by DBT in the Export Support Directory Terms and Conditions (as amended from time to time) or any other eligibly checks that may be agreed with DBT in each case in relation to a Providers registration on and membership of the ORN.
<b>Overseas Referral Network Agreement</b>	An agreement between the Buyer and the Overseas Referral Network Provider setting out the terms of membership in the Overseas Referral Network.
<b>Overseas Referral Network Client Terms and Conditions</b>	Has the meaning given to it in the specification
<b>“Overseas Referral Network Provider”</b>	An overseas firm able to provide specialist advisory and export support who has been added to the Overseas Referral Network by the Supplier.
<b>Parent Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;

<b>"Party"</b>	the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in "Whistleblowing: list of prescribed people and bodies", 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Pricing Schedule"</b>	Means the completed pricing model template submitted by the Supplier as part of their Tender Response.
<b>"Processing"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Prohibited Acts"</b>	(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:

- (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or
- (c) committing any offence:
  - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
  - (ii) under legislation or common law concerning fraudulent acts; or
  - (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

**"Protective Measures"**

technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 16 (Security);

**"Public Sector Body "**

means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;

**"Quarter"**

means a 3 month period

<b>"Rate Card"</b>	means the charges submitted as part of the Supplier's Tender against the Additional Services requirement in Schedule 3 (Charges and Invoicing).
<b>"Recall"</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>"Rectification Plan"</b>	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none"> <li>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</li> <li>(b) the actual or anticipated effect of the Notifiable Default; and</li> <li>(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);</li> </ul>
<b>"Rectification Plan Process"</b>	the process set out in Clause 11;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the</li> </ul>

	<p>Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</p> <p>(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p>
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to this Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);

<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Award Form (if used), in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;
<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:

	<p>(a) the Deliverables are (or are to be) provided; or</p> <p>(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</p> <p>(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided);</p>
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Social Value"</b>	the additional social benefits that can be achieved in the delivery of this Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
<b>"Social Value KPIs"</b>	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
<b>"Social Value Report"</b>	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used;
<b>"Software"</b>	any software including Specially Written Software, COTS Software and software that is not COTS Software;
<b>"Software Supporting Materials"</b>	has the meaning given to it in Schedule 36 (Intellectual Property Rights);
<b>"Source Code"</b>	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with

	all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
<b>"Special Terms"</b>	any additional terms and conditions set out in the Award Form incorporated into this Contract;
<b>"Specially Written Software"</b>	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Effective Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification);
<b>"Standards"</b>	any: <ul style="list-style-type: none"> <li>(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li> <li>(b) standards detailed in the specification in Schedule 2 (Specification);</li> <li>(c) standards agreed between the Parties from time to time;</li> </ul>



	(d) relevant Government codes of practice and guidance applicable from time to time;
<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;
<b>"Step-In Trigger Event"</b>	means: <ul style="list-style-type: none"> <li>(a) the Supplier's level of performance constituting a Critical Service Level Failure;</li> <li>(b) the Supplier committing a Material Default which is irremediable;</li> <li>(c) where a right of termination is expressly reserved in this Contract;</li> <li>(d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;</li> <li>(e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;</li> <li>(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;</li> <li>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</li> <li>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</li> <li>(i) a need by the Buyer to take action to discharge a statutory duty;</li> </ul>
<b>"Step-Out Plan"</b>	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under this Contract following the completion of the Step-In Process;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;

<b>"Sub-Contract"</b>	<p>(a) any contract or agreement (or proposed contract or agreement), other than this Contract or an Overseas Referral Network Agreement, pursuant to which a third party:</p> <p>(b) provides the Deliverables (or any part of them);</p> <p>(c) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>(d) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
<b>"Subsidiary Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier"</b>	the person, firm or company identified in the Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
<b>"Supplier Code of Conduct"</b>	<p>The HM Government Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.</p> <p>(<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf</a>)</p>
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other

	items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Existing IPR"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
<b>"Supplier Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
<b>"Supplier Group"</b>	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier New and Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the New IPR and Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>(c) comply with an obligation under this Contract;</li> </ul>
<b>"Supplier Profit"</b>	This is the amount of profit the supplier makes from the sale of goods of an item or a transaction or in the delivery of a service <ul style="list-style-type: none"> <li>(a) Sales Less Cost of Sales = Gross profit</li> <li>(b) Gross Profit less Other Operating income divided by costs = Operating Profit.</li> </ul>
<b>"Supplier Profit Margin"</b>	This is the Profit margin (in percentage or in value) that the supplier makes from the sale of goods of an item or a transaction or in the delivery of a service, within this contract. <ul style="list-style-type: none"> <li>(a) Operating Profit / Total Sales (or turnover) for that same period = Suppliers Operating Profit Margin</li> </ul>

<b>"Supplier Software"</b>	Software which is proprietary to the Supplier (or an Affiliate of the Supplier) and which is or will be used by the Supplier for the purpose of providing the Services.
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under this Contract;
<b>"Supplier System"</b>	the information and communications technology system used by the Supplier in implementing and supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
<b>"Supplier's Confidential Information"</b>	<ul style="list-style-type: none"><li>(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</li><li>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract;</li><li>(c) information derived from any of (a) and (b) above;</li></ul>
<b>"Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of this Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supply Chain Information"</b>	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);

**Report  
Template"****"Supported  
Business"**

A supported business is one which has been referred to the IM service and following the Manage & Enquiries and Referrals stage goes on to receive Market Advice or be referred on to receive in-market services.

**"Supporting  
Documentation"**

sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under this Contract detailed in the information are properly payable;

**"Tender  
Response"**

the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);

**"Termination  
Assistance"**

the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;

**"Termination  
Assistance  
Notice"**

The notice given by the buyer at least 4 months prior to the date of termination or expiry of this contract or as soon as reasonably practicable following the service by either Party of a Termination Notice.

**"Termination  
Assistance  
Period"**

the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of Schedule 30 (Exit Management);

**"Termination  
Notice"**

a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;

**"Termination  
Payment"**

Means the payment resulting from the early termination of the contract by either party paid in accordance with the terms of this Contract.

<b>"Termination Services"</b>	The services and activities to be performed by the Supplier pursuant to the Exit Plan.
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in this Contract;
<b>"Test Plan"</b>	a plan: <ul style="list-style-type: none"> <li>(a) for the Testing of the Deliverables; and</li> <li>(b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>
<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to this Contract as set out in the Test Plan or elsewhere in this Contract and <b>"Tested"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Third Party IPR Licence"</b>	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36 (Intellectual Property Rights);
<b>"Transparency Information"</b>	the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> <li>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</li> <li>(b) Commercially Sensitive Information;</li> </ul>
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"Triage"</b>	The process of identifying that a potential lead meets the target high export potential profile and is

	receptive to receiving support from DBT. This is usually undertaken by ITAs in England but may need to be undertaken by IM Advisers for referrals from other sources.
<b>"UK Export Finance (UKEF)"</b>	DBT's UK Export Finance function which through a national network of Export Finance Managers helps businesses secure funding and insurances to support their exporting strategies.
<b>"UK GDPR"</b>	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
<b>"Variation"</b>	means a variation to this Contract;
<b>"Variation Form); Form"</b>	the form set out in Schedule 21 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 28 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Verification Period"</b>	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
<b>"Workday"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees)

(<https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees>) applies in respect of the Deliverables; and

**"Working Day"**

any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.



## Schedule 2 (Specification)

### Introduction

International Markets (IM) is part of the Export Support Service (ESS) ecosystem: the joined-up network of services that DBT provides to UK registered Clients to support them on their exporting journey. The ESS ecosystem also includes International Trade Advisers (“ITAs”), the Export Academy, Export Digital Enquiry Services (EDES), export champions and other services.

IM advisers provide specialist in-market services to UK businesses, to identify the most efficient way for them to trade with and invest in opportunity-rich overseas markets. IM support includes:

- **One-to-one bespoke advice**, specifically addressing a business need, including diagnosis, opportunity assessment and support to enter the market
- **Off the shelf market intelligence**: a detailed overview of the sector that the Client is interested in (e.g. key players and distributors) as well as market specific information.
- **Overseas Referral Network**: a vetted network of private sector providers who can provide export support on a paid basis (e.g. legal, accountancy, market research, logistical) and who are currently being onboarded on to the DBT **Export Support Directory** platform, facilitating access for client businesses.

IM support is available free-of-charge to Clients based anywhere in the UK, in any sector or industry, with a turnover of at least £500,000 and an exportable product or service (such Clients are defined as ‘**High Export Potential**’ or “**HEP**” businesses). An exceptions process has been developed to provide flexibility and allow ITAs to make the case for smaller, fast-growing, non-HEP Clients, who can then receive IM’s range of services.

The Supplier will be responsible for the delivery of the IM service in the North America HMTc region.

*Who can use the International Markets service:*



IM has been operational in all nine HM Trade Commissioner (HMTc) regions since April 2022 (Africa, Asia Pacific, China, Eastern Europe and Central Asia, Europe, Latin

America and the Caribbean, Middle East and Pakistan, North America, and South Asia) working through a network of 87 advisers in 46 markets globally. The service handled over 24,900 market enquiries from 13,900 businesses between April 2022 and July 2024.

IM's origins lie in the Overseas Business Network initiative (OBNI), launched by HMG in 2012 and initially providing export support to Clients in over 40 markets through British chambers overseas. At that time, the aim was to double the numbers of SMEs exporting by 2020. OBNI funding ceased and was replaced by the Enhanced International Support Service (EISS) from 2020, with the objective of re-procuring contracts at a global level. Phase 1 focused on outsourcing China and North America. However, a change in policy subsequently led to arrangements for other IM regions being in-housed.

### 'Big Picture' Objectives and Benefits

The Export Support Service (ESS) was announced as part of a package of measures in HMG's November 2021 Export Strategy, *'Made in the UK, Sold to the World'*. This focused on the challenges UK businesses face when exporting; targeted barriers to trade; and aimed to help businesses at every stage of their Export Journey. The Export Strategy also set the goal of increasing the value of UK exports as a proportion of GDP from 30% to 35%, through adopting a segmented approach to business support and focusing comparatively expensive personalised service on businesses with higher export potential. DBT research has shown that such businesses, typically with turnovers of at least £500k per annum, make a far greater contribution to export value growth than smaller 'micro' businesses. In moving to a new export support model, the Government sought to realise a wide range of ancillary benefits, including:

- **Focusing Government support on what we do best** – which according to DBT research is acting as impartial 'trusted advisors', helping businesses establish effective export strategies and plans and then linking them to sources of support in the UK and overseas.
- **Targeting our services to help businesses overcome market failures and export barriers** – based on a service offer that is informed by our analysis of business segments and their needs at each stage of the Export Journey.
- **Improving the quality of service** – delivered through a personalized, bespoke service, tailored to the individual needs of each Client.
- **Improving the consistency of service** – by moving to a standardised delivery model across global regions and adopting a shared service catalogue domestically and overseas (whilst allowing some flexibility to reflect differing regional needs).
- **Improving the client business experience** – by designing services that 'fit together' and by implementing an 'export account management' model that

positions ITAs to oversee an cClient's Export Journey whether support is provided in the UK or overseas.

- o **Establishing a more integrated delivery model** – helping achieve our 'One-DBT' vision by embedding personalised services in the wider DBT offer delivered through digital services, sector teams, Post and UKEF; and
- o **Cultivating local supplier relationships** – by establishing referral networks in each HMTC region to link businesses to in-market providers of export support services.

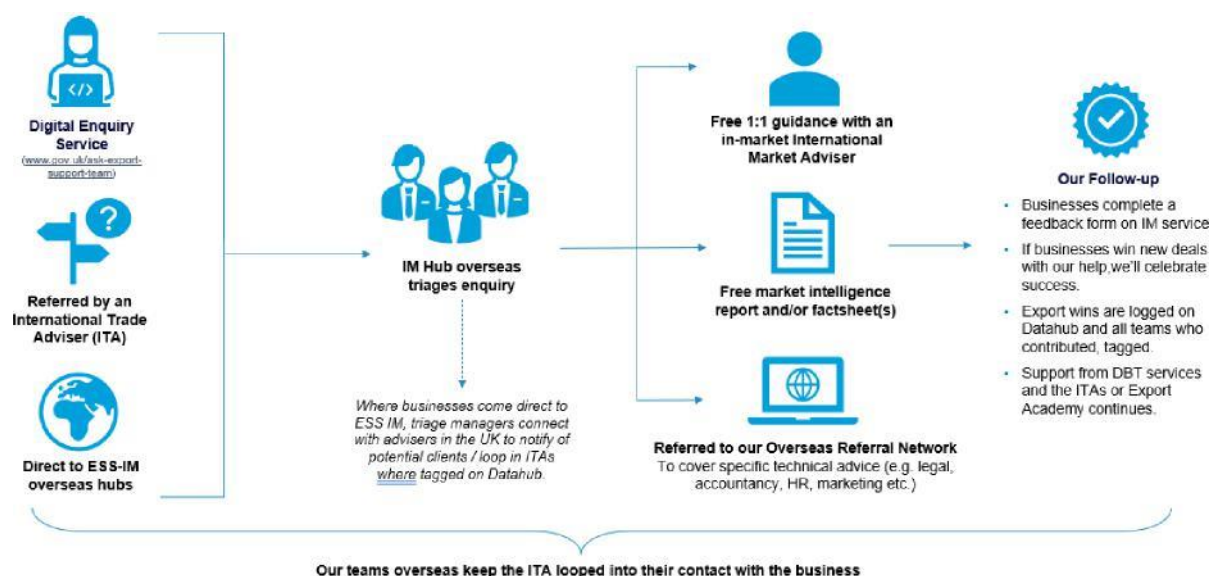
### IM Delivery Model

IM operates through a network of Export Service Hubs, located in each of the nine global HM Trade Commissioner (HMTC) regions, covering: Africa, Asia Pacific, China, Europe, Eastern Europe & Central Asia (EECA), Middle East & Pakistan (MEAP), Latin America & the Caribbean (LATAC), North America, and South Asia.

**SME services are focused on high export potential businesses** – because DBT and Kantar Consulting analysis shows that targeting firms with a minimum turnover of £500k or above is likely to deliver substantially greater growth in exports by value than a focus on the long tail of lower potential micro businesses.

**Delivery of IM's service overseas is coordinated via a UK-based HQ function** - to set policy and strategy, operate the Governance regime, oversee delivery, drive transformation and manage contracts. Note that day-to-day operational and relationship management of IM provider(s) in each region rests with Post.

*The International Markets (IM) customer journey:*



**The principal means of accessing the service is through ITAs.** The aim is to channel leads from a variety of stakeholders (including the Export Digital Enquiry Service team questionnaire accessed on [great.gov](https://great.gov)) through ITAs so that we can ensure Client businesses are 'export ready' before being referred overseas. However, direct referrals are still received from businesses (including a high percentage based in London who do not enjoy ITA support); from the Devolved Administrations; and via other DBT colleagues in diplomatic missions overseas (who may also be targeted direct by businesses).

**ITAs act as 'Export Account Managers' for overseas delivery as well as domestically** – so that we establish a consistent point of contact across the full Export Journey and improve the client experience by more effective management of 'hand-offs'.

**IM provides Market Advice as a free service** – with the focus being on diagnosis to confirm the support required in-market; the provision of desk-based market advice exploiting provider developed and maintained market intelligence.

**IM also helps Clients source expertise to deliver in-market support, as a free service** – facilitated by a managed Overseas Referral Network (ORN) that enables easy access to a wide range of specialist advisory service providers. In North America, that network can include, by agreement with DBT, the supplier where they have the capabilities required and wish to be considered as a provider of in-market delivery services. ORN providers globally are currently being onboarded to a much more accessible online platform – the Export Support Directory (ESD) with the aim of launching the new tool during International Trade Week (w/c 11 November 2024). The objective is to have 300 providers on the platform by that time representing all 9 of IM's regions overseas.

**In-Market support via the ORN/ESD is a chargeable service** – with Clients and other clients (e.g. Trade Bodies) contracting directly with providers at their discretion, having received details of multiple potential providers from which to make their choice.

## Services Description

The summary requirements are as listed below, with the detail of each of these set out in the table below:

- a) Manage Enquiries & Referrals** - The **Export Service Hub** receives leads, enquiries and service requests, mainly from via International Trade Advisers (ITA) and other sources (e.g. DBT sector teams or UK trade bodies requiring support overseas). Simple requests may be serviced directly, or appointments made for in-depth follow-up support.
- b) Provide Market Advice & In-Market Services** - The IM Adviser contacts the Client and explains the services available. The adviser provides a free market

diagnostic, gives access to Supplier maintained Market Intelligence and / or helps the Client with business-to-business introductions and to source in-market delivery support (including the Overseas Referral Network; DBT teams overseas; UK-based DBT support and regional Business Partners).

- c) **Follow up of services** – The IM Adviser stays in contact with the Client (and their ITA) to track service delivery, ensure that support is fit for purpose, and identify if further help is needed.
- d) **Overseas Referral Network Management** – The Supplier will maintain and manage the Overseas Referral Network which provides export support and specialist third-party advisory providers for Clients. The Supplier conducts due diligence on all providers as part of registration. Procedures are delivered for operation, maintenance and evaluation of the network and the providers.
- e) **Develop & Maintain Market Intelligence and Collateral** – The Supplier develops and maintains Market Intelligence and Collateral material to support dialogue with Clients as part of Provide Market Advice & In-Market Services.
- f) **Manage Delivery of the Service & Reporting** – The Supplier supports effective delivery of the service by managing service performance to deliver agreed performance targets, putting in place effective service management processes; producing performance data and management information and driving continuous improvement; managing capacity to match demand.
- g) **Provide Digital Services, Technology & Tools** – The Supplier provides Workplace IT for its personnel and develops Digital Services, technology solutions and other tools to support advisers in delivering Services.
- h) **Ensure Effective Data Security & Information Management** – The Supplier develops, processes and stores data and records in compliance with Data Protection Legislation and DBT information security management requirements. The Supplier allows and supports regular audits to ensure compliance.
- i) **Provide Facilities, Personnel, Staffing & Training** – The Supplier provides appropriate facilities to support the delivery of the Services, and deploys staff resource that is appropriately qualified, skilled and experienced to deliver the required Services.
- j) **Adhere to Standards, Working Practices & Principles** – The Supplier adheres to agreed standards, working practices and principles.
- k) **Align with DBT Marketing & Branding** – The Supplier aligns with DBT marketing and branding requirements, provides support to market the North America region internally to ITAs in the UK and in support of other campaigns.
- l) **Engagement and Stakeholder Management** – The Supplier shall be responsible for managing stakeholders; collaborating with DBT; conducting regular engagements through meetings and sharing of information and reports with stakeholders. The Supplier shall also represent the service with external stakeholders at events as required.

- m) **Additional Services** – The Supplier shall have the capability to provide additional services should the Buyer request these, priced against the rate card provided by the Supplier.

**A2***Detailed requirements*

Requirement ID	Requirement Overview	Requirement specification
A.1	Manage Enquiries & Referrals	The Supplier shall establish an Export Service Hub facility located within the North America HMTC region and shall be able to attend (physically or virtually) any location in the market if required by DBT. The Supplier shall understand the rules and regulations of the local market and have networks of working level contacts across regions within the USA and Canada.
A.2	Manage Enquiries & Referrals	<p>The Supplier shall receive enquiries and referrals for support to eligible Clients via the IM Referral Form that will be emailed to the Supplier by DBT together with supporting documentation such as an Export Action Plan.</p> <p>For the purposes of tender pricing, the number of anticipated referrals will be up to 900 per year.</p> <p>The Supplier shall review resource continuously and consider operational efficiencies and resource requirements in response to fluctuations in the number of referrals.</p>
A.3	Manage Enquiries & Referrals	<p>The Supplier shall receive enquiries and referrals for support to Clients by telephone or email from a variety of other potential sources, in addition to those stipulated in requirement A.2, that may include but are not limited to:</p> <ul style="list-style-type: none"> <li>• ITA equivalents in Devolved Administrations</li> <li>• Staff in DBT Post</li> <li>• Staff in DBT teams based in the UK</li> <li>• Business Partners</li> <li>• Direct approaches from businesses (e.g. those based in Devolved Administrations) which are not supported by an ITA service).</li> </ul>
A.4	Manage Enquiries & Referrals	The Supplier shall establish a consolidated work-list of all enquiries, referrals and requests and track their progress through the IM process. i.e. covering the Manage Enquiries & Referrals, Provide Market Advice & In-Market Services, Overseas Referral Network Management and Develop & Maintain Market Intelligence & Collateral journey stages as appropriate for the Client. The Supplier will record all enquiries on the DBT DataHub system.
A.5	Manage Enquiries & Referrals	<p>For Client enquiries and referrals that require the support of an IM Adviser the Supplier shall validate that the business is likely to be eligible (in line with the High Export Potential eligibility criteria as agreed with the Buyer) to receive the IM service based on a Triage conducted by the ITA, that involves:</p> <ul style="list-style-type: none"> <li>• Reviewing the IM Referral Form and Export Action Plan if forwarded from an ITA; or</li> <li>• IM Adviser based research on the company to determine their scale and export potential and that the Client is registered in the UK (i.e. covering England and the Devolved Administrations).</li> </ul>



## Schedule 2 (Specification), Crown Copyright 2023

A.6	Manage Enquiries & Referrals	The Supplier shall confirm receipt of all enquiries or referrals via email within 6 local working hours of receipt as set out in Schedule 10 (Service Levels).
A.7	Manage Enquiries & Referrals	The Supplier shall arrange a follow-up appointment for each Client referral or enquiry within 2 local working days of receipt as set out in Schedule 10 (Service Levels). The Supplier shall ensure that all Client appointments take place within 10 local working days (or as otherwise agreed with the Client, such as the Client is unavailable within 10 local working days).
A.8	Manage Enquiries & Referrals	The Supplier shall consider whether enquiries can be serviced by the provision of a one-off response that is likely to address the query, or whether the business requires personalised support through an IM Adviser and the Overseas Referral Network. Where a query can be resolved directly, the Supplier shall answer the query via email or telephone, providing any supporting Market Intelligence or Collateral that may support the Client referral.
A.9	Manage Enquiries & Referrals	For Clients referred by routes other than the ITA service and which do not appear to be High Export Potential Businesses the Supplier shall route to alternative sources of support which may include: <ul style="list-style-type: none"> <li>• The <a href="https://www.gov.uk/government/organisations/great-britain">Great.gov</a> portal as DBT's universal offer for all businesses; or</li> <li>• Export Digital Enquiry Service and the Export Academy</li> </ul>
A.10	Manage Enquiries & Referrals	For Clients that are referred by routes other than the ITA service and which do appear to be eligible for the service, the Supplier shall deliver the IM service and refer the Client to the ITA service for the ongoing domestic relationship management, where the business is eligible for the ITA service.
A.11	Manage Enquiries & Referrals	The Supplier shall arrange an appointment for a consultation with an IM Adviser as part of the Provide Market Advice & Source In-Market Services journey stage for Clients that require it and that pass the preliminary Triage process step.
A.12	Manage Enquiries & Referrals	The Supplier shall establish a record for all Clients for which the enquiries and referrals are received including the company details, information from the referral form or enquiry, initial Triage undertaken and action taken in response in the IM Supplier CRM System.
B.1	Provide Market Advice & Source In-Market Services	Before making initial contact with the Client requesting the service the IM Adviser shall review relevant data and documentation to understand the Client context and requirements. This may include but is not limited to: <ul style="list-style-type: none"> <li>• The Data Hub record (where the Supplier has access)</li> <li>• The Client record on the IM Supplier CRM System;</li> <li>• The IM Referral Form;</li> <li>• The Export Action Plan (if available);</li> <li>• Publicly available information about the Client (including the company's website).</li> </ul>
B.2	Provide Market Advice & Source In-Market Services	Before making contact with an Client the IM Adviser shall prepare for the call, for example to determine the best solutions for the specific Client issues, the most appropriate export markets and the sources of the support that are available both 'off the shelf' and to determine the potential sources of in-market services on a paid-for basis. The IM Adviser may also contact the ITA or the Client to clarify issues.

## Schedule 2 (Specification), Crown Copyright 2023

B.3	Provide Market Advice & Source In-Market	The IM Adviser shall assist all Clients (including non-SME organisations) with requests for paid for services in sourcing the support required. The IM Adviser shall assist the Client in sourcing support to deliver whatever in-market delivery support is required.
B.4	Provide Market Advice & Source In-Market Services	The IM Adviser shall make contact with Clients requesting services by video call, or, if feasible by exception, in a face-to-face meeting (for example when Clients may be visiting the region and/or market in-person). These face-to-face meetings shall be at no additional cost to the Buyer.
B.5	Provide Market Advice & Source In-Market Services	On initial contact with a new Client the IM Adviser shall set out the range of services that can be provided by the service, explaining the free support available and the potential range of paid-for services available in-market, such as through the Overseas Referral Network, and across other DBT services.
B.6	Provide Market Advice & Source In-Market	The IM Adviser shall consult with the ITA (where assigned) as needed to ensure a seamless delivery of quality service to the Client.
B.7	Provide Market Advice & Source In-Market	The IM Adviser shall provide a free consultation to help the Client determine the fit and suitability of the markets in relation to their exporting objectives, and to draw out the relevant barriers and opportunities.
B.8	Provide Market Advice & Source In-Market	The IM Adviser shall make available to the Client Market Intelligence, and Collateral such as insights and data that are maintained by the Supplier covering the region and the individual markets within it.
B.9	Provide Market Advice & Source In-Market	The IM Adviser shall sign-post the Client to other sources of free advice and other Market Intelligence and Collateral relevant to the region, including but not limited to <a href="https://www.gov.uk/great">great.gov.uk</a> resources and country pages.
B.10	Provide Market Advice & Source In-Market	The IM Adviser shall confirm with the Client the support that is required based on the results of the Provide Market Advice & Source In-Market Services journey stage.
B.11	Provide Market Advice & Source In-Market Services	<p>The IM Adviser shall explain to the Client all the sources of in-region and in-market support that are potentially available to them, including:</p> <ul style="list-style-type: none"> <li>• The Overseas Referral Network</li> <li>• Services available directly from the Supplier, depending on the service and subject to Buyer;</li> <li>• Other overseas Business Partners (for example chambers and trade bodies);</li> <li>• Overseas Post.</li> </ul> <p>For Client businesses that are referred via the ITA, the IM Adviser shall confirm that the business is aware of potential funding sources and explain that application for funding will be supported via their assigned ITA.</p>
B.12	Provide Market Advice & Source In-Market Services	Where delivery services are to be sourced commercially the IM Adviser shall utilise the Buyer's Export Support Directory (which hosts the Overseas Referral Network) and provide the Client with guidance that explains the role of the Overseas Referral Network and the ORN Client Terms and Conditions.
B.13	Provide Market Advice &	Where delivery services are to be sourced commercially, on a paid basis from third-party providers via the Overseas Referral Network,



## Schedule 2 (Specification), Crown Copyright 2023

	Source In-Market Services	<p>the Supplier shall access the Overseas Referral Network using the Export Support Directory.</p> <p>The Supplier shall identify minimum of three potential providers from the Overseas Referral Network, which can include the Supplier where the Buyer has given prior Approval (in their sole discretion) that they are suitably skilled and resourced to deliver the particular service.</p> <p>The rationale behind recommending short-listed providers shall be based on objective criteria (which will be agreed between the Buyer and the Supplier) shall include fit with business needs, demonstrated capability, value for money etc. This rationale behind the shortlisted providers shall be recorded on the Supplier CRM System for audit purposes.</p> <p>The Supplier shall invite the Client to the Export Support Directory where they can contact the providers of their choosing. The Supplier shall provide contact details and make personal introductions of the private sector organisations on the network if the Client requests this, that will enable them to:</p> <ul style="list-style-type: none"> <li>• Make contact with the provider to discuss their delivery and support requirements</li> <li>• Establish the likely cost of the services to be provided</li> <li>• Contract with them directly for the provision of services.</li> </ul>
B.14	Provide Market Advice & Source In-Market Services	The IM Adviser shall set up meetings or introductions to local contacts, including but not limited to buyers, distributors and agents, where contacts are readily available or in the public domain to establish a basic matchmaking capability as part of the free service. The Supplier shall maintain a record of these introductions in the Supplier CRM system. For the avoidance of doubt, these are separate to meetings/introductions made via the Overseas Referral Network.
B.15	Provide Market Advice & Source In-Market Services	Depending on the requirements of the Client, the Supplier shall allocate time and resource according to the Client need and scale of the export opportunity, such as the total value of the potential export. The Supplier shall deliver the service through one or a number of calls.
B.16	Provide Market Advice & Source In-Market Services	<p>At the conclusion of the Provide Market Advice &amp; Source In-Market Services stage the IM Adviser will, in consultation with the Client, determine whether:</p> <ul style="list-style-type: none"> <li>• The advice, Market Intelligence and Collateral provided are sufficient for the Client business to proceed with in-market implementation of their exporting objectives</li> <li>• Further paid for delivery support is needed in the chosen target market(s) via the Overseas Referral Network; or</li> <li>• The region and markets are not a good fit to deliver the business' exporting objectives and the business should be referred to the ITA service or alternative markets for further support.</li> </ul>
B.17	Provide Market Advice & Source In-Market Services	In line with service levels set out in Schedule 10 (Service Levels), the Supplier shall complete all agreed outcomes for the Client within 8 local working days of the consultation. If more than one consultation takes place with the Client, a record of agreed actions and outcomes will be completed within 8 local working days.

## Schedule 2 (Specification), Crown Copyright 2023

B.18	Provide Market Advice & Source In-Market	In all cases the IM Adviser shall record the outcome of the Provide Market Advice & Source In-Market Services journey stage on the IM Supplier CRM System and DBT DataHub.
B.19	Provide Market Advice & Source In-Market	Where a Client is referred back to the ITA service the IM Adviser shall provide whatever additional context, via email or by telephoning the ITA, as may be necessary to ensure a seamless handover of the Client.
B.20	Provide Market Advice & Source In-Market Services	Where services are to be sourced from other partners not included on the Overseas Referral Network or in Post the IM Adviser shall make contact details available to the Client. The Supplier shall keep a record of these introductions in the Supplier CRM system.
C.1a	Setup & Manage Overseas Referral Network	The Supplier shall assume responsibility for managing the existing, DBT owned Overseas Referral Network. DBT shall remain as the owners and management responsibilities shall transfer to the Supplier during the implementation phase. The Supplier shall actively recruit new providers on to the Overseas Referral Network in line with Client demand and/or any reasonable request by DBT.
C.1b	Setup & Manage Overseas Referral Network	The Overseas Referral Network Providers will not be charged to be included in the Overseas Referral Network; neither will the Supplier take any commission or financial incentive or receive any financial benefit (other than as expressly permitted under the terms of this Contract) for any work referred in connection with this Contract.
C.2	Setup & Manage Overseas Referral Network	The Overseas Referral Network shall comprise private sector businesses that are able to provide coverage in all countries or regional markets in HMTC North America region and support delivery of services.
C.3	Setup & Manage Overseas Referral Network	The Overseas Referral Network will be hosted on the Buyer's Export Support Directory platform which the Supplier will be granted access to.
C.4	Setup & Manage Overseas Referral Network	The Supplier shall establish and manage an application process acceptable to DBT that will enable businesses and other organisations wishing to be listed in the Overseas Referral Network to register their interest and submit business details. The application process will be conducted via the Export Support Directory.
C.5	Setup & Manage Overseas Referral Network	The Supplier shall allow firms to apply to be registered on the Overseas Referral Network both in the implementation period and throughout the rest of the Contract Period.
C.6	Setup & Manage Overseas Referral Network	The Supplier shall undertake due diligence on the private sector companies that apply to be registered on the Overseas Referral Network. The due diligence will be conducted in line with the Export Support Directory Terms and Conditions and by reference to the ORN Provider Eligibility Checks (as amended from time to time).
C.7	Setup & Manage Overseas Referral Network	The Supplier shall provide assurance to the Buyer that the private sector companies applying for registration on the Overseas Referral Network are able to provide relevant export support and advisory services, for example by asking for the provision of Client testimonials and/or case studies that are no older than 2 years that

## Schedule 2 (Specification), Crown Copyright 2023

		clearly demonstrate the provider's ability to provide the relevant services.
C.8	Setup & Manage Overseas Referral Network	The Supplier shall not unreasonably withhold admittance to the Overseas Referral Network for any provider that is able to meet the ORN Provider Eligibility Checks and demonstrates that it is capable of providing the relevant services.
C.9	Setup & Manage Overseas Referral Network	<p>The Supplier shall be permitted to list itself as a provider on the Overseas Referral Network subject to Approval by the Buyer. The Supplier shall demonstrate to the Buyer's satisfaction that it has the capacity, capability and experience to deliver the required services.</p> <p>If the Supplier has any actual or perceived conflict of interest in relation to a referral made under the Overseas Referral Network, a shortlisted provider and/or an Client under the Overseas Referral Network, it must promptly declare this conflict of interest to the Buyer (and, in the case of a referral, prior to the referral being made). For the purposes of this requirement, a <b>"conflict of interest"</b> means any circumstances where the Supplier has any financial, economic or other personal interest which might be perceived as compromising its impartiality, independence or its duty to perform its obligations under this Contract in the best interests of the Buyer. This includes and is not limited to where the Supplier might benefit from Clients undertaking business in a particular market or state within North America.</p>
C.10	Setup & Manage Overseas Referral Network	The IM Adviser shall explain to all Clients that the Buyer does not accept any liability for (i) the performance of the Overseas Referral Network, the Supplier, any provider or any Business Partner (ii) any advice given by or services provided by a Supplier or any other provider under the Overseas Referral Network or (iii) for any advice or services given by the Supplier, Business Partner or other entity in connection with the Services or Export Service Hub. This position will be expressly set out in the terms and conditions agreed between the Buyer and each Client in relation to that Client's use of the Overseas Referral Network (as may be amended from time to time) (the <b>"ORN Client Terms and Conditions"</b> ).
C.11	Setup & Manage Overseas Referral Network	<p>The Supplier shall use guidance prepared by the Buyer for the Export Support Directory and develop its own guidance to support the IM Advisers and Clients in using the Overseas Referral Network. This guidance will set out, at a minimum:</p> <ul style="list-style-type: none"> <li>• The purpose of the Overseas Referral Network</li> <li>• The services offered</li> <li>• The process for selecting a provider from the Overseas Referral Network, including the requirement for a minimum short-list of three providers</li> <li>• The role of the IM Adviser in impartially linking the Client with suitably qualified providers that can provide the specific services that are required</li> <li>• The process for contacting providers and obtaining a quote for the services delivered</li> <li>• The limitations of legal liability applying to the Buyer and the Supplier as set out in the Terms and Conditions provided by the buyer</li> </ul>

Schedule 2 (Specification), Crown Copyright 2023

		<ul style="list-style-type: none"><li>The legal responsibilities and risks being assumed by the Client in taking up support from a business listed on the Overseas Referral Network.</li></ul>																																																																																																				
C.12	Setup & Manage Overseas Referral Network	The Supplier shall record details of all referrals made to the Overseas Referral Network, covering the provider that was selected and the services delivered where personal introductions are made outside of the Export Support Directory. The Supplier shall make this data available to the Buyer on request to support service management and continuous improvement activities.																																																																																																				
C.13	Setup & Manage Overseas Referral Network	<div><p>The Supplier shall manage the providers on the Overseas Referral Network through the lifetime of the contract to ensure that:</p><ul style="list-style-type: none"><li>There are sufficient providers in each service area and country or regional market to offer Clients a choice of provision and price points</li><li>There are sufficient providers to offer the full scope of services that may be needed. The full scope of services that may be needed are as set out in the table below together with any other services as may be agreed between the Buyer and Supplier during the Contract Period.</li><li>The current number of providers for each of the following professions in the USA and Canada is (noting that these numbers are for indicative purposes only):</li></ul></div> <table><tr><td>Accountants</td><td>■</td><td>■■■■■</td><td>■■■■■</td></tr><tr><td>Architects</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Barristers</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Business Development Officers</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Chartered Accountants</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Company Secretaries</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Contractors</td><td>■■■■■■■■■■</td><td>■</td><td>■</td></tr><tr><td>Cost Estimators</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Draftspersons</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Engineers</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Export Credit Advisors</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Financial Planners</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Insurance Brokers</td><td>■</td><td>■</td><td>■</td></tr><tr><td>International Trade Consultants</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Legal Advisors</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Marketing Consultants</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Project Managers</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Real Estate Agents</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Recruitment Agencies</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Search Firms</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Solicitors</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Tax Consultants</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Trade Commissioners</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Transportation Consultants</td><td>■</td><td>■</td><td>■</td></tr><tr><td>Writers</td><td>■</td><td>■</td><td>■</td></tr></table>	Accountants	■	■■■■■	■■■■■	Architects	■	■	■	Barristers	■	■	■	Business Development Officers	■	■	■	Chartered Accountants	■	■	■	Company Secretaries	■	■	■	Contractors	■■■■■■■■■■	■	■	Cost Estimators	■	■	■	Draftspersons	■	■	■	Engineers	■	■	■	Export Credit Advisors	■	■	■	Financial Planners	■	■	■	Insurance Brokers	■	■	■	International Trade Consultants	■	■	■	Legal Advisors	■	■	■	Marketing Consultants	■	■	■	Project Managers	■	■	■	Real Estate Agents	■	■	■	Recruitment Agencies	■	■	■	Search Firms	■	■	■	Solicitors	■	■	■	Tax Consultants	■	■	■	Trade Commissioners	■	■	■	Transportation Consultants	■	■	■	Writers	■	■	■
Accountants	■	■■■■■	■■■■■																																																																																																			
Architects	■	■	■																																																																																																			
Barristers	■	■	■																																																																																																			
Business Development Officers	■	■	■																																																																																																			
Chartered Accountants	■	■	■																																																																																																			
Company Secretaries	■	■	■																																																																																																			
Contractors	■■■■■■■■■■	■	■																																																																																																			
Cost Estimators	■	■	■																																																																																																			
Draftspersons	■	■	■																																																																																																			
Engineers	■	■	■																																																																																																			
Export Credit Advisors	■	■	■																																																																																																			
Financial Planners	■	■	■																																																																																																			
Insurance Brokers	■	■	■																																																																																																			
International Trade Consultants	■	■	■																																																																																																			
Legal Advisors	■	■	■																																																																																																			
Marketing Consultants	■	■	■																																																																																																			
Project Managers	■	■	■																																																																																																			
Real Estate Agents	■	■	■																																																																																																			
Recruitment Agencies	■	■	■																																																																																																			
Search Firms	■	■	■																																																																																																			
Solicitors	■	■	■																																																																																																			
Tax Consultants	■	■	■																																																																																																			
Trade Commissioners	■	■	■																																																																																																			
Transportation Consultants	■	■	■																																																																																																			
Writers	■	■	■																																																																																																			

## Schedule 2 (Specification), Crown Copyright 2023

		<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>					
		<ul style="list-style-type: none"> <li>• All providers can supply the required services to level of competence, skill and care expected of personnel who are experienced in the provision the such services.</li> <li>• The Overseas Referral Network is able to evolve of offer new services according to regional demand and the evolution of the IM service offer over time, including incorporating best practice from other providers and regions to</li> <li>• As a condition to its registration on the Overseas IM Referral Network, ensure that a provider has agreed terms and conditions with the Buyer in relation registration on the Overseas Referral Network “<b>ORN Provider Terms and Conditions</b>”). to its</li> </ul>					
C.14	Setup & Manage Overseas Referral Network	<p>The Supplier shall seek Buyer approval for provision of specific delivery services by the Supplier as part of Overseas Referral Network.</p> <p>Approval will be sought either at the beginning of the Contract as part of the Implementation Plan (see Schedule 8) and throughout the lifetime of the Contract by the Supplier demonstrating to the Buyer that they meet the requirements for providing that service as defined by the ORN Provider Eligibility Checks. The Supplier shall obtain explicit approval by the Buyer for each new service added. The Supplier must report to the Buyer (in a form acceptable to the Buyer) any resultant business from its own participation in, or from any referral made under, the Overseas Referral Network at least quarterly.</p>					
C.15	Setup & Manage Overseas Referral Network	<p>Where the Supplier or any provider has provided paid-for services to a Client under the Overseas Referral Network, the Supplier or the provider (as applicable) and that Client shall directly agree the fees due to the Supplier or provider (as applicable) for providing those services to that Client. The Buyer shall not be liable for the payment or non-payment of any of those fees or for any other costs or sums that may be agreed between the Supplier or provider (as applicable) and the Client.</p>					
C.16	Setup & Manage Overseas Referral Network	<p>Where the Client chooses to receive paid-for delivery services from a provider or from the Supplier (where the Supplier was a shortlisted provider) under the Overseas Referral Network, the scope of and terms governing those services will be agreed directly between the provider or Supplier (as applicable) and the Client under a separate agreement. DBT shall not be a party to this agreement nor accept any responsibility or liability in respect of it or the delivery of the services that it covers.</p>					

## Schedule 2 (Specification), Crown Copyright 2023

C.17	Setup & Manage Overseas Referral Network	The Supplier shall establish and manage a complaints process to ensure that Clients utilising the Overseas Referral Network are able to give visibility to service issues with particular providers.
C.18	Setup & Manage Overseas Referral Network	The Supplier shall review the performance and assure the status of providers registered on the Overseas Referral Network at least once a year, and in line with the ORN Provider Terms and Conditions.
C.19	Setup & Manage Overseas Referral Network	The Supplier shall establish a process for removing providers from the Overseas Referral Network provided that any such removal and process is in accordance with the ORN Provider Terms and Conditions.
C.20	Setup & Manage Overseas Referral Network	The Supplier shall obtain the prior agreement of the Buyer to the removal of a provider from the Overseas Referral Network and shall provide the Buyer with such evidence as the Buyer may reasonably request to support such removal.
C.21	Setup & Manage Overseas Referral Network	The Supplier shall provide a monthly performance report to the Buyer (in a form acceptable to the Buyer) covering Overseas Referral Network utilisation, additions to the Overseas Referral Network, deletions from the Overseas Referral Network with a supporting management level commentary as set out in Schedule 6 (Transparency Reports).
C.22	Setup & Manage Overseas Referral Network	Management of the Overseas Referral Network will revert to the Buyer at the end of the Contract, and this should be made clear to providers in the ORN Provider Terms and Conditions.
D.1	Follow Up of Services	<p>In line with service levels set out in Schedule 10 (Service Levels) the IM Adviser shall follow-up with the Clients (or the ITA where assigned) within 90 local working days after completion of delivery of Market Advice &amp; Source In-Market Services, as per requirement B.17, to confirm:</p> <ul style="list-style-type: none"> <li>• What activity has taken place after the completion of services, such as determining whether the Client has progressed the Export Journey</li> <li>• All agreed services are delivered and if not, why not</li> <li>• The Client business or organisation is satisfied with the services that are delivered</li> <li>• Whether other services may need to be sourced via the IM or ITA Services</li> </ul>
D.2	Follow Up of Services	The IM Adviser shall share a Customer Satisfaction Survey with all Clients after the completion of delivery of Market Advice & Source In-Market Services, as per requirement B.17, to assess the quality of the service and report results at monthly and quarterly contract management meetings. The Supplier shall ensure this feedback is included in the Supplier's continuous improvement initiatives.

## Schedule 2 (Specification), Crown Copyright 2023

D.3	Follow Up of Services	The IM Adviser shall capture feedback on the Supplier where it is asked and / or contracted to deliver in-market services and ensure that this is included in the Supplier's continuous improvement initiatives. This feedback shall be made available to the Buyer on request.
D.4	Follow Up of Services	On completion of the delivery of Provide Market Advice & Source In-Market Services, as per requirement B.17, the IM Adviser shall email or make telephone contact with the ITA (where assigned) so that they can undertake follow-up actions domestically. The Supplier shall include the ITA in any Client communications.
D.5	Follow Up of Services	If the Supplier is itself registered as a provider on the Overseas Referral Network it shall also capture satisfaction feedback from Client businesses it has supported and share this information on request with the Buyer.
D.6	Follow Up of Services	The Supplier shall capture satisfaction feedback from Clients utilising the Overseas Referral Network to allow it to assess the quality of the providers that are registered and share with the Buyer.
E.1	Develop & Maintain Market Intelligence and Collateral	The Supplier shall maintain & develop Market Intelligence and Collateral that can be used to help Clients better understand the region in addition to the personalised support received from an IM Adviser in the Market Advice & Source In-Market services journey stage. This will be approved by the Buyer for quality, accuracy and scope.
E.2	Develop & Maintain Market Intelligence and Collateral	Market Intelligence and Collateral developed by the Supplier shall not duplicate country and market data more generally available through DBT and other open sources (for example country pages on <a href="https://www.gov.uk/great">great.gov.uk</a> or on the web), but should be at the next level of detail, specific to a country or regional market and / or sector within the overall HMTC global region. The Collateral shall identify key insights, trends, and actionable recommendations that will support Clients on a range of topics.
E.3	Develop & Maintain Market Intelligence and Collateral	The Supplier will have licence to use and maintain the existing Market Intelligence and Collateral which will be granted to the Supplier during the implementation phase. The Supplier shall develop and maintain new Market Intelligence Collateral to meet Client demand and trends. The Market Intelligence and Collateral will include US Practical Guides, US One Pagers, US Sector Guides, Canada Practical Guides, Canada One Pagers, Canada Sector Guides, US Sub-federal Trade Agreement (MOU) guides, including but not limited to: <b>US Practical Guides</b> Customs Developing Marketing Collateral E-Commerce

## Schedule 2 (Specification), Crown Copyright 2023

Employment Law  
 Establishing a Business Presence  
 Intellectual Property  
 Logistics and Warehousing  
 Preparing for a Trade Show  
 Regulations and Standards  
 Tax Considerations for UK Tech Companies  
 Venture Capital and Angel Investors  
 Visas and Immigration  
 Working with In-Market Partners

**US One pagers**

Debt Recovery  
 Due Diligence  
 FDA Enquiry  
 Federal Agencies Enquiry  
 Opening a Bank Account  
 Patents & Trademarks  
 Product Liability and General Insurance  
 Tax Enquiry  
 Visas and Immigration

**US Sector Guides**

Advanced Manufacturing  
 Education  
 Energy  
 Food & Drink  
 Gaming  
 Healthcare and Life Sciences  
 Retail  
 Technology

**Canada Practical Guides**

Customs  
 E-Commerce  
 Employment  
 Establishing a Business Presence  
 Intellectual Property  
 Logistics & Warehousing  
 Preparing for a Successful Trade Show  
 Visas and Immigration

**Canada One Pagers**

Business & Travel  
 Debt Recovery  
 Due Diligence  
 Opening a Bank Account  
 Patents and Trademarks  
 Product Liability and General Insurance  
 Regulatory Requirements  
 Tax

**Canada Sector Guides**

Advanced Manufacturing  
 Energy  
 Food & Drink  
 Government Tenders



## Schedule 2 (Specification), Crown Copyright 2023

		<p>Healthcare and Life Sciences Technology</p> <p><b>US Sub-federal Trade Agreement (MOU) Guides</b> Indiana Washington State North Carolina Oklahoma South Carolina Utah Florida</p>
E.4	Develop & Maintain Market Intelligence and Collateral	Intellectual property associated with Market Intelligence and Collateral developed by the Supplier shall be owned by the Buyer.
E.5	Develop & Maintain Market Intelligence and Collateral	Market Intelligence and Collateral developed by the Supplier shall be freely available to all Clients.
E.6	Develop & Maintain Market Intelligence and Collateral	Market Intelligence and Collateral shall be readily accessible to Clients over the web or by email and shall be shared with all Clients as part of the Market Advice & Source In-Market Services journey stage. The Buyer may request the Supplier to convert the format so it can be published online, for example html. In the instance the Buyer requests the Market Intelligence and Collateral is published online, the Supplier shall assist the Buyer in ensuring compliance with Accessibility Standards (which will be provided by the Buyer to the Supplier and as may be amended from time to time).
E.7	Develop & Maintain Market Intelligence and Collateral	The Supplier shall maintain and review Market Intelligence and Collateral on an ongoing basis to ensure it remains accurate and up-to-date in line with service levels set out in Schedule 10 (Service Levels) but no less than once every 6-months.
E.8	Develop & Maintain Market Intelligence and Collateral	The Supplier shall research and develop new Market Intelligence and Collateral in line with demand and archive products which is not used during the Market Advice & Source In-Market Services journey stage.
E.9	Develop & Maintain Market Intelligence and Collateral	The Supplier shall ensure that all Market Intelligence and Collateral complies with DBT branding requirements & templates (that will be provided by the Buyer to the Supplier and as may be amended from time to time).
E.10	Develop & Maintain Market Intelligence and Collateral	The Supplier should assist DBT in the production of content for its universal digital offer, working with colleagues in the DDaT Content team - including advice and guidance, thought leadership, and case studies.
F.1	Manage Delivery of the IM Service & Reporting	In reference to the implementation requirements outlined in A03a and A03b of this schedule, the Supplier shall provide an Implementation Plan that will detail how they plan to transition the service from the incumbent supplier as set out at Schedule 8 (Implementation Plan & Testing). The implementation plan shall set out key milestones and testing, risks and issues, and the governance arrangements during the contract mobilisation period.
F.2	Manage Delivery of the	The Supplier shall develop a service plan during the implementation period that will detail key service delivery goals through the upcoming year, cover the resourcing plan to meet them and include

## Schedule 2 (Specification), Crown Copyright 2023

	IM Service & Reporting	any changes or improvements to be made to the service either directly by the Supplier or as part of jointly sponsored improvements. The service plan shall be approved by the DBT HQ Function. The service plan shall be updated by the Supplier and reviewed and approved by the DBT HQ Function on an annual basis (or such shorter time period as the Supplier and the Buyer may agree).
F.3	Manage Delivery of the IM Service & Reporting	The Supplier shall participate in monthly contract reviews and provide support as required for governance of the Services as set out at Schedule 13 (Contract Management).
F.4	Manage Delivery of the IM Service & Reporting	The Supplier shall ensure that it has systems and reporting that can generate Management Information on service delivery and performance that is sufficient to support service planning, manage Service performance and drive service improvement. The Management Information shall be agreed during the implementation phase and will be reviewed and updated from time to time throughout the duration of the Contract. The Supplier may be provided with access to the Buyer's Ticketing System, which will be agreed with the Buyer during Implementation.
F.5	Manage Delivery of the IM Service & Reporting	The Supplier shall manage Services performance in accordance with Schedule 10 (Service Levels) of this Contract by measuring performance against targets and establishing processes and accountabilities to proactively identify and address any performance issues that are identified.
F.6	Manage Delivery of the IM Service & Reporting	The Supplier shall make Services delivery and performance data available as may be required to support DBT service delivery audits and ensure Services provision is in-line with standards identified in A08 and targets set in Schedule 10 (Service Levels) of this Contract.
F.7	Manage Delivery of the IM Service & Reporting	The Supplier shall deliver Performance Monitoring Reports in accordance with Schedule 10 (Service Levels) of this Contract based on templates and performance metrics agreed with the Buyer and submit these to the DBT HQ Function for collation into a report to support contract reviews and as input to innovation and improvement initiatives.
F.8	Manage Delivery of the IM Service & Reporting	The Supplier shall work with the DBT HQ Function Monitoring & Evaluation team to provide data for and support studies that are aimed at evaluating the impact and effectiveness of IM.
F.9	Manage Delivery of the IM Service & Reporting	The Supplier shall create and maintain a complaints procedure for logging Client issues and Client complaints and shall ensure that Clients are aware of this. The Supplier shall then use best endeavours to resolve Client issues or complaints. The Supplier shall also make staff and Clients aware of the DBT complaints procedure (as notified by the Buyer to the Supplier). In addition, the Supplier shall share the log of issues and complaints at regular Governance meetings.
F.10	Manage Delivery of the IM Service & Reporting	The Supplier shall create a complaints procedure for logging issues and complaints from key stakeholders (as outlined in L.1), in particular issues raised by International Trade Advisers. The Supplier shall ensure key stakeholders are aware of this procedure and will share the log of issues and complaints at regular Governance meetings.

## Schedule 2 (Specification), Crown Copyright 2023

F.11	Manage Delivery of the IM Service & Reporting	The Supplier shall ensure that the complaints procedure complies with the resolution time of 20 local working days outlined in Schedule 10 (Service Levels) of this Contract. Client or key stakeholder (as outlined in L.1) complaints (F.9 and F.10) are acknowledged within 1 local working day and a response is provided within 5 local working days.
F.12	Manage Delivery of the IM Service & Reporting	The Supplier shall establish its own accounting and financial management capability to support Services delivery and ensure financial controls are in place. The Supplier shall support the Buyer in conducting periodic financial audits on the Supplier and make all relevant data available for this purpose as at Schedule 6 (Transparency Reports).
F.13	Manage Delivery of the IM Service & Reporting	The Supplier shall share financial data with the Buyer on a fully transparent basis, operating on an 'open book' accounting approach. The financial data may include, but not be limited to: <ul style="list-style-type: none"> <li>• All costs invoiced</li> <li>• Costs per resource including overhead allocation, employment benefits, profit margins and mark up, and other allocations</li> <li>• Operating expenditure as invoiced</li> <li>• Any capital expenditure</li> <li>• Cost breakdowns by service line</li> <li>• Sub-contractor costs</li> </ul>
F.14	Manage Delivery of the IM Service & Reporting	The Supplier shall develop and then comply with a quality assurance process and shall submit such a process to the Buyer for assurance as per Schedule 8 (Implementation Plan & Testing).
F.15	Manage Delivery of the IM Service & Reporting	The Supplier shall develop a Quality Plan as part of implementation that ensures that all aspects of the Services are the subject of quality management systems and is consistent with ISO 9001: 2015 or any standard which is generally recognised as being equivalent to it.
F.16	Manage Delivery of the IM Service & Reporting	The Supplier shall work to capture learnings and best practice and drive innovation and service improvement in collaboration with other IM Regions and ITA teams.
F.17	Manage Delivery of the IM Service & Reporting	The Supplier shall define and implement a process for embedding continuous improvement within the Supplier's organisation. The Services improvement process shall set out the key steps and approach, such as how existing performance will be analysed, how improvement opportunities will be identified, how improvements will be prioritised and aligned with DBT objectives including the Trade Strategy, Industrial Strategy, SME Strategy and HMTC Regional Plans (in each case as will be shared with the Supplier once available), and how they will be delivered and evaluated.
F.18	Manage Delivery of the IM Service & Reporting	The Supplier shall develop and maintain a rolling Continuous Improvement Plan in accordance with Schedule 11 (Continuous Improvement) to set out a schedule of service improvement projects showing when solutions will be designed, developed and then rolled-out into the live service. The plan should also set out the desired benefits for the various improvements to be made and how they will be measured and evaluated.

## Schedule 2 (Specification), Crown Copyright 2023

F.19	Manage Delivery of the IM Service & Reporting	The Supplier shall arrange regular service improvement reviews with the Buyer to review and discuss the Continuous Improvement Plan as set out in Schedule 11 (Continuous Improvement).
F.20	Manage Delivery of the IM Service & Reporting	The Supplier shall capture and forward to the Buyer any export opportunities identified during the course of its business that are suitable for publishing on the <a href="https://www.gov.uk/great.gov">Great.gov</a> Export Opportunities service and alert the relevant ITA.
F.21	Manage Delivery of the IM Service & Reporting	The Supplier shall report to the Buyer any market access issues or barriers which are identified during the course of service delivery and support the Buyer in publishing these on market access database on Data Hub.
F.22	Manage Delivery of the IM Service & Reporting	The Supplier shall provide on a monthly basis (in a form acceptable to the Buyer) case studies which showcase the benefits of the support provided by the service and impact to Clients.
F.23	Manage Delivery of the IM Service & Reporting	The Supplier shall provide on an annual basis a Contract Report containing as a minimum the items required in Schedule 6 (Transparency Reports) Annex A.
F.24	Manage Delivery of the IM Service and Reporting	<p>The supplier shall, with support from the Buyer, monitor and report on its Export Win contributions delivered under this contract. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
G.1	Provide Digital Services, Technology & Tools	<p>The Supplier shall ensure that any digital services, technology solutions or tools that it provides are compliant with the DBT Digital, Data and Technology (DDaT) team's security and service standards (<a href="https://www.gov.uk/service-manual/service-standard">https://www.gov.uk/service-manual/service-standard</a>). These will be assured by the DBT Data and Cyber Security teams during the implementation phase.</p>
G.2	Provide Digital Services, Technology & Tools	<p>The Supplier shall use its own Workplace IT, including but not limited to:</p> <ul style="list-style-type: none"> <li>Desktop, Laptop, PDA and other computing devices;</li> <li>Servers, storage, LAN and WAN capabilities</li> <li>Desktop services, such as the Microsoft office suite of applications;</li> <li>Email services (the Supplier will be delegated a DBT email address);</li> <li>Calendar and diary management services;</li> <li>Printing services;</li> <li>Internet access;</li> <li>Knowledge management services;</li> <li>Document and records management services;</li> <li>Telephony services;</li> <li>Videoconferencing and video calling services (e.g. Microsoft Teams).</li> </ul>

## Schedule 2 (Specification), Crown Copyright 2023

G.3	Provide Digital Services, Technology & Tools	The Supplier may be required to procure separate devices at the Supplier's expense for work delivered under the Contract to enable access to DBT systems, only Security Clearance (SC) Supplier Staff shall be permitted to access DBT systems.
G.4	Provide Digital Services, Technology & Tools	<p>The Supplier shall provide its own Customer Relationship Management system. The system shall be capable at a minimum of, but not limited to:</p> <ul style="list-style-type: none"> <li>• Establishing records for Clients</li> <li>• Logging details of key interactions with Clients that are supported by the Supplier</li> <li>• Tagging businesses with an owning IM Adviser</li> <li>• Recording summary details for each client record, including contact details.</li> </ul>
G.5	Provide Digital Services, Technology & Tools	The Supplier shall ensure that data captured on the Customer Relationship Management system can be extracted for upload to the DBT Data Hub in at a minimum, CSV format. The Supplier may be provided direct access to the Buyer's Data Hub system, subject to Buyer approvals and testing if applicable.
G.6	Provide Digital Services, Technology & Tools	The Supplier shall ensure that data is extracted and forwarded from the Customer Relationship Management system (and any other applicable Supplier system) securely to DBT HQ team monthly as set out in Schedule 16 (Security).
G.7	Provide Digital Services, Technology & Tools	The Supplier shall access the Buyer's Export Support Directory for management of the Overseas Referral Network.
G.8	Provide Digital Services, Technology & Tools	The Supplier may at their discretion, and by agreement with the Buyer provide optional systems, spreadsheets or other tools, including presentational or workshop materials that help ITAs run the diagnostic process for Clients. It is anticipated a variety of solutions may be in operation, tailored to businesses with differing exporting experience and capability.
G.9	Provide Digital Services, Technology & Tools	The Supplier shall assist with user research as and when required, including participating surveys and providing feedback on DBT services.
G.10	Provide Digital Services, Technology & Tools	The Supplier will adhere to local and UK legal requirements in relation to processing personal data, such as UK GDPR.
G.11	Provide Digital Services, Technology & Tools	The Supplier shall ensure that activity conducted by ITAs will be compliant with DBT's Data Strategy (which will be provided by the Buyer to the Supplier and as may be amended from time to time), and its Data Protection Impact Assessment and cyber policies.
G.12	Provide Digital Services, Technology & Tools	The Supplier should provide detailed information and demonstration on use of third-party tools or services to assist with DBT's continuous improvement of services.
G.13	Provide Digital Services, Technology & Tools	The supplier shall maintain its Information Security Management System in line with ISO/IEC 27001 or equivalent.

## Schedule 2 (Specification), Crown Copyright 2023

G.14	Provide Digital Services, Technology & Tools	The Supplier shall share emerging user needs (both needs of UK businesses and IM staff) to assist with DBT's continuous improvement of services.
H.1	Ensure Effective Data Security & Information Management	The Supplier shall ensure when gathering Client details that their processes are compliant with Data Protection Legislation.
H.2	Ensure Effective Data Security & Information Management	The Supplier shall use a privacy notice in the form agreed with the Buyer
H.3	Ensure Effective Data Security & Information Management	The Supplier shall submit to DBT for Approval, and when Approved, comply with, a procedure for processing Data Subject Requests (in accordance with Data Protection Legislation and its obligations under Contract Schedule 20 (Processing Data)).
H.4	Ensure Effective Data Security & Information Management	Where the Supplier is required to supply information to the Buyer to enable them to respond to Data Subject Requests, the Supplier shall cooperate within such time and in such form as reasonably requested by the Buyer. Where no period of time is specified by the Buyer, the Supplier shall action the request within ten (10) Working Days from the date the request is made to the Supplier (unless a longer period is specified in advance by the Buyer).
H.5	Ensure Effective Data Security & Information Management	The Supplier shall comply with all DBT's specific requirements relating to retention periods for all Data to be agreed during implementation. The current retention period is 7 years from the date on which is was provided.
H.6	Ensure Effective Data Security & Information Management	The Supplier shall put in place data management procedures to ensure that data is periodically assessed for deletion.
H.7	Ensure Effective Data Security & Information Management	The Supplier shall securely delete all Government Data at the expiry of its retention period.
H.8	Ensure Effective Data Security & Information Management	The Supplier shall ensure that all Government Data deleted at the expiry of its retention period cannot be accessed by anyone. Government Data held on paper shall be securely shredded and Government Data held electronically shall be erased.
H.9	Ensure Effective Data Security & Information Management	The Supplier shall notify DBT within five (5) Working Days of all changes to all processes and activities (including locations where they may be undertaken) that will require DBT to update its notification on the ICO Register of Data Controllers.
H.10	Ensure Effective Data Security &	The Supplier shall submit to DBT for Approval, and when Approved, comply with, a data protection audit plan. The plan shall include:

## Schedule 2 (Specification), Crown Copyright 2023

	Information Management	<ul style="list-style-type: none"> <li>timescales for preparation and conduct of the annual audit; and</li> <li>the audit strategy and planned outputs.</li> </ul>
H.11	Ensure Effective Data Security & Information Management	The Supplier and any Sub-Contractors shall implement, maintain, and continuously improve an Information Security Management System (ISMS) in accordance with the international standard ISO/IEC 27001. The Supplier shall implement appropriate physical, technical, and organisational measures to mitigate risks to information security, as identified in risk assessments carried out in line with ISO/IEC 27001 standards.
H.12	Ensure Effective Data Security & Information Management	The Supplier shall ensure that a comprehensive data protection audit is carried out by an independent third party and /or the Buyer.
H.13	Ensure Effective Data Security & Information Management	The Supplier shall undertake a data protection audit every twelve (12) months (or such other frequency as the Buyer may require) and report the findings to the Buyer.
H.14	Ensure Effective Data Security & Information Management	The Supplier shall implement any recommendations from any data protection audits within timescales set by the Buyer.
H.15	Ensure Effective Data Security & Information Management	The Supplier shall establish and manage an incident management process and maintain an incident log.
H.16	Ensure Effective Data Security & Information Management	<p>The Supplier shall provide DBT with reports, in electronic format when requested by DBT, from the incident log including full details of:</p> <ul style="list-style-type: none"> <li>incidents;</li> <li>security incidents;</li> <li>changes; and</li> <li>any other incidents.</li> </ul>
H.17	Ensure Effective Data Security & Information Management	DBT may carry out audits of the Supplier's quality management systems at agreed times. The Supplier shall comply with auditing procedures for the quality management systems.
H.18	Ensure Effective Data Security & Information Management	The Supplier shall comply with any audit requirements such as to security, information security management systems, and financial information as required.
H.19	Ensure Effective Data Security & Information Management	Where the Supplier is based outside of the United Kingdom and is to receive or transfer personal data to and from the United Kingdom for whatever reason; the Supplier shall ensure that it complies with DBT requirements and UK GDPR legislation for the transfer of data.
H.20	Ensure Effective Data	The supplier shall comply with the Buyer's information and risk assurance procedures for cyber and data protection related risks.

## Schedule 2 (Specification), Crown Copyright 2023

	Security & Information Management	The supplier shall submit documentation after contract award to support the assurance process, including but not limited to data protection impact assessments and cyber documentation using risk ledger. Risk ledger is a third-party platform that allows suppliers to complete one comprehensive security assessment which can be shared with any other client who requires an assessment.
I.1	Provide Facilities, Personnel, Staffing & Training	The IM Advisers staff should have undergraduate/bachelors qualification and at least 2 years relevant experience in a commercial or sector specialist / international trade / business development setting. The project leads should have at least 10 years of experience in operations/commercial/business development and team leadership.
I.2	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that appropriate and relevant Supplier Staff security checks are performed for new Supplier Staff prior to providing services under this Contract.
I.3	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that all job roles deployed to work on the contract clearly identify responsibilities and accountability for outputs under this contract and interfaces with DBT and ITA service providers.
I.4	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that the Supplier Staff have access to all documentation appropriate to the performance of any role to which they are assigned.
I.5	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that any Supplier Staff accessing DBT systems (e.g. DataHub) have obtained Security Clearance (SC), which the Supplier shall procure at their own cost. The Supplier shall ensure appropriate SC cleared cover for periods of absence, e.g. holiday or planned leave.
I.6	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that person(s) are nominated to be responsible for the delivery of the Services as set out in Schedule 29 (Key Supplier Staff) and are contactable by the Buyer during local working hours and provide one contact to be available at all times in case of emergency.
I.7	Provide Facilities, Personnel, Staffing & Training	The Supplier shall submit to DBT for Approval and, when Approved, comply with the contents of and materials of a formal induction course in relation to working on this Contract for new Supplier Staff.
I.8	Provide Facilities, Personnel, Staffing & Training	The Supplier shall put in place training programmes to ensure that Supplier Staff are fully conversant with the service standards, standard operating procedures, systems and supporting collateral.
I.9	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that training materials are regularly updated to reflect changes to the Services as may be agreed from time-to-time, and will review these materials at least annually for accuracy and quality.



## Schedule 2 (Specification), Crown Copyright 2023

I.10	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that Supplier Staff have an understanding of DBT corporate knowledge and are kept up to date on DBT corporate news and events.
I.11	Provide Facilities, Personnel, Staffing & Training	The Supplier shall put in place internal communications to ensure that Supplier Staff are conversant with issues impacting the Services, learnings from day-to-day delivery and planned change, embedding these through lessons learned exercises.
I.12	Provide Facilities, Personnel, Staffing & Training	The Supplier shall establish (and shall ensure that any Subcontractor establishes) an appropriate performance management framework for its Supplier Staff and be accountable for managing and developing Supplier Staff in a way that incentivises a client focused approach to delivery, and will share this with the Buyer as requested.
I.13	Provide Facilities, Personnel, Staffing & Training	The Supplier shall ensure that the Buyer is notified immediately of the occurrence of any of the following regarding any Supplier Staff: <ul style="list-style-type: none"> <li>• suspensions;</li> <li>• disciplinary proceedings;</li> <li>• dismissals; and/or</li> <li>• Key personnel appointments.</li> </ul>
I.14	Provide Facilities, Personnel, Staffing & Training	The Supplier (and shall procure that a Subcontractor) may be required to provide key Supplier Staff with separate equipment (phones/laptops) at its own expense which are used solely for the purposes of DBT work. The Supplier Staff will be granted access to DBT Data Hub for the Contract Period.
I.15	Provide Facilities, Personnel, Staffing & Training	The Supplier shall engage (and shall procure that a Subcontractor engages) its Supplier Staff to ensure health and wellbeing reporting is provided to the Buyer. This may include staff engagement sessions and employee surveys and monitoring performance in line with the social value service level set out in Schedule 10 (Service Levels) of this Contract.
J.1	Adhere to Standards, Working Practices & Principles	The Supplier shall comply with all standards, policies, processes, procedures, and measures requested by the Buyer during the term of this Contract.
J.2	Adhere to Standards, Working Practices & Principles	The Supplier shall ensure Supplier Staff comply with DBT Social Media policies (which will be provided by the Buyer to the Supplier and as may be updated from time to time) throughout the Contract Period.
J.3	Adhere to Standards, Working Practices & Principles	The Supplier shall share its policies with the Buyer as requested during the assurance process and any updates throughout the Contract Period.
K.1	Align with DBT Marketing & Branding	The Supplier shall consult with the National Marketing & Campaigns team in the DBT HQ Function and the DBT North America Marketing Team to ensure brand compliance and support periodic brand audits to ensure ongoing compliance.

## Schedule 2 (Specification), Crown Copyright 2023

K.2	Align with DBT Marketing & Branding	For promotional material required to deliver the IM the Supplier shall use the 'Made in the UK' branding. The DBT branding may change throughout the life cycle of the contract, and the Supplier shall ensure to change branding as requested by the Buyer. Use of any Buyer branding requires Buyer prior written consent.
K.3	Align with DBT Marketing & Branding	The Supplier shall ensure Client facing Supplier Staff are presented as representatives of DBT. Notwithstanding the above, neither the Supplier nor any Supplier Staff have the authority to, or shall hold themselves out as having the authority to, bind the Buyer or otherwise act on Buyer's behalf without the Buyer's prior written consent.
K.4	Align with DBT Marketing & Branding	The Supplier shall at all times present a professional image to Clients, our business partners and stakeholders as representatives of DBT.
K.5	Align with DBT Marketing & Branding	The supplier shall support promotional campaigns in the North America market (as may be notified to it by DBT) throughout the duration of the contract.
L.1	Engagement and Stakeholder Management	<p>The Supplier shall make Supplier Staff available for regular meetings, including monthly 1-hour meetings with key stakeholders, including but not limited to:</p> <ul style="list-style-type: none"> <li>• DBT International Trade Adviser teams</li> <li>• DBT Staff in Post</li> <li>• DBT Staff in UK such as sector teams, Export Academy, EDES</li> <li>• DBT Senior Leadership</li> </ul>
L.2	Engagement and Stakeholder Management	The Supplier shall provide regular reporting (at least monthly and in a form acceptable to the Buyer) to internal DBT stakeholders where required by the Buyer on UK businesses which have been supported by the service.
L.3	Engagement and Stakeholder Management	The Supplier shall represent the service at external facing meetings organised by DBT such as the UK Export Academy and International Trade Week, where it will present on North America topics as agreed with the Buyer. The Supplier should expect to deliver up to 12 Export Academy events annually.
L.4	Engagement and Stakeholder Management	The Supplier shall represent the service at external facing events such as Trade Shows as agreed with the Buyer. The Supplier should expect to attend at least x3 Trade Shows per year.
L.5	Engagement and Stakeholder Management	<p>The Supplier shall provide reporting (in a form acceptable to the Buyer) of its internal and external engagement at monthly contract management meetings which includes, but not limited to:</p> <ul style="list-style-type: none"> <li>• Number of meetings and attendees</li> <li>• Minutes of the discussion</li> <li>• Feedback received</li> <li>• Additional referrals generated to the service as a result of the events delivered and any insights gleaned from events</li> </ul>

## Schedule 2 (Specification), Crown Copyright 2023

L.6	Engagement and Stakeholder Management	<p>The Supplier shall support marketing of the service internally by:</p> <ul style="list-style-type: none"> <li>• Sending at least one representative to an annual DBT hosted two-day conference in the UK;</li> <li>• Providing personnel to support business-to-business workshops in the UK covering each of the ITA regions over a two-week period;</li> <li>• Providing (at least 2) updates for priority countries or markets in their region bi-annually. These shall be in the form of a written report outlining changes in market conditions / relevant trends, suitable for distribution to the ITA population.</li> </ul>
M.1	Additional Services	The Supplier shall provide additional rate cards for the delivery of additional services to conduct research and writing of additional market entry collateral on behalf of other DBT teams for topics, sectors, regions/states which are not required as part of the IM service.
M.2	Additional Services	The Supplier shall provide additional rate cards for the delivery of additional services to for events commissioned by DBT / UK Diplomatic Posts which are not required as part of the IM service.
M.3	Additional Services	The Supplier shall provide additional rate cards for the delivery of additional services to conduct in-market analysis of business behaviour, trends, market opportunities and market research when commissioned by DBT or Post. This additional service shall also include project management.
M.4	Additional Services	Any additional services commissioned by the Buyer under requirements M.1. to M.3. above shall be agreed using the Contract Variation Procedure.

**A03a Implementation requirements**

The summary implementation requirements during the 3-month implementation period. Milestone Payments will be made upon successful completion of the following:

- 1. Delivery of the detailed implementation plan including all activities which must take place prior to Go Live and submission of assurance documentation** – Submission of the detailed and updated Implementation Plan (based in all material respects on the Implementation Plan provided by the Supplier at tender stage) by the 08 January 2025 and commencement of project kick-off meetings by 13 January 2025. Supplier must complete all cyber and data protection related documentation prior to implementation commencement.
- 2. Readiness of supplier personnel and establishment of stakeholder working relationship** – including any recruitment activity, onboarding including equipment and access to DBT systems (as required) and clearances, production and delivery of training materials, complete organisational charts, delivery of standard operating procedures (such as templates for response and management of client enquiries), completion of the Service Plan, Quality

Assurance Procedures, and readiness meetings take place with key internal stakeholders.

0. **Contract Management deliverables** – Completion of contract activities such as Data Processing Procedures, BCDR, Security Management Plan, Continuous Improvement Plan, Quality Plan, Exit Plan, Contract Management procedures, Insurance requirements and other schedules as required, delivered in line with the timelines stipulated in contract schedules.
1. **Technical systems setup, tested and approved** – Completion of all set up activity for technical systems including CRM and other tools as applicable, email addresses set up and DBT email domain delegated, access to DBT systems (DataHub) confirmed. Successful and adequate testing of systems including penetration testing and GDPR.
2. **Go Live readiness** – sign off of all implementation activities and approval to Go Live by the 28 March 2025, ready for Go Live on 01 April 2025.

### A03b Key dates and milestones

02 January 2025 – Supplier assurance received from DBT Information Risk Assurance Panel to enable contract signature.

01 April 2025 – Service transfer & Go Live

### A4

#### Dependencies

- Supplier access to DBT systems depends on approvals and supplier IT penetration testing and personnel obtaining Security Clearances.
- Supplier access to DBT ticketing system depends on DDaT approvals.
- Go Live relies on DBT Buyer team approval and Internal Risk Assurance Panel (IRAP) approvals – the departments information and cyber risk assurance processes.
- The Supplier will work with the existing supplier to transfer information relevant for Go Live, including training materials and standard operating procedures (SOPs) covering:
  - Administrative tasks
    - Complaint policy
    - New team member onboarding
    - Team member departure and offboarding
  - Referral Network management
    - Onboarding and engaging with providers
    - Introductions to providers
    - Collecting feedback from providers and clients
  - Reporting
    - Monthly data returns
  - Triage
    - Process for introduction to DBT teams at Post, EDES, and other markets
  - Market guides
    - Updating schedule
    - Library management
  - Client management
    - Scoping calls

Schedule 2 (Specification), Crown Copyright 2023

- Unresponsive companies
- Outcomes
  - Export Win follow-up
  - Case Studies
- Enquiry data, including:
  - Submission information and data
- Market Intelligence Collateral
- Overseas Referral Network paperwork

## TUPE

The Buyer and the Supplier agree that TUPE applies to the provision of the Services under this Contract in accordance Schedule 07 (Staff Transfer). Only the indemnities set out in Schedule 07 (Staff Transfer) of the Contract will apply in the event that there is a TUPE transfer. Other than as set out in Schedule 07 (Staff Transfer) of the Contract, the Supplier is expected to cover all TUPE costs and take all TUPE risk and the Buyer does not accept liability for any costs that may arise as a result of TUPE.

## Schedule 3 (Charges)

### 1. How Charges are calculated

#### 1.1 The Charges:

1.1.1 shall be calculated in accordance with the terms of this Schedule;

1.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in this Schedule; and

1.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.

### 2. The pricing mechanisms

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in this Contract.

### 3. Are costs and expenses included in the Charges

3.1 The Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

3.1.2 costs incurred prior to the commencement of this Contract.

### 4. When the Supplier can ask to change the Charges

4.1 The Charges will be fixed for the first 3 years following the Start Date (the date of expiry of such period is a "**Review Date**"). After this initial Review Date Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").

4.2 The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.

4.3 Any notice requesting an increase shall include:

4.3.1 a list of the Charges to be reviewed;

4.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including a breakdown of the

profit and cost components that comprise the relevant part of the Charges.

4.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.

4.5 Any Approval granted by the Buyer pursuant to Paragraph 4.4 shall be on the condition that where a charge is increased, any profit on that charge shall be capped at the respective profit percentage submitted in the Supplier's tender.

4.6 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

### **3. Other events that allow the Supplier to change the Charges**

5.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:

5.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;

5.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges; and

5.1.3 indexation, where Annex 1 states that a particular Charge or any component is "subject to Indexation" in which event Paragraph 7 below shall apply.

### **4. Indexation**

6.1 Subject to paragraph 7.2, where the Charges in Annex 1 are stated to be "subject to Indexation" they shall be adjusted in line with changes in the Consumer Price Index (CPI) published by the Office of National Statistics (the "**Index**") pursuant to Paragraph 7.5. All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier.

6.2 Any increase in the Charges made under paragraph 7.1 as a result of Indexation shall be capped at 3% regardless of the percentage increase to the Index.

6.3 The following costs, expenses, fees or charges included in the Charges shall not be subject to adjustment under this Paragraph 7 and shall not be included in the relevant amount or sum for the purposes of Paragraph 7.1:

6.3.1 Any costs charged by the Supplier to the Buyer in respect of Supplier Assets or Buyer Assets (including capital costs and installation, maintenance and support costs) which are incurred by the Supplier prior to the relevant adjustment date but which remain to be recovered through the Charges.

## Schedule 3 (Charges), Crown Copyright 2023

6.4 Charges shall not be indexed during the first two years following the Start Date (the “**Non-Indexation Period**”).

6.5 Where Annex 1 states a Charge is subject to Indexation then it will be indexed on the date which is one year after the end of the Non-Indexation Period to reflect the percentage change in the Index during the one-year period immediately following the end of the Non-Indexation Period. Subsequent adjustments shall take place on each following yearly anniversary to reflect the percentage change in the Index since the previous change.

6.6 Where the Index:

6.6.1 used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless the Buyer and the Supplier agree otherwise; or

6.6.2 is no longer published, the Buyer and the Supplier shall agree an appropriate replacement index which shall cover to the maximum extent possible the same economic activities as the original index.

## 7. Currency Risk

7.1 All Charges shall be invoiced and paid in Pounds Sterling.

7.2 The Supplier accepts any risk that may arise in respect of the Charges from changes in currency exchange rates.



## Annex 1: Rates and Prices

The summary of pricing mechanisms applied to this Contract is listed below:

Mechanism	Service Component(s)	Schedule 2: Specification Reference	Charging and payments
Milestone Payments during Implementation	Implementation including mobilisation		Payment upon achievement of implementation Milestones
Capped Time and Materials	Manage Enquiries & Referrals Provide Market Advice & Source In-Market Services Follow up Services Engagement and Stakeholder Management	A1 to A12, B1 to B20 D1 to D6 L1 to L6	Capped monthly rates dependent on time spent on activities.
Fixed Prices	Other service elements e.g. CRM system, guidance materials	All other Service costs not accounted for in Milestone Payments , capped time and materials, or exit costs	Fixed monthly fee calculated from total contract price and proportioned across 60 months .
Fixed exit costs	Execution of the Exit Plan	Schedule 30	Fixed fee payment to be invoiced when exit is complete
Rate Cards	Additional Service commissioned outside of core service		Contract Variation calculated using rates

## Schedule 3 (Charges), Crown Copyright 2023

Performance  
related  
payment

KPI Incentives  
Export Win Value  
Incentives

██████ per  
annum of  
incentive  
payments  
available.  
  
Full details of  
incentive  
payments can be  
found in schedule

**Table 1: Milestone Payments during Implementation**

The Supplier shall invoice the Buyer for each Milestone Payment specified in the table below on the receipt of a Satisfaction Certificate for the Milestone that corresponds to that Milestone Payment as set out in the Implementation Plan.

The Implementation Fees shall not be subject to Indexation.

Cost Reference	Milestone Description	Total Fixed Cost
IMP01	Milestone 1	██████
IMP02	Milestone 2	██████
IMP03	Milestone 3	██████
IMP04	Milestone 3	██████
IMP05	Milestone 4	██████
	<b>Total of all Implementation costs</b>	██████

**Table 2: Capped Time and Materials Charges**

The Supplier shall be entitled to invoice the Buyer monthly in arrears for time and materials for each of the Services specified in this section using the rates set out in the table 2b below up to the capped monthly price for the relevant Service set out in table 2a below.

The rates shall include all costs and expenses for the relevant Service.

All invoices shall be subject to review and approval by the Buyer's Contract Manager prior to payment and the Supplier shall submit to the Buyer's Contract Manager such

## Schedule 3 (Charges), Crown Copyright 2023

information as the Buyer's Contract Manager may reasonably require to verify such invoice.

The capped prices in table 2a and the rates in table 2b shall be subject to variation by way of Indexation.

Table 2a: capped prices for each Service

Service Description	Schedule 2: Specification Reference	Capped Monthly Price (£) (excl. VAT)
Manage enquiries and referrals	A1 to A12,	████████
Provide market advice and source in-market services	B1 to B20	████████
Follow up services	D1 to D6	████████
Engagement and stakeholder management	L1 to L6	████████
Total		████████

Table 2b: rates: – Capped Time and Materials

Requirement A1 to A12,	Proposed roles	Proposed Daily Rate
Manage enquiries and referrals	Project Manager	████████
	Deputy Project Manager / international market advisor	████████
Requirement B1 to B20	Proposed roles	Proposed Daily Rate
Provide market advice and source in-market services	Account Manager	████████
	Project Manager	████████
	International Market Advisor	████████
Requirement D1 to D6	Proposed roles	Proposed Daily Rate
Follow up services	Project Manager	████████
	Deputy project manager / international market advisor	████████
Requirement L1 to L6	Proposed roles	Proposed Daily Rate
Engagement and stakeholder management	Project Manager	████████
	Account Manager	████████
	International Market Advisor	████████

**Table 3: Fixed Prices**

The price listed below is the fixed cost for the listed Good/Service and includes all costs and expenses associated with that Good/Service. Prices are in Pound Sterling (£) and exclusive of VAT.

The Charges for these Goods and/or Services shall be paid as follows:

The total fixed prices shall be divided into 60 equal instalments and paid monthly.

The prices below may be subject to variation by way of Indexation.

Type of Charge	Fixed Charge (£)
Salesforce CRM licence	██████
██	██████
Apollo licence fee to support contact identification	██████
IBIS World subscription	██████
ORN network additions and maintenance	██████
Market Intelligence - build, develop, maintain reports	██████
Manage delivery of IM service & reporting	██████
Total Fixed Prices	██████

**Table 4: Rate cards for Additional Services**

The Charges for any Additional Services required by the Buyer shall be calculated using the rates set out in the table below and agreed using the Variation Procedure. Prices are in Pound Sterling (£) and exclusive of VAT.

The rates below shall not be subject to variation by way of Indexation.

Type of Charge		[Fixed] Charge (£)
Additional Service M1: Conduct research and writing of additional market entry collateral on behalf of other DBT teams for topics, sectors, regions/states	Senior Consultant	██████
	International Market Advisor	██████
Additional Service M2: Events commissioned by DBT / UK Diplomatic Posts	Senior Consultant	██████
	International Market Advisor	██████
Additional Services M3: In-market analysis of business behaviour, trends, market opportunities and market research when commissioned by DBT or Post.	Senior Consultant	██████
	International Market Advisor	██████

**Table 5: Exit Costs**

As per Schedule 30.

The Buyer shall pay the “Exit Deliverable Cost” following Delivery of all Deliverables identified in the Exit Plan. The Deliverables shall be determined by the Supplier in the Exit Plan and are subject to approval by the Authority. This will be paid as a lump sum once the Buyer is satisfied that the exit Deliverables identified in the Exit Plan have been Delivered.

These payments shall not be varied by way of Indexation.

Cost Ref	Description	Fixed Cost
EX01		
Total of all Proposed Fixed Item Costs		
Cost Ref	Role Description	Fixed Cost
EX01	Exit Manager	
Total of all Proposed Fixed Staffing Costs		
Exit Deliverable Cost		

**Table 6: Incentive Payments**

A total of [REDACTED] per contract annum is available for Supplier performance related pay. This will be allocated and paid as per the details below.

INCENT 1 shall be reviewed annually at the year end contract management board. The Buyer shall use its [REDACTED] to produce reports to validate [REDACTED]

[REDACTED] This review shall take place in the final month of the financial year which also aligns with the final month of the Contract Year.

INCENT 2 & 3 shall be reviewed and paid quarterly following validation at the Quarterly Contract Review Meetings.

INCENT 2 will be validated through DBT owned [REDACTED]

INCENT 3 requires the Supplier to provide a report with evidence.

These payments shall not be varied by way of Indexation.

Ref	Metric	Incentive	Frequency of Measurement	Incentive value (annually)	Incentive Value (quarterly)
INCENT1			Annually		
INCENT2					
INCENT3					

--	--	--	--	--	--



## Schedule 4 (Tender)

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

■ [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

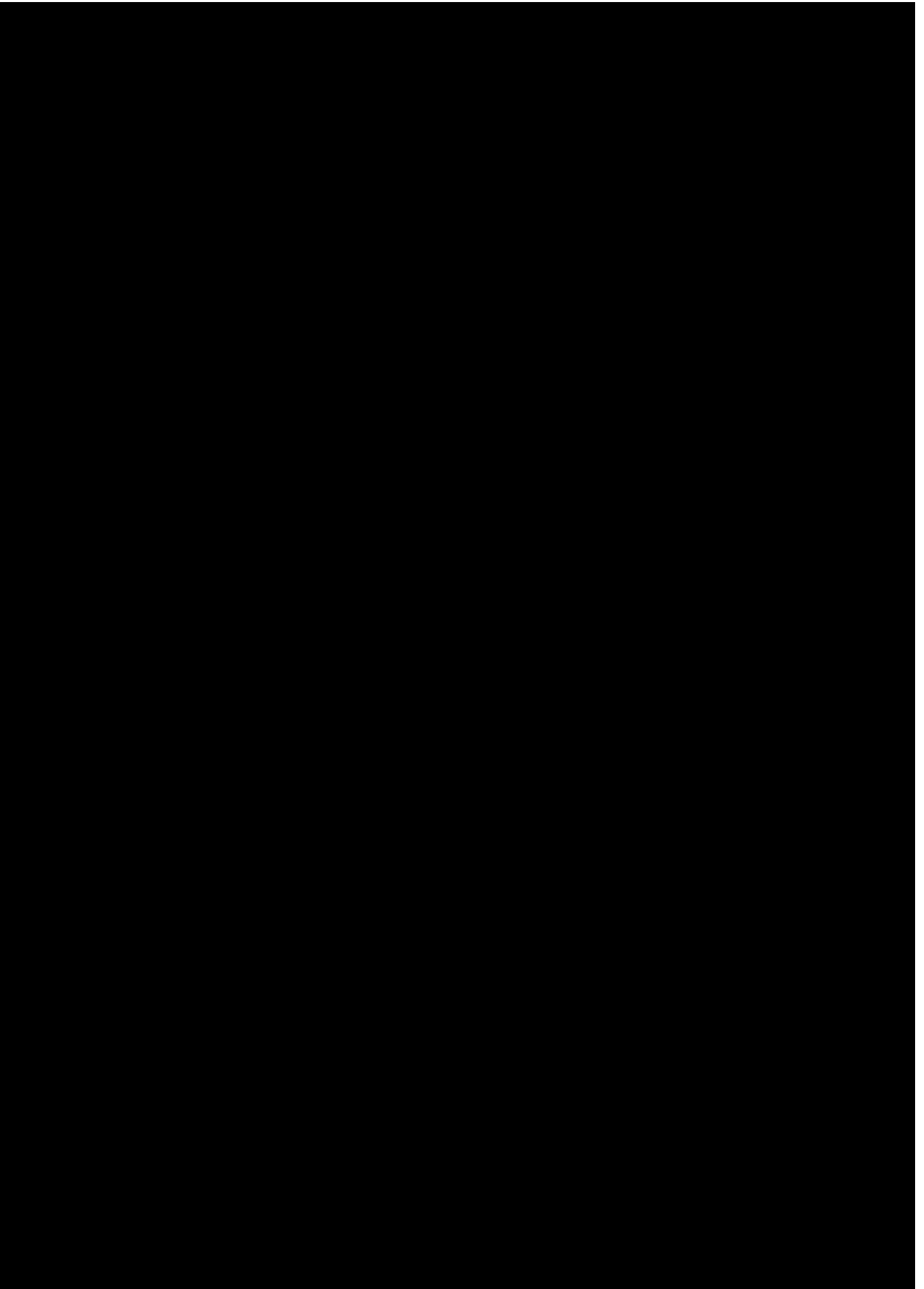
[REDACTED]

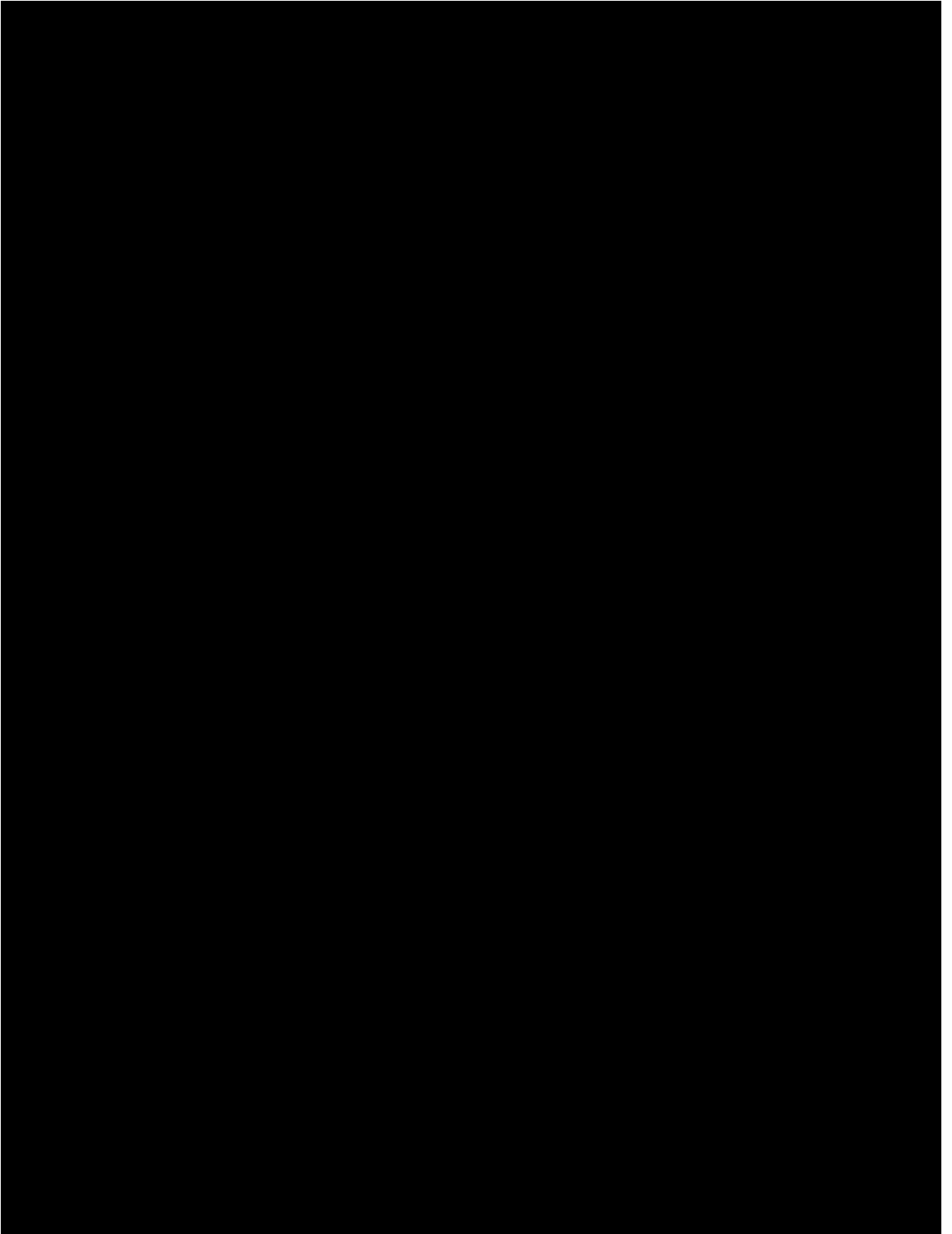
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

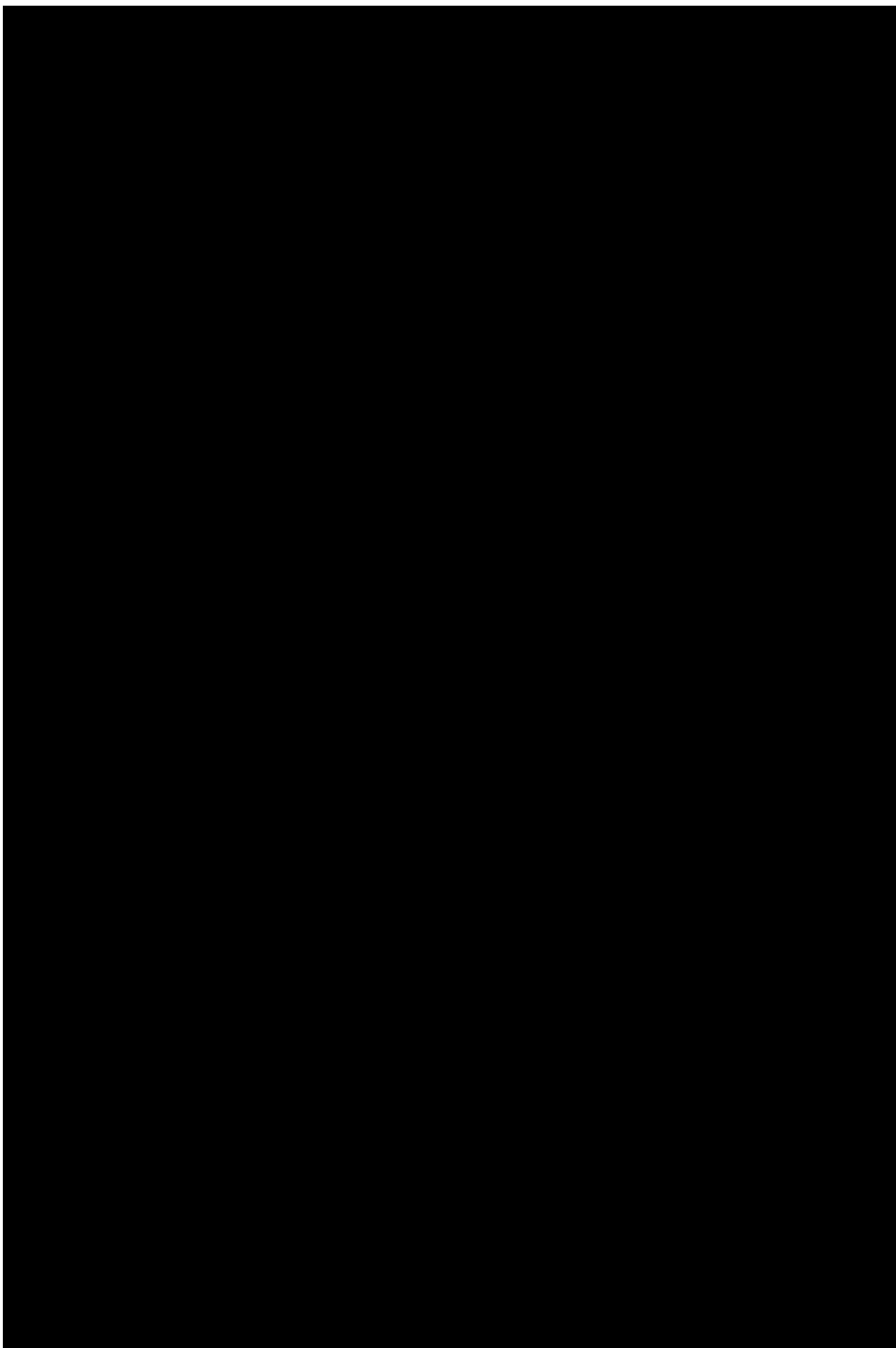
■ [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

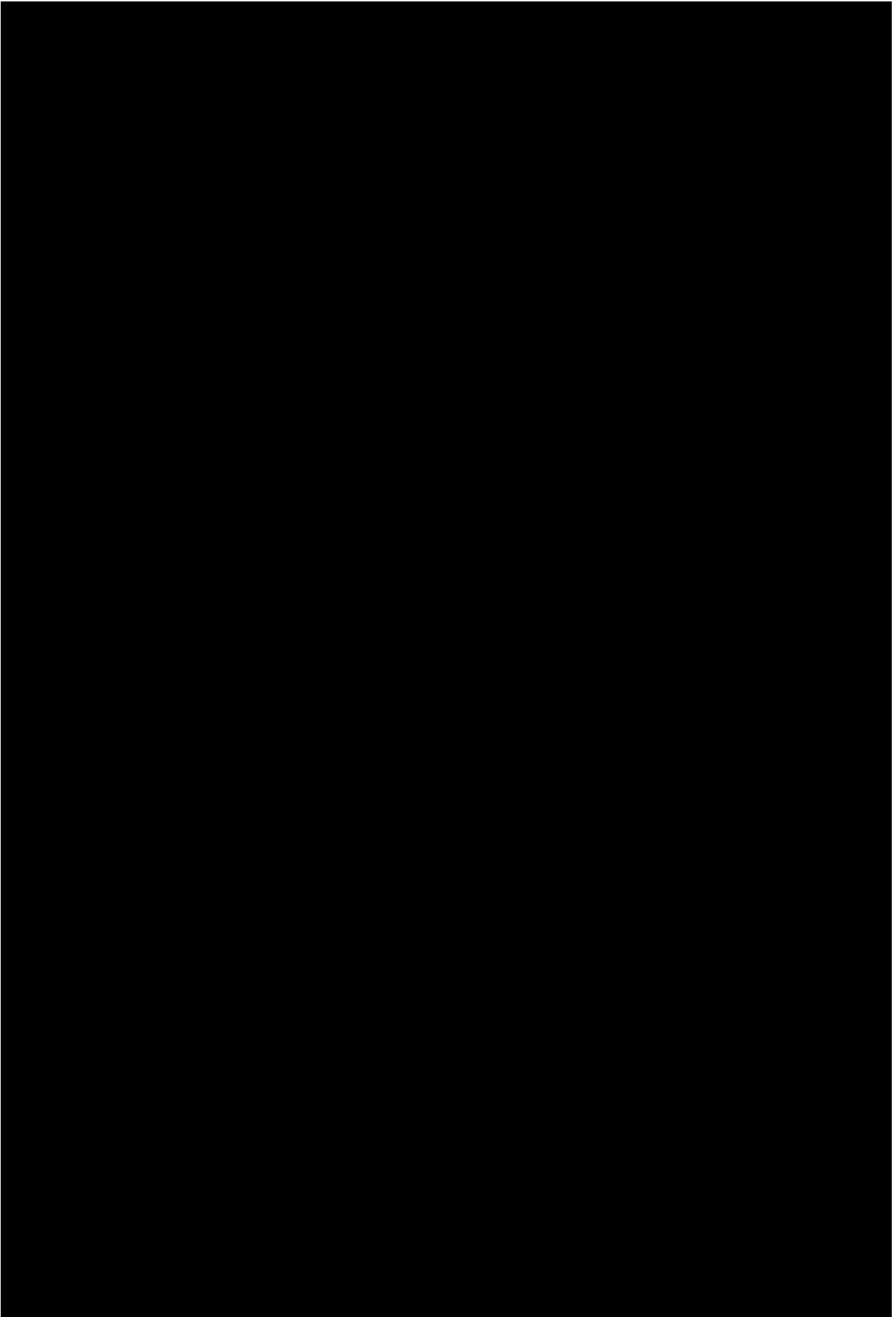
[REDACTED]

[REDACTED]

the 1990s, the number of people in the United States who are 65 years of age and older has increased by 50 percent, and the number of people 75 years of age and older has increased by 100 percent. The number of people 85 years of age and older has increased by 200 percent. The number of people 95 years of age and older has increased by 400 percent. The number of people 100 years of age and older has increased by 1,000 percent. The number of people 105 years of age and older has increased by 2,000 percent. The number of people 110 years of age and older has increased by 4,000 percent. The number of people 115 years of age and older has increased by 8,000 percent. The number of people 120 years of age and older has increased by 16,000 percent. The number of people 125 years of age and older has increased by 32,000 percent. The number of people 130 years of age and older has increased by 64,000 percent. The number of people 135 years of age and older has increased by 128,000 percent. The number of people 140 years of age and older has increased by 256,000 percent. The number of people 145 years of age and older has increased by 512,000 percent. The number of people 150 years of age and older has increased by 1,024,000 percent. The number of people 155 years of age and older has increased by 2,048,000 percent. The number of people 160 years of age and older has increased by 4,096,000 percent. The number of people 165 years of age and older has increased by 8,192,000 percent. The number of people 170 years of age and older has increased by 16,384,000 percent. The number of people 175 years of age and older has increased by 32,768,000 percent. The number of people 180 years of age and older has increased by 65,536,000 percent. The number of people 185 years of age and older has increased by 131,072,000 percent. The number of people 190 years of age and older has increased by 262,144,000 percent. The number of people 195 years of age and older has increased by 524,288,000 percent. The number of people 200 years of age and older has increased by 1,048,576,000 percent. The number of people 205 years of age and older has increased by 2,097,152,000 percent. The number of people 210 years of age and older has increased by 4,194,304,000 percent. The number of people 215 years of age and older has increased by 8,388,608,000 percent. The number of people 220 years of age and older has increased by 16,777,216,000 percent. The number of people 225 years of age and older has increased by 33,554,432,000 percent. The number of people 230 years of age and older has increased by 67,108,864,000 percent. The number of people 235 years of age and older has increased by 134,217,728,000 percent. The number of people 240 years of age and older has increased by 268,435,456,000 percent. The number of people 245 years of age and older has increased by 536,870,912,000 percent. The number of people 250 years of age and older has increased by 1,073,741,824,000 percent. The number of people 255 years of age and older has increased by 2,147,483,648,000 percent. The number of people 260 years of age and older has increased by 4,294,967,296,000 percent. The number of people 265 years of age and older has increased by 8,589,934,592,000 percent. The number of people 270 years of age and older has increased by 17,179,869,184,000 percent. The number of people 275 years of age and older has increased by 34,359,738,368,000 percent. The number of people 280 years of age and older has increased by 68,719,476,736,000 percent. The number of people 285 years of age and older has increased by 137,438,953,472,000 percent. The number of people 290 years of age and older has increased by 274,877,906,944,000 percent. The number of people 295 years of age and older has increased by 549,755,813,888,000 percent. The number of people 300 years of age and older has increased by 1,099,511,627,776,000 percent. The number of people 305 years of age and older has increased by 2,199,023,255,552,000 percent. The number of people 310 years of age and older has increased by 4,398,046,511,104,000 percent. The number of people 315 years of age and older has increased by 8,796,093,022,208,000 percent. The number of people 320 years of age and older has increased by 17,592,186,044,416,000 percent. The number of people 325 years of age and older has increased by 35,184,372,088,832,000 percent. The number of people 330 years of age and older has increased by 70,368,744,177,664,000 percent. The number of people 335 years of age and older has increased by 140,737,488,355,328,000 percent. The number of people 340 years of age and older has increased by 281,474,976,710,656,000 percent. The number of people 345 years of age and older has increased by 562,949,953,421,312,000 percent. The number of people 350 years of age and older has increased by 1,125,899,906,842,624,000 percent. The number of people 355 years of age and older has increased by 2,251,799,813,685,248,000 percent. The number of people 360 years of age and older has increased by 4,503,599,627,370,496,000 percent. The number of people 365 years of age and older has increased by 9,007,199,254,740,992,000 percent. The number of people 370 years of age and older has increased by 18,014,398,509,481,984,000 percent. The number of people 375 years of age and older has increased by 36,028,797,018,963,968,000 percent. The number of people 380 years of age and older has increased by 72,057,594,037,927,936,000 percent. The number of people 385 years of age and older has increased by 144,115,188,075,855,872,000 percent. The number of people 390 years of age and older has increased by 288,230,376,151,711,744,000 percent. The number of people 395 years of age and older has increased by 576,460,752,303,423,488,000 percent. The number of people 400 years of age and older has increased by 1,152,921,504,606,846,976,000 percent. The number of people 405 years of age and older has increased by 2,305,843,009,213,693,952,000 percent. The number of people 410 years of age and older has increased by 4,611,686,018,427,387,904,000 percent. The number of people 415 years of age and older has increased by 9,223,372,036,854,775,808,000 percent. The number of people 420 years of age and older has increased by 18,446,744,073,709,551,616,000 percent. The number of people 425 years of age and older has increased by 36,893,488,147,419,103,232,000 percent. The number of people 430 years of age and older has increased by 73,786,976,294,838,206,464,000 percent. The number of people 435 years of age and older has increased by 147,573,952,589,676,412,928,000 percent. The number of people 440 years of age and older has increased by 295,147,905,179,352,825,856,000 percent. The number of people 445 years of age and older has increased by 590,295,810,358,705,651,712,000 percent. The number of people 450 years of age and older has increased by 1,180,591,620,717,411,303,424,000 percent. The number of people 455 years of age and older has increased by 2,361,183,241,434,822,606,848,000 percent. The number of people 460 years of age and older has increased by 4,722,366,482,869,645,213,696,000 percent. The number of people 465 years of age and older has increased by 9,444,732,965,739,290,427,392,000 percent. The number of people 470 years of age and older has increased by 18,889,465,931,478,580,854,784,000 percent. The number of people 475 years of age and older has increased by 37,778,931,862,957,161,709,568,000 percent. The number of people 480 years of age and older has increased by 75,557,863,725,914,323,419,136,000 percent. The number of people 485 years of age and older has increased by 151,115,727,451,828,646,838,272,000 percent. The number of people 490 years of age and older has increased by 302,231,454,903,657,293,676,544,000 percent. The number of people 495 years of age and older has increased by 604,462,909,807,314,587,353,088,000 percent. The number of people 500 years of age and older has increased by 1,208,925,819,614,629,174,706,176,000 percent. The number of people 505 years of age and older has increased by 2,417,851,639,229,258,349,412,352,000 percent. The number of people 510 years of age and older has increased by 4,835,703,278,458,516,698,824,704,000 percent. The number of people 515 years of age and older has increased by 9,671,406,556,917,033,397,649,408,000 percent. The number of people 520 years of age and older has increased by 19,342,813,113,834,066,795,298,816,000 percent. The number of people 525 years of age and older has increased by 38,685,626,227,668,133,590,597,632,000 percent. The number of people 530 years of age and older has increased by 77,371,252,455,336,267,181,195,264,000 percent. The number of people 535 years of age and older has increased by 154,742,504,910,672,534,362,390,528,000 percent. The number of people 540 years of age and older has increased by 309,485,009,821,345,068,724,781,056,000 percent. The number of people 545 years of age and older has increased by 618,970,019,642,690,137,449,562,112,000 percent. The number of people 550 years of age and older has increased by 1,237,940,039,285,380,274,899,124,224,000 percent. The number of people 555 years of age and older has increased by 2,475,880,078,570,760,549,798,248,448,000 percent. The number of people 560 years of age and older has increased by 4,951,760,157,141,521,099,596,496,896,000 percent. The number of people 565 years of age and older has increased by 9,903,520,314,283,042,199,193,993,792,000 percent. The number of people 570 years of age and older has increased by 19,807,040,628,566,084,398,387,9







\_\_\_\_\_

[REDACTED]

\_\_\_\_\_

[REDACTED]

\_\_\_\_\_

[REDACTED]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

- 
- - 
    - 
    - 
    -
  - - 
    - 
    - 
    -
  - - 
    - 
    - 
    -

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[illegible]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

\_\_\_\_\_

[REDACTED]

[illegible][illegible]

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

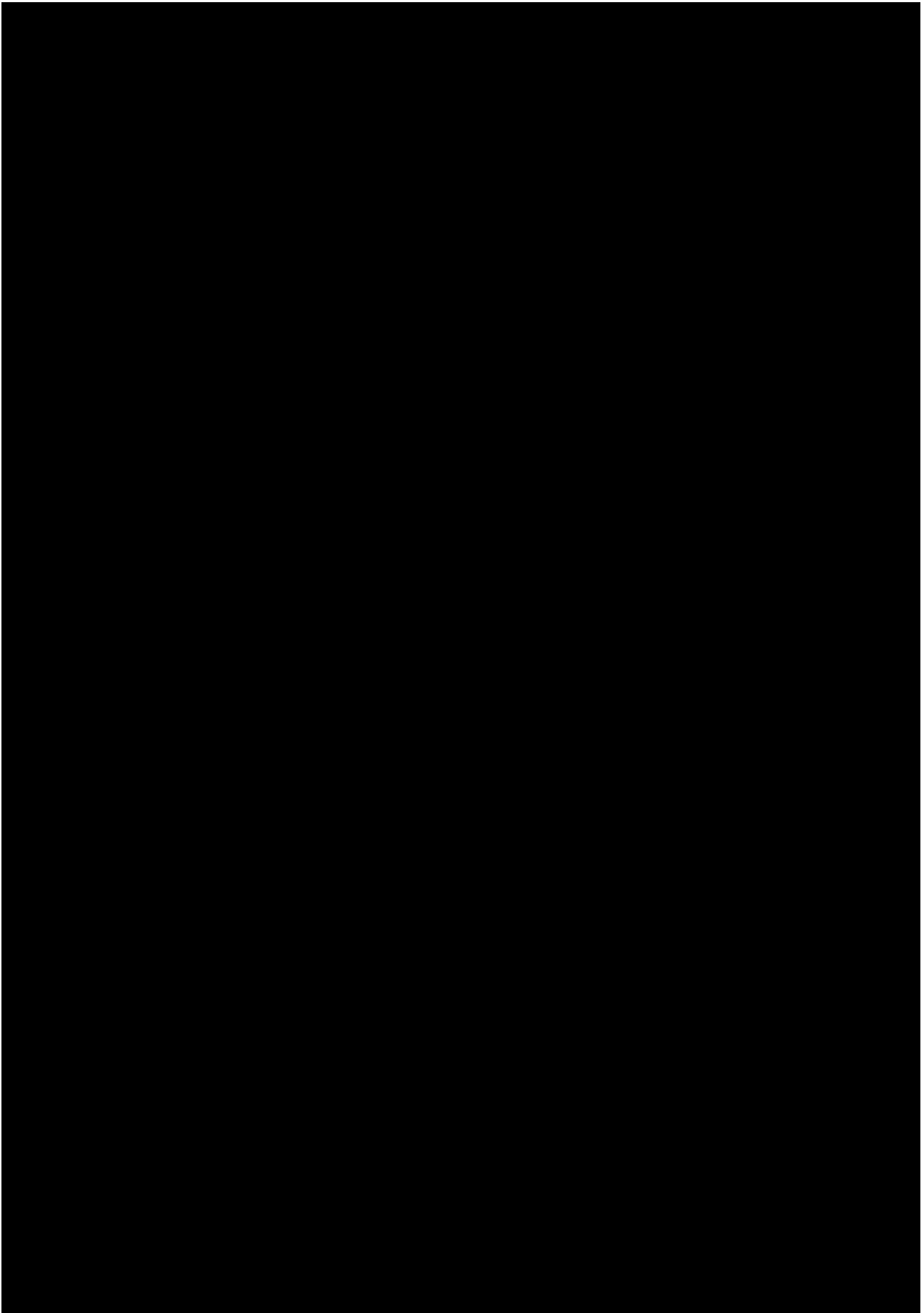
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[illegible]

\_\_\_\_\_

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) [REDACTED]

[REDACTED]

§ 87(2)(b)

§ 87(2)(b)

[REDACTED]

[REDACTED]

\_\_\_\_\_

\_\_\_\_\_

[illegible]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]



## Schedule 5 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

No.	Date	Item(s)	Duration of Confidentiality

## Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 <https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in this Contract, within three (3) Months of the Effective Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.



## Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Financial Controls (Schedule 2 Para F.12)	All relevant financial data relating to the Contract	'Excel Spreadsheet' and other formats as requested by the Buyer	On request from the Buyer
Social Value Schedule 10, KPI04	Progress against the Social Value criteria in KPI 04 detailing an update on the action plan and the results of any initiatives	Powerpoint Slides	Annually
KPI Performance	KPI performance on top 3 KPIs for the reporting period.	Excel Spreadsheet	Quarterly

## Schedule 7 (Staff Transfer)

### 1. Definitions

1.1 In this Schedule, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

**"Admission Agreement"**

either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;

**"Employee Liability"**

all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or

- civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (b) compensation for less favourable treatment of part-time workers or fixed term employees;
  - (c) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;
  - (d) claims whether in tort, contract or statute or otherwise;
  - (e) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

**"Fair Deal  
Employees"**

as defined in Part D;

<b>"Former Supplier"</b>	a supplier supplying the Services to the Buyer before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any subcontractor of any such subcontractor);
<b>"New Fair Deal"</b>	<p>the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for staff pensions: staff transfer from central government"</i> issued in October 2013 including:</p> <ul style="list-style-type: none"> <li>(a) any amendments to that document immediately prior to the Relevant Transfer Date;</li> <li>(b) any similar pension protection in accordance with the Annexes D1-3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</li> </ul>
<b>"Notified Subcontractor"</b>	a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
<b>"Old Fair Deal"</b>	HM Treasury Guidance <i>"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"</i> issued in June 1999 including the supplementary guidance <i>"Fair Deal for Staff pensions: Procurement of Bulk Transfer</i>

*Agreements and Related Issues" issued in June 2004;*

<b>"Partial Termination"</b>	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract);
<b>"Replacement Subcontractor"</b>	a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
<b>"Relevant Transfer"</b>	a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
<b>"Service Transfer"</b>	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier



or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;

**"Service Transfer Date"**

the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;

**"Staffing Information"**

in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, all information required in Annex E2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time.

**"Statutory Schemes"** means the CSPS, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;

**"Supplier's Final Supplier Staff List"**

a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;

**"Supplier's Provisional Supplier Staff List"**

a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

<b>"Transferring Buyer Employees"</b>	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
<b>"Transferring Former Supplier Employees"</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Relevant Transfer Date.

## 2. Interpretation

Where a provision in this Schedule imposes any obligation on the Supplier including to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

## 3. Which parts of this Schedule apply

The following parts of this Schedule shall apply to this Contract:

3.1 Part B (Staff Transfer At Operational Services Commencement Date – Transfer From Former Supplier);

Part D (*Pensions*):

3.1.1 - Annex D4 (Other Schemes).

3.2 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Contract, including:

3.2.1 Annex E1 (List of Notified Subcontractors);

3.2.2 Annex E2 (Staffing Information).

## **Part B: Staff transfer at the Start Date**

### **Transfer from a Former Supplier on Re-procurement**

#### **1. What is a relevant transfer**

1.1 The Buyer and the Supplier agree that:

- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

#### **2. Indemnities given by the Former Supplier**

2.1 Subject to Paragraph 2.1, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:

- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

- (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
    - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
  - 2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Former Supplier to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.4 a failure of the Former Supplier 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 Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
  - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and
  - 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
- 2.2.2 arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.

2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that their contract of employment has been transferred from a Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:

- 2.3.1 the Supplier shall, or shall procure that the Subcontractor shall, within five (5) Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing; and
- 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter provided always that such steps are in compliance with applicable Law, within fifteen (15) Working Days of receipt of notice from the Supplier;
- 2.3.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall immediately release the person from its employment;
- 2.3.4 if after the period referred to in Paragraph 2.3.2:
  - (a) no such offer has been made;
  - (b) such offer has been made but not accepted; or
  - (c) the situation has not otherwise been resolved;
  - (d) the Supplier and/or any Subcontractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person,

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in Paragraph 2.3

provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

#### 2.4 The indemnity in Paragraph 2.3:

2.4.1 shall not apply to:

(a) any claim for:

- (i) for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

arising as a result of any alleged act or omission of the Supplier and/or any Subcontractor; or

(b) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and

2.4.2 shall not apply to any termination of employment occurring later than 6 Months from the relevant Transfer Date.

2.5 If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall procure that any Subcontractor shall, (a) comply with such obligations as may be imposed upon it under applicable Law and (b) comply with the provisions of Part D (Pensions) and its Annexes of this Staff Transfer Schedule.

### 3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.3.2, the Supplier shall indemnify the Buyer, and the Former Supplier against any Employee Liabilities arising from or as a result of:

3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:

(a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or

- (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Former Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Subcontractor 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 Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;



- 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13(4) of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

#### **4. Information the Supplier must give**

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

#### **5. Cabinet Office requirements**

- 5.1 The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in

5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

5.1.2 Old Fair Deal; and/or

5.1.3 the New Fair Deal.

5.2 Any changes necessary to this Contract as a result of changes to, or any replacement of, any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

### **3. Limits on the Former Supplier's obligations**

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer's must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

### **4. Pensions**

7.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with:

7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and

7.1.2 the provisions in Part D: Pensions (and its Annexes) to this Staff Transfer Schedule.

## Part D: Pensions

### 1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

<b>"Actuary"</b>	a Fellow of the Institute and Faculty of Actuaries;
<b>"Best Value Direction"</b>	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
<b>"Broadly Comparable"</b>	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and <b>"Broad Comparability"</b> shall be construed accordingly;</p>
<b>"CSPS"</b>	the schemes as defined in Annex to this Part D;

<b>"Direction Letter/Determination"</b>	has the meaning in Annex D 2to this Part D;
<b>"Fair Deal Eligible Employees"</b>	means each of the CSPS Eligible Employees (as defined in Annex D1 to this Part D), the NHSPS Eligible Employees (as defined in Annex D2 to this Part D) and/or the LGPS Eligible Employees (as defined in Annex D3 to this Part D) (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 10 or 11 of this Part D);
<b>"Fair Deal Employees"</b>	<p>those:</p> <ul style="list-style-type: none"> <li>(a) Transferring Buyer Employees; and/or</li> <li>(b) Transferring Former Supplier Employees; and/or</li> <li>(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts</li> </ul>

	<p>A or B or Paragraph 1.2.4 of Part C;</p> <p>(d) where the Former Supplier becomes the Supplier those employees;</p> <p>who at the Start Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer;</p>
<b>"Fair Deal Schemes"</b>	means the relevant Statutory Scheme or a Broadly Comparable pension scheme;
<b>"Fund Actuary"</b>	means Fund Actuary as defined in Annex D3 to this Part D;
<b>"LGPS"</b>	the schemes as defined in Annex D3 to this Part D;
<b>"NHSPS"</b>	the schemes as defined in Annex D2 to this Part D; and
<b>"New Fair Deal"</b>	<p>the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for Staff Pensions: Staff Transfer from Central Government"</i> issued in October 2013 including:</p> <p>(a) any amendments to that document immediately prior to the Relevant Transfer Date; and</p>

- (b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the Buyer.

## **2. Supplier obligations to participate in the pension schemes**

2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.

2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

2.3 The Supplier undertakes:

2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

2.3.2 subject to Paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

### **3. Supplier obligation to provide information**

3.1 The Supplier undertakes to the Buyer:

- 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
- 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed); and
- 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former New Deal Eligible Employees arising on expiry or termination of this Contract.

### **4. Indemnities the Supplier must give**

4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any Default by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
- 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part D;
- 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
  - (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;

- (b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract; and/or
- 4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.
- 4.2 The indemnities in this Part D and its Annexes:
  - 4.2.1 shall survive termination of this Contract; and
  - 4.2.2 shall not be affected by the caps on liability contained in Clause 15 (How much you can be held responsible for).

## **5. What happens if there is a dispute**

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute (i) between the Buyer and the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:
  - 5.1.1 who will act as an expert and not as an arbitrator;
  - 5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and
  - 5.1.3 whose expenses shall be borne equally by the Buyer and the Supplier unless the independent Actuary shall otherwise direct.
- 5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

## **6. Other people's rights**

- 6.1 The Parties agree Clause 23 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them or it by the Supplier under this Part D, in their or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in their or its own right under section 1(1) of the CRTPA.



## 7. What happens if there is a breach of this Part D

- 7.1 The Supplier agrees to notify the Buyer should it Default any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for Material Default and the consequences of termination set out in Clause 14.5.1 shall apply in the event that the Supplier:
- 7.1.1 commits an irremediable Default of any provision or obligation it has under this Part D; or
  - 7.1.2 commits a Default of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the Default and requiring the Supplier to remedy it.

## 8. Transferring New Fair Deal Employees

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall and shall procure that any relevant Subcontractor shall:
- 8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangement for participation with the relevant Statutory Scheme(s);
  - 8.1.2 consult with about, and inform those Fair Deal Employees of, the pension provisions relating to that transfer; and
  - 8.1.3 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

## 9. What happens to pensions if this Contract ends

- 9.1 The provisions of Part E: Staff Transfer on Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.
- 9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Authority

and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

## **10. Broadly Comparable Pension Schemes On The Relevant Transfer Date**

- 10.1 If the terms of any of Paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2 Such Broadly Comparable pension scheme must be:
  - 10.2.1 established by the Relevant Transfer Date;
  - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
  - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has provided a Broadly Comparable pension pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
  - 10.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension

scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;

10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and

10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract:

10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with Paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with Paragraph 10.3.3) but using the last

day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and

10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had Paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this Paragraph.

## **11. Broadly Comparable Pension Schemes In Other Circumstances**

11.1 If the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex 5.2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

11.2 Such Broadly Comparable pension scheme must be:

11.2.1 established by the date of cessation of participation in the Statutory Scheme;

11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);

11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and

11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).

11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):

11.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;

11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995; and

11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and

11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair

Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this Paragraph.

## 12. Right Of Set-Off

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to:

- 12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;
- 12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or
- 12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under this Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.



## **Annex D4: Other Schemes**



## Part E: Staff Transfer on Exit

### 1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
  - 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract; and
  - 1.1.3 the date which is twelve (12) Months before the end of the Term; or
  - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any six (6) Month period),it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.
- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
  - 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
  - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).

- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):
- 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace
  - 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
  - 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
  - 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Staff List;
  - 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
  - 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
  - 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
  - 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures

envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;

- 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
  - 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
  - 1.5.11 not for a period of twelve (12) Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
  - 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
  - 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
  - 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);
  - 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
  - 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last twelve (12) Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are

organised. Within twenty (20) Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:

1.6.1 the numbers of Supplier Staff engaged in providing the Services;

1.6.2 the percentage of time spent by each Supplier Staff engaged in providing the Services;

1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and

1.6.4 a description of the nature of the work undertaken by each Supplier Staff by location.

1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Staff List who is a Transferring Supplier Employee:

1.7.1 the most recent month's copy pay slip data;

1.7.2 details of cumulative pay for tax and pension purposes;

1.7.3 details of cumulative tax paid;

1.7.4 tax code;

1.7.5 details of any voluntary deductions from pay;

1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;

1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and

1.7.8 bank/building society account details for payroll purposes.

1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following within twenty (20) Working Days of a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any reasonable request to align and assign Supplier Staff to any future delivery

model proposed by the Authority for Replacement Services within thirty (30) Working Days or such longer timescale as may be agreed.

- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Variation Procedure.

## **2. Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier 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 termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee
- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations under the Employment Regulations and in particular obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be

made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.

2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring before but excluding the Service Transfer Date of:

- (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;

2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;

2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
- (b) in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;

2.3.5 a failure of the Supplier or any Subcontractor 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 Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);

- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Contract and/or the Employment Regulations; and
- 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
- 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that their contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:

- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
- 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within fifteen (15) Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;

2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;

2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.6 The indemnity in Paragraph 2.5 shall not apply to:

2.6.1 any claim for:

- (a) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (b) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or

2.6.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.

2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than six (6) Months from the Service Transfer Date.

2.8 If at any point the Replacement Supplier and/or Replacement Subcontractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.

2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and



discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.9.1 the Supplier and/or any Subcontractor; and

2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.

2.10 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.11 Subject to Paragraph 2.12, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

2.11.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:

- (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or
- (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

- 2.11.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.11.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.11.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.11.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date;
- 2.11.7 a failure of the Replacement Supplier or Replacement Subcontractor 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 Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and

2.11.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

2.12 The indemnity in Paragraph 2.11 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

## **Annex E1: List of Notified Subcontractors**

# Annex E2: Staffing Information

## EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor:

Number of Employees in-scope to transfer:

EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Age	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							

		<b>EMPLOYEE DETAILS &amp; KEY TERMS</b>						
	<b>Details</b>	<b>Contract end date (if fixed term contract or temporary contract)</b>	<b>Contractual notice period</b>	<b>Contractual weekly hours</b>	<b>Regular overtime hours per week</b>	<b>Mobility or flexibility clause in contract?</b>	<b>Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector</b>	<b>Any collective agreements?</b>
	<b>Emp No 1</b>							
	<b>Emp No 2</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
		<b>ASSIGNMENT</b>		<b>CONTRACTUAL PAY AND BENEFITS</b>				

	Detail s	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightl y / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequenc y of pay reviews	Agreed pay increases	Next pay review date
	Emp No 1								
	Emp No 2								
	Emp No								
	Emp No								
	Emp No								
	Emp No								
	Emp No								

**CONTRACTUAL PAY AND BENEFITS**

Details	Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (xSalary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								



CONTRACTUAL PAY AND BENEFITS						
Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

PENSIONS						
Details	Employee pension contribution rate	Employer pension contribution rate	Please provide the name of the pension scheme and a link to the pension scheme website	Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?	If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?	Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHSPS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

## Schedule 7 (Staff Transfer), Crown Copyright 2023

PENSIONS						
Details	If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.	If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.	If the Employee is in the NHSPS, please provide details of the Direction Letter.	If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.	Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?	If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

## Schedule 7 (Staff Transfer), Crown Copyright 2023

Details	OTHER		
	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			



# Schedule 8 (Implementation Plan and Testing)

## Part A - Implementation

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Delay"</b>	(a) a delay in the Achievement of a Milestone by its Milestone Date; or  (b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
<b>"Deliverable Item"</b>	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
<b>"Implementation Period"</b>	has the meaning given to it in Paragraph 7.1;
<b>"Milestone Payment"</b>	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
<b>"Risk And Issues Register"</b>	An Excel spreadsheet detailing implementation risks and issues, including mitigations, resolutions and closure dates

### 2. Agreeing and following the Implementation Plan

2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan 20 days after the Effective Date.

2.2 The draft Implementation Plan:

2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and

2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.

2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission,

then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

2.4 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

2.5 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

### **3. Reviewing and changing the Implementation Plan**

3.1 Subject to Paragraph 4.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.

3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.

3.4 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a Material Default.

### **4. Security requirements before the Start Date**

4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Start Date. The Supplier shall ensure that this is reflected in their Implementation Plan.

4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.

4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.

4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Contract Period.

4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.

4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.





## 5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
  - 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
  - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
  - 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
  - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

## 6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
  - 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
  - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
    - (a) the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 (When the Buyer can end the contract); or
    - (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
  - 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
  - 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
  - 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 15 (How much you can be held responsible for).

## 7. Implementation Plan

- 7.1 The Implementation Period will be a three (3) Month period.

7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Start Date as set out in Award Form.

7.3 In accordance with the Implementation Plan, the Supplier shall:

7.3.1 work cooperatively and in partnership with the Buyer and incumbent supplier, where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;

7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;

7.3.3 liaise with the incumbent supplier to enable the full completion of the Implementation Period activities; and

7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.

7.4 The Implementation Plan will include detail stating:

7.4.1 how the Supplier will work with the incumbent supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and

7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.

7.5 In addition, the Supplier shall:

7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;

7.5.2 mobilise all the Services specified in the Specification within this Contract;

7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:

- (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
- (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute

shall be resolved in accordance with the Dispute Resolution Procedure.

7.5.4 manage and report progress against the Implementation Plan;

7.5.5 construct and maintain an Implementation Risk and Issues Register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;

7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Award Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and

7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent supplier and the Supplier.

## Annex 1: Implementation Plan

The Implementation Plan is set out below and the Milestones to be Achieved are identified below:

Milestone	Deliverable Items	Milestone Date	Milestone Payments
1	Delivery of detailed implementation plan and submission of assurance documentation	16 January 2025	Milestone payment proposed by the Supplier at ITT in Schedule 3 Pricing – Implementation.
2	Readiness of supplier personnel and establishment of stakeholder working relationship	28 February 2025	Milestone payment proposed by the Supplier at ITT in Schedule 3 Pricing – Implementation.
3	Contract Management Deliverables	21 February 2025	Milestone payment proposed by the Supplier at ITT in Schedule 3 Pricing – Implementation.
4	Technical systems set-up, tested and approved	21 February 2025	Milestone payment proposed by the Supplier at ITT in Schedule 3 Pricing – Implementation.
5	Go live readiness	18 March 2025	Milestone payment proposed by the Supplier at ITT in Schedule 3 Pricing – Implementation.

## Part B - Testing

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Component"</b>	any constituent parts of the Deliverables;
<b>"Material Test Issue"</b>	a Test Issue of Severity Level 1 or Severity Level 2;
<b>"Satisfaction Certificate"</b>	a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
<b>"Severity Level"</b>	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
<b>"Test Issue Management Log"</b>	a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
<b>"Test Issue Threshold"</b>	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
<b>"Test Reports"</b>	the reports to be produced by the Supplier setting out the results of Tests;
<b>"Test Specification"</b>	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
<b>"Test Strategy"</b>	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
<b>"Test Success Criteria"</b>	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

<b>"Test Witness"</b>	any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and
<b>"Testing Procedures"</b>	the applicable testing procedures and Test Success Criteria set out in this Schedule.

## 2. How testing should work

2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.

2.2 The Supplier shall not submit any Deliverable for Testing:

2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;

2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and

2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).

2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.

2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

## 3. Planning for testing

3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case, no later than twenty (20) Working Days after the Effective Date.

3.2 The final Test Strategy shall include:

3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;

3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;

3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;

3.2.4 the procedure to be followed to sign off each Test;

3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;

3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;

3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;

3.2.8 the technical environments required to support the Tests; and

3.2.9 the procedure for managing the configuration of the Test environments.

#### **4. Preparing for Testing**

4.1 The Supplier shall develop Test Plans for the relevant Testing as specified in the Implementation Plan and submit these for Approval as soon as practicable but in any case, no later than twenty (20) Working Days prior to the date of the relevant Test.

4.2 Each Test Plan shall include as a minimum:

4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and

4.2.2 a detailed procedure for the Tests to be carried out.

4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

#### **5. Passing Testing**

5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

#### **6. How Deliverables will be tested**

6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).

6.2 Each Test Specification shall include as a minimum:

6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;

6.2.2 a plan to make the resources available for Testing;

6.2.3 Test scripts;

6.2.4 Test pre-requisites and the mechanism for measuring them; and

6.2.5 expected Test results, including:

a) a mechanism to be used to capture and record Test results; and

b) a method to process the Test results to establish their content.

## **7. Performing the tests**

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
  - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
  - 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
  - 7.6.1 an overview of the Testing conducted;
  - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
  - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
  - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
  - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.



## **8. Discovering Problems**

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

## **9. Test witnessing**

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
  - 9.3.1 shall actively review the Test documentation;
  - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
  - 9.3.3 shall not be involved in the execution of any Test;
  - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
  - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
  - 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

## 7. Auditing the quality of the test

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

## 8. Outcome of the testing

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
  - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
  - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
  - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
  - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and
  - 11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

## **12. Risk**

- 12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
- 12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or
  - 12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

# **Annex 1: Test Issues – Severity Levels**

## **1. Severity 1 Error**

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

## **2. Severity 2 Error**

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
  - 2.1.1 causes a Component to become unusable;
  - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
  - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables.

## **3. Severity 3 Error**

- 3.1 This is an error which:
  - 3.1.1 causes a Component to become unusable;
  - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
  - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

## **4. Severity 4 Error**

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

## **5. Severity 5 Error**

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

## Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

### Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Contract**") [insert Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Effective Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in this Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

## Schedule 10 (Service Levels)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Critical Service Form; Level Failure"</b>	has the meaning given to it in the Award
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Credit Cap"</b>	has the meaning given to it in the Award Form;
<b>"Service Level Failure"</b>	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
<b>"Service Level Performance Measure"</b>	shall be each of the four performance measures set out against the relevant Service Level in the Annex to Part A of this Schedule; and
<b>"Service Level Threshold"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

### 2. What happens if you don't meet the Service Levels

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the "Good" Service Level Performance Measure for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:
- 2.4.1 the Supplier has over the previous twelve (12) Month period exceeded the Service Credit Cap; and/or
- 2.4.2 the Service Level Failure:
- (a) exceeds the relevant Service Level Threshold;
  - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;

- (c) results in the corruption or loss of any Government Data; and/or
- (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or

2.4.3 the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 of the Core Terms (When the Buyer can end the contract).

2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;

2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and

2.5.3 there is no change to the Service Credit Cap.

### 3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this Paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for Material Default.

## Part A: Service Levels and Service Credits

### 1. Service Levels

If the level of performance of the Supplier:

1.1 is likely to or does result in a Service Level Failure; or

1.2 is likely to cause or causes a Critical Service Level Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for Material Default and the consequences of termination in Clause 14.5.1 shall apply).

### 2. Service Credits

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.



## Annex A to Part A: Service Levels <sup>1</sup>and Service Credits Table

Service Level Number	Service Level Title	Service Level Definition	Measurement Criteria	How will the KPI be measured?	Service Level Threshold	Service Level Performance Measure	Service Credits
<b>KPI 01</b>	Timely Response to Client	Contract Schedule 2 Paragraph A.6 requires the supplier to confirm acknowledgement receipt via email (*not an auto response) of client enquiries / referrals within 6 working hours.	Time taken to acknowledge initial referral from:  Date and time a request is received by Supplier to;  Date and time the Supplier emails a formal acknowledgement to the Client	Recorded in the Supplier CRM System.  Report each calendar Month to be delivered by the 7 <sup>th</sup> of the following Month	Below 75% for 2 consecutive Months	Good = 98% and above within 6 working hours	-
						Approaching Target = 95% - 97.9% with 6 working hours	25
						Requires Improvement = 75% - 94.9% within 6 working hours	100
						Inadequate = below 75% within 6 working hours	300
<b>KPI 02</b>	Timely engagement with Client	Contract Schedule 2 Paragraph A.7 requires the supplier to supply the client with proposed arrangements for a follow-up appointment from the initial enquiry or	Time taken to acknowledge initial referral from:  Date and time the original enquiry is received by Supplier to;	Recorded in the Supplier CRM System.  Report each calendar Month to be delivered by the 7 <sup>th</sup> of the following Month	Below 75% for 2 consecutive Months	Good = 98% and above within 2 local working days	-
						Approaching Target = 90% - 97.9% within 2 local working days	25

<sup>1</sup> They Buyer may refer to the Service Levels as KPIs when complying with its reporting obligations and the two terms shall have the same meaning.

		referral within a minimum of 2 local working days	Date and time the Supplier emails a formal follow up with proposed dates / times for an appointment			Requires Improvement = 75% - 89.9% within 2 local working days	100
						Inadequate = below 75% within 2 local working days	300
<b>KPI 03</b>	Timely appointment with Client	The number of local working days for a Client appointment to be scheduled, subject to client agreement and availability, within 10 local working days of the referral	Time taken to acknowledge initial referral from:  Date and time the original enquiry is received by Supplier to;  Date and time the appointment takes place	Recorded in the Supplier CRM System.  Report each calendar Month to be delivered by the 7th of the following Month	Below 75% for 2 consecutive Months	Good = 99% and above within 10 working days	-
						Approaching Target = 90% - 98.9% within 10 working days	-
						Requires Improvement = 75% - 89.9% within 10 working days	50
						Inadequate = below 75% within 10 working days	100
<b>KPI 04</b>	Timely follow up with Client	Contract Schedule 2 Paragraph B.17 requires that Clients receive all follow up activity from the appointment within 8 local working days	Time taken to complete all follow up actions from:  Date and time of appointment, to;	Recorded in the Supplier CRM System.  Report each calendar Month to be delivered by the		Good = 96% and above within 8 working days	-
						Approaching Target = 90% - 95.9% within 8 working days	50

			Date and Time the client receives the final agreed element	7th of the following Month	Below 75% for 2 consecutive Months	Requires Improvement = 75% - 89.9% within 8 working days	200
						Inadequate = below 75% within 8 working days	300
<b>KPI 05</b>	Follow up on the in-market services	Contract Schedule 2 Paragraph D.1 requires that Clients receive a follow-up from the IM adviser after the market advice and in-market services stage in line within 90 days of the delivery of Market Advice & Source In-Market Services	Time taken from:  Completion of all actions from the initial following up, to;  Date of the follow up by the IM Advisor	Recorded in the Supplier CRM System.  Report each Month from the end of Quarter 1 onwards to be delivered by the 7th of the following Month	Below 75% for 2 consecutive Months	Good = 99% and above within 90 days	-
						Approaching Target = 90% - 98.9% within 90 days	-
						Requires Improvement = 75% - 89.9% within 90 days	50
						Inadequate = below 75% within 90 days	100
<b>KPI 06</b>	Client Satisfaction	Contract Schedule 2 Paragraph D.2 requires that Clients receive a satisfaction survey.  Clients who report they are satisfied or very satisfied with the support provided in	Number of clients reporting "Very Satisfied" in each monthly period.	Client satisfaction survey results  Report each calendar Month to be delivered by the 7th of the following Month	Below 75% for 2 consecutive Months	Good = 85% and above	-
						Approaching Target = 80% - 84.9%	-
						Requires Improvement = 75% - 79.9%	100

		the Buyer satisfaction survey				Inadequate = below 75%	500
<b>KPI 07</b>	Service Impact	Clients who report they are satisfied or very satisfied that the service had a beneficial impact on their ability to export	Number of clients reporting very satisfied or satisfied in each quarterly period	Client impact survey results  Report each Quarter to be delivered by the 7th of the following Month at Quarter end	-	Good = 85% and above	-
						Approaching Target = 80% - 84.9%	-
						Requires Improvement = 75% - 79.9%	-
						Inadequate = below 75%	-
<b>KPI 08</b>	Client Complaints	Contract Schedule 2 Paragraph F.11 requires that any formal communication to the supplier from a client in relation to alleged unsatisfactory service, must be resolved within local 20 working days.	Time taken to acknowledge, respond and resolve complaints from: Date and time complaint is received, until;  Date and time the final resolution communication is sent	Recorded in the Supplier CRM System.  Report each Quarter to be delivered by the 7th of the following Month at Quarter end	Below 75% for 2 consecutive Quarters	Good = 100% within 20 working days	-
						Approaching Target = 90% - 99.9% within 20 working days	250
						Requires Improvement = 75% - 89.9% within 20 working days	500
						Inadequate = below 75% within 20 working days	1,000

<b>KPI 09</b>	Stakeholder Complaints	Contract Schedule 2 Paragraph F.11 requires that All DBT key stakeholder complaints and issues must be resolved within 20 local working days.	Time taken to acknowledge, respond and resolve complaints from: Date and time complaint is received, until;  Date and time the final resolution communication is sent	Recorded in the Supplier CRM System.  Report each Quarter to be delivered by the 7th of the following Month at Quarter end	Below 75% for 2 consecutive Quarters	Good = 100% within 20 working days	-
						Approaching Target = 90% - 99.9% within 20 working days	200
						Requires Improvement = 75% - 89.9% within 20 working days	500
						Inadequate = below 75% within 20 working days	1,000
<b>KPI 10</b>	DataHub updated	Contract Schedule 2 Paragraphs A.4 and B.18 require the Supplier to keep Client records updated on DataHub following the completion of the IM service.	Timestamp of datahub record and timestamp of completion of enquiry	DataHub record and supplier CRM system  Report each Quarter to be delivered by the 7th of the following Month at Quarter end	Below 75% for 2 consecutive Quarters	Good = 100% within 2 working days	-
						Approaching Target = 90% - 99.9% within 2 working days	-
						Requires Improvement = 75% - 89.9% within 2 working days	200
						Inadequate = below 75% within 2 working days	500
<b>KPI 11</b>	Up-to-date market advice	Contract Schedule 2 paragraph E.7 The supplier is required	Activity log of supplier completing review and updates. every 6-months	Supplier worksheet		Good = 100% provided	-

		every 6 months to provide to the Buyer for approval advice, reports, and documents reflecting related policy changes or other changes or updates as requested.		Submitted every 6 Months	50% or below provided	Approaching Target = 90% - 99.9% provided	500
						Requires Improvement = 75% - 89.9% provided	1,000
						Inadequate = below 75% provided	2,500
<b>KPI 12</b>	Quality of Events	Clients report that they are 'satisfied' or 'very satisfied' with events delivered by the supplier.	Number of attendees reporting they were satisfied or very satisfied.	Customer satisfaction survey results	50% or below satisfied at any one event	Good = 85% and above	-
				Report delivered by the 7 <sup>th</sup> of the second calendar Month following an event.		Approaching Target = 80% - 84.9%	-
						Requires Improvement = 75% - 79.9%	250
						Inadequate = below 75%	500
<b>KPI 13</b>	Social Value MAC 7.1	Percentage of all companies in the supply chain under the contract to have implemented measures to improve the physical and	Demonstration of an understanding of issues relating to health and wellbeing, including physical and mental health, in the contract workforce.-Proof of	Activity reported at annual business review meeting		Good = 1 or more actions reported as implemented in both physical and mental health wellbeing of employees	-

		mental health and wellbeing of employees.	investment in the health and wellbeing of employees hired under this contract		No actions reported as planned or implemented at both the first and the second annual Contract Review Meetings	Approaching Target = 1 or more actions reported as implemented in either physical or mental health & wellbeing of employees	-
						Requires Improvement = No actions reported implemented, but 1 or more action(s) planned	500
						Inadequate = No actions reported as planned or implemented	1,000

## Schedule 10 (Service Levels), Crown Copyright 2023

The Service Credits shall be calculated on the basis of the following formula: 1 Service Credit = (equals) £1.00

**Example:**

Worked example: 98% (e.g. Service Level Performance Measure requirement KPI 01 for Timely Response to Client) - 75% (e.g. actual performance achieved against this Service Level in a Service Period)	=	£200 payable as Service Credits to be deducted from the next Invoice payable by the Buyer
---	---	---



## Part B: Performance Monitoring

### 1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Effective Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
  - 1.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
  - 1.2.2 a summary of all Service Level Failures that occurred during that Service Period;
  - 1.2.3 details of any Critical Service Level Failures;
  - 1.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 1.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
  - 1.2.6 such other details as the Buyer may reasonably require from time to time.
- 1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
  - 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
  - 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
  - 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 1.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.

1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

## **2. Satisfaction Surveys**

The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

## Schedule 11 (Continuous Improvement)

### 1. Supplier's Obligations

- 1.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
  - 1.3.1 identifying the emergence of relevant new and evolving technologies;
  - 1.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 1.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 1.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Effective Date.
- 1.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

- 1.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 1.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer.
- 1.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 1.5:
  - 1.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 1.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 1.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 1.3.
- 1.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 1.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 1.12 At any time during the Contract Period of this Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

## Schedule 13 (Contract Management)

### 1. Definitions

In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Contract Reviews"</b>	A formal review of IM Supplier performance against Contract led by the DBT contract management team.
<b>"Operational Boards"</b>	the boards established in accordance with Paragraph 4.1 of this Schedule;
<b>"Contract Manager"</b>	the manager appointed in accordance with Paragraph 2.1 of this Schedule;

### 2. Contract Management

- 2.1 The Supplier and the Buyer shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### 3. Role of the Supplier Contract Manager

- 3.1 The Supplier Contract Manager shall be:
  - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to this Contract and it will be the Supplier Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

- 3.3 Receipt of communication from the Supplier Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under this Contract.

#### **4. Role of The Operational Boards**

- 4.1 The Operational Boards shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Boards members, frequency and location of board meetings and planned start date by which the boards shall be established are set out in Annex to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Boards meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Boards meetings will be to review the Supplier's performance under this Contract. Terms of Reference (ToR) for the board meetings will be agreed between the Buyer and Supplier during implementation. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

#### **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
- 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling contract plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to this Contract which the Buyer and the Supplier have identified.

## Annex: Operational Boards

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

### Contract Management Board

Buyer Members (as a minimum)	<ul style="list-style-type: none"> <li>- Contract Manager (Chairperson)</li> <li>- Post Representative</li> </ul>
Supplier Members (as a minimum)	Account Manager
Start Date	One month after contract award
Frequency of Contract Management Board meetings	Monthly
Location of Meetings	Virtual via video conference
Content (as a minimum)	<ul style="list-style-type: none"> <li>- KPI reporting</li> <li>- MI reporting</li> <li>- Progress updates</li> <li>- Milestones / Forward look</li> </ul>

### Strategic Management Board

Buyer Members (as a minimum)	<ul style="list-style-type: none"> <li>- Programme Director (Chairperson)</li> <li>- Contract Manager</li> <li>- Post Representative</li> </ul>
Supplier Members (as a minimum)	<ul style="list-style-type: none"> <li>- Senior Sponsor</li> <li>- Account Manager</li> <li>- Operations Manager</li> <li>- International Market Advisor</li> </ul>
Start Date	One month after contract award
Frequency of Board meetings	Quarterly
Location of Meetings	Virtual or Face to face
Content (as a minimum)	<ul style="list-style-type: none"> <li>- KPI and incentive performance</li> <li>- High level MI reporting</li> <li>- Continuous improvement initiatives</li> <li>- Service changes</li> </ul>

	<ul style="list-style-type: none"> <li>- Strategic updates (Buyer and Supplier)</li> </ul>
--	--

### Annual Meeting Board

Buyer Members (as a minimum)	<ul style="list-style-type: none"> <li>- Programme Director (Chairperson)</li> <li>- Contract Manager</li> <li>- Post Representative</li> </ul>
Supplier Members (as a minimum)	<ul style="list-style-type: none"> <li>- Senior Sponsor</li> <li>- Account Manager</li> <li>- Operations Manager</li> <li>- International Market Advisor</li> </ul>
Start Date	One year after contract award
Frequency of Board meetings	Annually
Location of Meetings	Face to face
Content (as a minimum)	<ul style="list-style-type: none"> <li>- Annual Contract Report</li> <li>- KPI and incentive performance</li> <li>- High level MI reporting</li> <li>- Continuous improvement initiatives</li> <li>- Service changes</li> <li>- Strategic updates (Buyer and Supplier)</li> </ul>



## Schedule 14 (Business Continuity and Disaster Recovery)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule,

### 2. BCDR Plan

2.1 At least forty (40) Working Days after the Effective Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

2.1.2 the recovery of the Deliverables in the event of a Disaster.

2.2 The BCDR Plan shall be divided into three sections:

2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

2.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and

2.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

### 3. General Principles of the BCDR Plan (Section 1)

#### 3.1 Section 1 of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
  - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - (c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
  - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - (e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and

- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
  - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any Default by the Supplier of this Contract.

#### **4. Business Continuity (Section 2)**

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
  - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
  - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
  - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

## **5. Disaster Recovery (Section 3)**

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 5.2.1 loss of access to the Buyer Premises;
  - 5.2.2 loss of utilities to the Buyer Premises;
  - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
  - 5.2.4 loss of a Subcontractor;
  - 5.2.5 emergency notification and escalation process;
  - 5.2.6 contact lists;
  - 5.2.7 staff training and awareness;
  - 5.2.8 BCDR Plan testing;
  - 5.2.9 post implementation review process;
  - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
  - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
  - 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
  - 5.2.13 testing and management arrangements.

## **6. Review and changing the BCDR Plan**

- 6.1 The Supplier shall review the BCDR Plan:
- 6.1.1 on a regular basis and as a minimum once every six (6) Months;
  - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
  - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the

Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## 7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables;
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with

the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.

7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.

7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:

7.5.1 the outcome of the test;

7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and

7.5.3 the Supplier's proposals for remedying any such failures.

7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

## **8. Invoking the BCDR Plan**

In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

## **9. Circumstances beyond your control**

The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## Schedule 16 (Security)

### 1. Definitions

1.1 In this Schedule the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Breach of Security"</b>	means the occurrence of: <ul style="list-style-type: none"><li>(a) any unauthorised access to or use of the Goods and/or Deliverables, the Sites and/or any Information and Communication Technology ("<b>ICT</b>"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or</li><li>(b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,</li></ul> in either case as more particularly set out in the security requirements in the Security Policy where the Buyer has required compliance therewith in accordance with Paragraph 3.4.3(d);
<b>"ISMS"</b>	the information security management system and process developed by the Supplier in accordance with Paragraph <b>Error! Reference source not found.</b> (ISMS) as updated from time to time in accordance with this Schedule; and
<b>"Security Tests"</b>	tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

### 2. Security Requirements

2.1 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Contract will be met.

2.2 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:

2.2.1

## 2.2.2

- 2.3 The Buyer shall clearly articulate its high level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.
- 2.4 Both Parties shall provide a reasonable level of access to any members of their staff for the purposes of designing, implementing and managing security.
- 2.5 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Government Data and any system that could directly or indirectly have an impact on that information, and shall ensure that Government Data remains under the effective control of the Supplier at all times other than in relation to Government Data which is licenced by the Supplier.
- 2.6 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Buyer.
- 2.7 The Buyer and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Buyer's security provisions represents an unacceptable risk to the Buyer requiring immediate communication and co-operation between the Parties.

### 3. Information Security Management System (ISMS)

- 3.1 The Supplier shall develop and submit to the Buyer, within twenty (20) Working Days after the Effective Date, an information security management system for the purposes of this Contract and shall comply with the requirements of Paragraphs 3.4 to 3.6.
- 3.2 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.
- 3.3 The Buyer acknowledges that:
- 3.3.1 If the Buyer has not stipulated that it requires a bespoke ISMS, the ISMS provided by the Supplier may be an extant ISMS covering the Services and their implementation across the Supplier's estate; and
- 3.3.2 Where the Buyer has stipulated that it requires a bespoke ISMS then the Supplier shall be required to present the ISMS for the Buyer's Approval.
- 3.4 The ISMS shall:
- 3.4.1 if the Buyer has stipulated that it requires a bespoke ISMS, be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Buyer's



- Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract;
- 3.4.2 meet the relevant standards in ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC27002, in accordance with Paragraph 7;
- 3.4.3 at all times provide a level of security which:
- (a) is in accordance with the Law and this Contract;
  - (b) complies with the Baseline Security Requirements;
  - (c) as a minimum demonstrates Good Industry Practice;
  - (d) where specified by a Buyer, complies with the Security Policy and the ICT Policy;
  - (e) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)  
<https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework>
  - (f) takes account of guidance issued by the Centre for Protection of National Infrastructure  
<https://www.cpni.gov.uk>
  - (g) complies with HMG Information Assurance Maturity Model and Assurance Framework  
<https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm>
  - (h) complies with the 14 Cloud Security Principles  
<https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>). The Supplier must document how the ISMS complies with these principles, and provide this documentation upon request by the Buyer;
  - (i) meets any specific security threats of immediate relevance to the ISMS, the Deliverables and/or Government Data;
  - (j) addresses issues of incompatibility with the Supplier's own organisational security policies; and
  - (k) complies with ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC27002 in accordance with Paragraph 7;
- 3.4.4 document the security incident management processes and incident response plans;
- 3.4.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Deliverables of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Buyer approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and

- 3.4.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Buyer in advance of issue of the relevant Security Management Plan).
- 3.5 Subject to Paragraph 2 the references to Standards, guidance and policies contained or set out in Paragraph 3.4 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.6 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in Paragraph 3.4, the Supplier shall immediately notify the Buyer Representative of such inconsistency and the Buyer Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.
- 3.7 If the bespoke ISMS submitted to the Buyer pursuant to Paragraph 3.3.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the ISMS is not Approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission of the ISMS to the Buyer. If the Buyer does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph 3 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in Paragraphs 3.4 to 3.6 shall be deemed to be reasonable.
- 3.8 Approval by the Buyer of the ISMS pursuant to Paragraph 3.7 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Schedule.

#### **4. Security Management Plan**

- 4.1 Within twenty (20) Working Days after the Effective Date, the Supplier shall prepare and submit to the Buyer for Approval in accordance with Paragraph 4 fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of Paragraph 4.2.
- 4.2 The Security Management Plan shall:
- 4.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);
  - 4.2.2 comply with the Baseline Security Requirements and, where specified by the Buyer in accordance with Paragraph 3.4.3(d), the Security Policy;

- 4.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
- 4.2.4 detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 4.2.5 unless otherwise specified by the Buyer in writing, be developed to protect all aspects of the Deliverables and all processes associated with the delivery of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 4.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the delivery of the Deliverables and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Schedule (including the requirements set out in Paragraph 3.4);
- 4.2.7 demonstrate that the Supplier's approach to delivery of the Deliverables has minimised the Buyer and Supplier effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, "platform as a service" offering from the G-Cloud catalogue);
- 4.2.8 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Effective Date to those incorporated in the ISMS within the timeframe agreed between the Parties;
- 4.2.9 set out the scope of the Buyer System that is under the control of the Supplier;
- 4.2.10 be structured in accordance with ISO/IEC 27001 (at least ISO/IEC 27001:2013) and ISO/IEC 27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.11 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged

in the Deliverables and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

- 4.3 If the Security Management Plan submitted to the Buyer pursuant to Paragraph 4.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission to the Buyer of the Security Management Plan. If the Buyer does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph may be unreasonably withheld or delayed. However, any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
- 4.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.

## **5. Amendment of the ISMS and Security Management Plan**

- 5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:
- 5.1.1 emerging changes in Good Industry Practice;
  - 5.1.2 any change or proposed change to the Supplier System, the Deliverables and/or associated processes;
  - 5.1.3 any new perceived or changed security threats;
  - 5.1.4 where required in accordance with Paragraph 3.4.3(d), any changes to the Security Policy and/or the ICT Policy;
  - 5.1.5 any new perceived or changed security threats; and
  - 5.1.6 any reasonable change in requirement requested by the Buyer.
- 5.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
- 5.2.1 suggested improvements to the effectiveness of the ISMS;
  - 5.2.2 updates to the risk assessments;
  - 5.2.3 proposed modifications to the procedures and controls that affect information security to respond to events that may impact on the ISMS; and
  - 5.2.4 suggested improvements in measuring the effectiveness of controls.

- 5.3 Subject to Paragraph 5.4, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to Paragraph 5.1, a Buyer request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Buyer.
- 5.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## 6. Security Testing

- 6.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Deliverables and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Buyer. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 6.2 The Buyer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Buyer with the results of such Security Tests (in a form approved by the Buyer in advance) as soon as practicable after completion of each Security Test.
- 6.3 Without prejudice to any other right of audit or access granted to the Buyer pursuant to this Contract, the Buyer and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Buyer may notify the Supplier of the results of such tests after completion of each such test. If any such Buyer's test adversely affects the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Buyer's test.
- 6.4 Where any Security Test carried out pursuant to Paragraphs 6.2 or 6.3 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Buyer of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Buyer's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable

agreed with the Buyer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Baseline Security Requirements) to this Schedule) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to the Buyer.

- 6.5 If any repeat Security Test carried out pursuant to Paragraph 6.4 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a Material Default of this Contract.

## **7. Complying with the ISMS**

- 7.1 The Buyer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO/IEC 27001 (at least ISO/IEC 27001:2013) and/or the Security Policy where such compliance is required in accordance with Paragraph 3.4.3(d).
- 7.2 If, on the basis of evidence provided by such security audits, it is the Buyer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 (at least ISO/IEC 27001:2013) and/or, where relevant, the Security Policy are not being achieved by the Supplier, then the Buyer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Buyer shall have the right to obtain an independent audit against these standards in whole or in part.
- 7.3 If, as a result of any such independent audit as described in Paragraph the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 (at least ISO/IEC 27001:2013) and/or, where relevant, the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Buyer in obtaining such audit.

## **8. Security Breach**

- 8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.
- 8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8.1, the Supplier shall:
- 8.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;

- (b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Buyer Property and/or Buyer Assets and/or ISMS to the extent that this is within the Supplier's control;
- (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Deliverables so as to meet the relevant Service Levels the Supplier shall be granted relief against any resultant under-performance for such period as the Buyer, acting reasonably, may specify by written notice to the Supplier;
- (d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure; and
- (e) supply any requested data to the Buyer (or the Computer Emergency Response Team for UK Government ("**GovCertUK**")) on the Buyer's request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
- (f) as soon as reasonably practicable provide to the Buyer full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Buyer.

8.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy (where relevant) or the requirements of this Schedule, then any required change to the ISMS shall be at no cost to the Buyer.

## 9. Vulnerabilities and fixing them

9.1 The Buyer and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Buyer's information.

9.2 The severity of threat vulnerabilities for COTS Software shall be categorised by the Supplier as "Critical", "Important" and "Other" by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS and using the appropriate vulnerability scoring systems including:

- 9.2.1 the "National Vulnerability Database" "Vulnerability Severity Ratings": "High", "Medium" and "Low" respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and

- 9.2.2 Microsoft's "Security Bulletin Severity Rating System" ratings "Critical", "Important", and the two remaining levels ("Moderate" and "Low") respectively.
- 9.3 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as "Critical" within fourteen (14) days of release, "Important" within thirty (30) days of release and all "Other" within sixty (60) Working Days of release, except where:
- 9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;
  - 9.3.2 the application of a "Critical" or "Important" security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of five (5) days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Buyer; or
  - 9.3.3 the Buyer agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.
- 9.4 The Specification and Implementation Plan (if applicable) shall include provisions for major version upgrades of all COTS Software to be upgraded within six (6) Months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the "n-1 version") throughout the Term unless:
- 9.4.1 where upgrading such COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within twelve (12) Months of release of the latest version; or
  - 9.4.2 is agreed with the Buyer in writing.
- 9.5 The Supplier shall:
- 9.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent CrownBody;
  - 9.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
  - 9.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT



Environment by actively monitoring the threat landscape during the Contract Period;

- 9.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 3.4.5;
  - 9.5.5 from the date specified in the Security Management Plan provide a report to the Buyer within five (5) Working Days of the end of each Month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
  - 9.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
  - 9.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
  - 9.5.8 inform the Buyer when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 9.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9.5, the Supplier shall immediately notify the Buyer.
- 9.7 A failure to comply with Paragraph 9.3 shall constitute a Default, and the Supplier shall comply with the Rectification Plan Process.

## Part B – Annex 1: Baseline security requirements

### 1. Handling Classified information

The Supplier shall not handle Buyer information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Buyer.

### 2. End user devices

2.1 When Government Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the National Cyber Security Centre ("**NCSC**") to at least Foundation Grade, for example, under the NCSC Commercial Product Assurance scheme ("**CPA**").

2.2 Other than in relation to Government Data which is licenced by the Supplier, devices used to access or manage Government Data and services must be under the management authority of Buyer or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Buyer. Unless otherwise agreed with the Buyer in writing, all Supplier devices are expected to meet the set of security requirements set out in the End User Devices Security Guidance (<https://www.ncsc.gov.uk/guidance/end-user-device-security>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Buyer and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the NCSC guidance, then this should be agreed in writing on a case by case basis with the Buyer.

### 3. Data Processing, Storage, Management and Destruction

3.1 The Supplier and Buyer recognise the need for the Buyer's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Buyer the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Government Data will be subject to at all times.

3.2 The Supplier shall agree any change in location of data storage, processing and administration with the Buyer in accordance with Clause 18 (Data protection).

3.3 The Supplier shall:

3.3.1 provide the Buyer with all Government Data on demand in an agreed open format;

3.3.2 have documented processes to guarantee availability of Government Data in the event of the Supplier ceasing to trade;

3.3.3 securely destroy all media that has held Government Data at the end of life of that media in line with Good Industry Practice; and

3.3.4 securely erase any or all Government Data held by the Supplier when requested to do so by the Buyer, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers.

#### **4. Ensuring secure communications**

4.1 The Buyer requires that any Government Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA.

4.2 The Buyer requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

#### **5. Security by design**

5.1 The Supplier shall apply the "principle of least privilege" (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Government Data.

5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or a NCSC certification (<https://www.ncsc.gov.uk/section/products-services/ncsc-certification>) for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

#### **6. Security of Supplier Staff**

6.1 Supplier Staff shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.

6.2 The Supplier shall agree on a case by case basis Supplier Staff roles which require specific government clearances (such as "SC") including system administrators with privileged access to IT systems which store or process Government Data.

6.3 The Supplier shall prevent Supplier Staff who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Government Data except where agreed with the Buyer in writing.

6.4 All Supplier Staff that have the ability to access Government Data or systems holding Government Data shall undergo regular training on secure

information management principles. Unless otherwise agreed with the Buyer in writing, this training must be undertaken annually.

- 6.5 Where the Supplier or Subcontractors grants increased ICT privileges or access rights to Supplier Staff, those Supplier Staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

## **7. Restricting and monitoring access**

The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the "principle of least privilege", users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

## **8. Audit**

- 8.1 The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
- 8.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Deliverables allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
  - 8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account log-on and log-off events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 8.2 The Supplier and the Buyer shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 8.3 The Supplier shall retain audit records collected in compliance with this Paragraph 8 for a period of at least six (6) Months.

## Part B – Annex 2: Security Management Plan



v.1.2

OFFICIAL-SENSITIVE: PERSONAL

15

# Schedule 19 (Cyber Essentials Scheme)

## 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Cyber Essentials Scheme"</b>	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: <a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a> ;
<b>"Cyber Essentials Basic Certificate"</b>	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
<b>"Cyber Essentials Certificate"</b>	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Award Form;
<b>"Cyber Essential Scheme Data"</b>	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
<b>"Cyber Essentials Plus Certificate"</b>	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

## 2. What Certification do you need

- 2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Plus Certificate prior to the Start Date the Supplier shall provide a valid Cyber Essentials Plus Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of Deliverables under this Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during this Contract Period of this Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each

anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.

2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data the Supplier shall deliver to the Buyer evidence of:

2.3.1 a valid and current Cyber Essentials Plus Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and

2.3.2 renewal of the valid Cyber Essentials Plus Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.

2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for Material Default and the consequences of termination in Clause 14.5.1 shall apply.

2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Plus Certificate, at the equivalent level to that held by the Supplier. The Supplier cannot require the Subcontractor to commence the provision of Deliverables under the Sub-Contract until the Subcontractor has evidenced to the Supplier that it holds a valid Cyber Essentials Certificate.

2.6 The Supplier must manage, and must ensure that all Subcontractors manage, all end-user devices used by the Supplier and the Subcontractor on which Cyber Essentials Scheme Data is processed by ensuring those devices are within the scope of the current Cyber Essentials Plus Certificates held by the Supplier and the Subcontractor, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Deliverables.

2.7 This Schedule shall survive termination or expiry of this Contract.

## **Schedule 20 (Processing Data)**

### **1. Status of the Controller**

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 1.1.1 "Controller" in respect of the other Party who is "Processor";
  - 1.1.2 "Processor" in respect of the other Party who is "Controller";
  - 1.1.3 "Joint Controller" with the other Party;
  - 1.1.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",
- in respect of certain Personal Data under a Contract and shall specify in Annex 1 (Processing Personal Data) which scenario they think shall apply in each situation.

### **2. Where one Party is Controller and the other Party its Processor**

- 2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (Processing Personal Data) by the Controller and may not be determined by the Processor.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
  - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
  - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
- 2.4.1 process that Personal Data only in accordance with Annex 1 (Processing Personal Data) unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;





2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures.

2.4.3 ensure that:

- (a) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex 1 (Processing Personal Data));
- (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
  - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
  - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
  - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
  - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

2.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
- (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR:
  - (A) the International Data Transfer Agreement issued by the Information Commissioner under S119A(1) of the DPA 2018 (the "**IDTA**"); or
  - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
- (ii) where the transfer is subject to EU GDPR, the EU SCCs,  
as well as any additional measures determined by the Controller being implemented by the importing party;
- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.

2.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.

2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:

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

2.5.2 receives a request to rectify, block or erase any Personal Data;

2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

## Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

- 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
  - 2.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - 2.5.6 becomes aware of a Data Loss Event.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 2.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
  - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
  - 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.

Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

2.11 Before allowing any Subprocessor to Process any Personal Data related to this Contract, the Processor must:

- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
- 2.11.2 obtain the written consent of the Controller;
- 2.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
- 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.

2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.

2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

### **3. Where the Parties are Joint Controllers of Personal Data**

In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 (Joint Controller Agreement) to this Schedule 20 (Processing Data).

### **4. Independent Controllers of Personal Data**

4.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.

4.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.

4.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 4.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

4.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of this Contract.

4.5 The Parties shall only provide Personal Data to each other:

- 4.5.1 to the extent necessary to perform their respective obligations under this Contract;

Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

- 4.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
- 4.5.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable); or
  - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
    - (i) where the transfer is subject to UK GDPR:
      - (A) the International Data Transfer Agreement (the "**IDTA**") ""as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
      - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
    - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
 

as well as any additional measures determined by the Controller being implemented by the importing party;
  - (c) the Data Subject has enforceable rights and effective legal remedies;
  - (d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and

- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

4.5.4 where it has recorded it in Annex 1 (Processing Personal Data).

4.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

4.7 A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.

4.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("**Request Recipient**"):

4.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or

4.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:

- (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
- (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

4.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to this Contract and shall:

4.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;

4.9.2 implement any measures necessary to restore the security of any compromised Personal Data;

## Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

- 4.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
- 4.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (Processing Personal Data).
- 4.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex 1 (Processing Personal Data).
- 4.12 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 4.2 to 4.12 of this Schedule 20.



## Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

1.1 The contact details of the Buyer's Data Protection Officer are:

[REDACTED]

1.2 The contact details of the Supplier's Data Protection Officer are:

[REDACTED]

1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> <li>● All personal data relating to Clients for the purposes of delivering services as required under this contract and any personal data relating to Buyer staff including but not limited to ITAs.</li> </ul> <p><b>The Parties are Independent Controllers of Personal Data</b></p> <p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> <li>● Personally identifiable information of Supplier Personnel for which the Supplier is the Controller,</li> <li>● Personally identifiable information of any directors, officers, employees, agents, consultants and contractors of Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under this Contract) for which the Buyer is the Controller,</li> <li>● All personal data for Clients where the Client contracts with the Supplier directly through the Overseas Referral Network.</li> </ul>

Description	Details
Subject matter of the Processing	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>Providing the Services in order to generate export wins and recording export support services provided as part of the Services and Export Wins as required under the Contract, in particular:</p> <ol style="list-style-type: none"> <li>the Buyer's International Trade Advisors (ITA) introduce UK exporters to the Supplier by providing exporter information (a lead) by any suitable means such as email, telephone conversation etc.</li> <li>the Supplier records and stores such information on its system; and</li> <li>the Supplier then contacts the UK exporter following a lead from the Buyer's ITAs, and collects further exporter information from the exporter or confirms existing information provided by the Buyer's ITA</li> </ol> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>The Supplier's own purposes and recording services delivered in its capacity as an ORN provider (if applicable) or export wins in its capacity as an ORN provider, in particular:</p> <ol style="list-style-type: none"> <li>The Supplier collecting exporter Personal Data for its own purposes (non-Buyer related services) such as in its capacity as an Overseas Referral Network provider it will share Personal Data with the Buyer for any actual services delivered or export wins related information,</li> <li>The Supplier provides personal data relating to Clients to the Buyer by submitting such personal data into the Buyer's DataHub system in relation to the services delivered or export wins achieved.</li> <li>The Buyer shall receive and store such personal data on its DataHub system</li> </ol>
Duration of the Processing	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>In accordance with the DBT Data Retention Policy.</p> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>In accordance with DBT Data Retention Policy</p>

Description	Details
Nature and purposes of the Processing	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>The purpose is the processing of a referral of the Client to the Supplier so that the Supplier can provide services with the aim of supporting the Client throughout its export journey in North America.</p> <p>The nature of the Processing will include collection, storage, adaptation or alteration, retrieval, use, and destruction of data.</p> <p>The purpose of the Processing will be to enable the Supplier to fulfil their obligations under this contract.</p> <p>The Supplier collects and records Personal Data on its own systems in order to deliver the Services; and</p> <p>The Supplier inputs Personal Data to the Supplier CRM system and the Buyers DataHub system, in accordance with the Contract</p> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>The purpose is to provide services as part of the Overseas Referral Network with the aim of supporting the Client throughout its export journey but outside of the services delivered under this contract.</p> <p>The nature of independent controllers and processing data will include collection, storage, adaptation or alteration, retrieval, use, and destruction of data.</p> <p>The purpose of the processing will enable the supplier to deliver services as part of the Overseas Referral Network.</p> <p>The Supplier collects Personal Data following a referral to the Overseas Referral Network (where the Client opts to go with the Supplier) from the Buyers Export Support Directory.</p> <p>The Supplier inputs Personal Data to the Supplier CRM system and the Buyers DataHub system, where services have been delivered by the Supplier as an Overseas Referral Network provider or where an export win is achieved.</p>
Type of Personal Data being Processed	<p>Where the Buyer is Controller and the Supplier is Processor</p> <p>Including but not limited to:</p> <ul style="list-style-type: none"> <li>• Names</li> <li>• Company address</li> <li>• Email address (business)</li> <li>• Email address (personal)</li> <li>• Telephone</li> </ul>

## Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

Description	Details
	<ul style="list-style-type: none"> <li>• Mobile</li> </ul> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>Including but not limited to:</p> <ul style="list-style-type: none"> <li>• Names</li> <li>• Company address</li> <li>• Email address (business)</li> <li>• Email address (personal)</li> <li>• Telephone</li> <li>• Mobile</li> </ul>
Categories of Data Subject	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>Personnel working for UK businesses looking to export and DBT staff (such as ITAs).</p> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>Personnel working for UK businesses exporting to North America</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under law to preserve that type of data</p>	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>From the Effective Date to 1 year after the expiry or earlier termination of this Contract.</p> <p>At the end of this Contract - data will be transferred to the Buyer and the Buyer will process the data in line with its Data Hub's retention policy. Supplier to destroy all other data at the request of the Buyer.</p> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>From contract award to 1 year after contract completion.</p> <p>At contract end - data will be transferred to DIT and DIT will process the data in line with Data Hub's retention policy. Supplier to destroy all data.</p>

Description	Details
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>European Union</p> <p>United States of America</p> <p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>European Union</p> <p>United States of America</p>
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event	<p><b>Where the Buyer is Controller and the Supplier is Processor</b></p> <p>Data Protection and security measures:</p> <ul style="list-style-type: none"> <li>• OCO Global adheres to GDPR compliance and has implemented extensive data security protocols.</li> <li>• Data is securely stored on platforms like SharePoint and Velociti, with controlled access and regular backups</li> </ul> <p>GDPR Compliance:</p> <ul style="list-style-type: none"> <li>• OCO has a dedicated GDPR compliance officer</li> <li>• OCO has a dedicated GDPR compliance officer. Processes are in place to manage personal data requests, maintain transparency, and ensure adherence to GDPR guidelines.</li> </ul> <p>Tools and Platforms:</p> <ul style="list-style-type: none"> <li>• Tools like Salesforce and Mimecast are used for data handling, tracking, and secure communication.</li> <li>• Data is encrypted, and access is restricted through multifactor authentication and VPNs.</li> </ul> <p>Privacy Training:</p> <ul style="list-style-type: none"> <li>• Regular staff training ensures awareness and compliance with privacy laws and data handling practices.</li> </ul> <p>Risk Management:</p> <ul style="list-style-type: none"> <li>• Continuous assessments and preventive measures are in place to mitigate risks related to data breaches or unauthorized access.</li> </ul>

Description	Details
	<p><b>Where the Parties are Independent Controllers of Personal Data</b></p> <p>Data Protection and security measures:</p> <ul style="list-style-type: none"> <li>• OCO Global adheres to GDPR compliance and has implemented extensive data security protocols.</li> <li>• Data is securely stored on platforms like SharePoint and Velociti, with controlled access and regular backups</li> </ul> <p>GDPR Compliance:</p> <ul style="list-style-type: none"> <li>• OCO has a dedicated GDPR compliance officer</li> <li>• OCO has a dedicated GDPR compliance officer. Processes are in place to manage personal data requests, maintain transparency, and ensure adherence to GDPR guidelines.</li> </ul> <p>Tools and Platforms:</p> <ul style="list-style-type: none"> <li>• Tools like Salesforce and Mimecast are used for data handling, tracking, and secure communication.</li> <li>• Data is encrypted, and access is restricted through multifactor authentication and VPNs.</li> </ul> <p>Privacy Training:</p> <ul style="list-style-type: none"> <li>• Regular staff training ensures awareness and compliance with privacy laws and data handling practices.</li> </ul> <p>Risk Management:</p> <ul style="list-style-type: none"> <li>• Continuous assessments and preventive measures are in place to mitigate risks related to data breaches or unauthorized access.</li> </ul>

## Annex 2 - Joint Controller Agreement

### 1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of Paragraph 2 of this Schedule 20 (Where one Party is Controller and the other Party is Processor) and Paragraphs 4.24.12 of this Schedule 20 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the [Supplier/Buyer]:

1.2.1 is the exclusive point of contact for Data Subjects and is responsible for using best endeavours to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;

1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;

1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;

1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and

1.2.5 shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Buyer's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of Paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

### 2. Undertakings of both Parties

2.1 The Supplier and the Buyer each undertake that they shall:

2.1.1 report to the other Party every [x] months on:

- (a) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);

Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

- (b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (d) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (e) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of this Contract during that period;

- 2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs 4.12(a) to 2.1.1(e);
- 2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs 1.2 and 4.12(c) to 2.1.1(e) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- 2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under this Contract or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- 2.1.5 request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- 2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;



## Schedule 20 (Processing Data), Crown Copyright 2023, [Subject to Contract]

2.1.7 use best endeavours to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:

- (a) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
- (b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
- (c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;

2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures;

2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and

2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event;

2.1.11 not transfer such Personal Data outside of the UK and/or the EEA unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:

- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
- (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as agreed with the non-transferring Party which could include:
  - (i) where the transfer is subject to UK GDPR:
    - (A) the UK International Data Transfer Agreement (the "**IDTA**"), as published by the Information

- Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
- (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
- (ii) where the transfer is subject to EU GDPR, the EU SCCs,
- as well as any additional measures determined by the Controller being implemented by the importing party;
- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data.

2.2 Each Joint Controller shall use best endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

### 3. Data Protection Breach

3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within forty eight (48) hours, upon becoming aware of any Data Loss Event or circumstances that are likely to give rise to a Data Loss Event, providing the Buyer and its advisors with:

- 3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Data Loss Event under the Data Protection Legislation;

### 3.1.2 all reasonable assistance, including:

- (a) co-operation with the other Party and the Information Commissioner investigating the Data Loss Event and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
- (b) co-operation with the other Party including using such best endeavours as are directed by the Buyer to assist in the investigation, mitigation and remediation of a Data Loss Event;
- (c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Data Loss Event; and/or
- (d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Data Loss Event, with complete information relating to the Data Loss Event, including, without limitation, the information set out in Paragraph 3.2.

3.2 Each Party shall use best endeavours to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event which is the fault of that Party as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within forty eight (48) hours of the Data Loss Event relating to the Data Loss Event, in particular:

3.2.1 the nature of the Data Loss Event;

3.2.2 the nature of Personal Data affected;

3.2.3 the categories and number of Data Subjects concerned;

3.2.4 the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;

3.2.5 measures taken or proposed to be taken to address the Data Loss Event; and

3.2.6 describe the likely consequences of the Data Loss Event.

## 4. Audit

### 4.1 The Supplier shall permit:

- 4.1.1 the Buyer, or a third-party auditor acting under the Buyer's direction, to conduct, at the Buyer's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or

4.1.2 the Buyer, or a third-party auditor acting under the Buyer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to this Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

4.2 The Buyer may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

## 5. Impact Assessments

The Parties shall:

- 5.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- 5.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with this Contract, in accordance with the terms of Article 30 UK GDPR.

## 6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner, or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner, or any other regulatory authority.

## 7. Liabilities for Data Protection Breach

- 7.1 If financial penalties are imposed by the Information Commissioner on either the Buyer or the Supplier for a Data Loss Event ("**Financial Penalties**") then the following shall occur:
  - 7.1.1 if in the view of the Information Commissioner, the Buyer is responsible for the Data Loss Event, in that it is caused as a result of the actions or inaction of the Buyer, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Buyer, then the Buyer shall be responsible for the payment of such Financial Penalties. In this case, the Buyer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Data Loss Event. The Supplier shall provide to the Buyer and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Data Loss Event;
  - 7.1.2 if in the view of the Information Commissioner, the Supplier is responsible for the Data Loss Event, in that it is not a Data Loss Event that the Buyer is responsible for, then the Supplier shall be

responsible for the payment of these Financial Penalties. The Supplier will provide to the Buyer and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Data Loss Event; or

7.1.3 if no view as to responsibility is expressed by the Information Commissioner, then the Buyer and the Supplier shall work together to investigate the relevant Data Loss Event and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Data Loss Event can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 39 of the Core Terms (Resolving disputes).

7.2 If either the Buyer or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("**Court**") by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such Data Loss Event. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the "**Claim Losses**"):

7.3.1 if the Buyer is responsible for the relevant Data Loss Event, then the Buyer shall be responsible for the Claim Losses;

7.3.2 if the Supplier is responsible for the relevant Data Loss Event, then the Supplier shall be responsible for the Claim Losses: and

7.3.3 if responsibility for the relevant Data Loss Event is unclear, then the Buyer and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either Paragraph 7.2 or Paragraph 7.3 shall preclude the Buyer and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Data Loss Event, having regard to all the circumstances of the Data Loss Event and the legal and financial obligations of the Buyer.

## 8. Termination

If the Supplier is in Material Default under any of its obligations under this Annex 2 (Joint Controller Agreement), the Buyer shall be entitled to terminate this Contract by issuing a Termination Notice to the Supplier in accordance with Clause 14 of the Core Terms (Ending the contract) and the consequences of termination in Clause 14.5.1 of the Core Terms shall apply.

## **9. Sub-Processing**

In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- 9.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by this Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- 9.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

## **10. Data Retention**

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by this Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing this Contract).

Contract Details		
This variation is between:	[insert name of Buyer] ("the Buyer") And [insert name of Supplier] ("the Supplier")	
Contract name:	[insert name of contract to be changed] ("this Contract")	
Contract reference number:	[insert contract reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete as applicable: Buyer/Supplier]	
Variation number:	[insert variation number]	
Date variation is raised:	[insert date]	
Proposed variation		
Reason for the variation:	[insert reason]	
An Impact Assessment shall be provided within:	[insert number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: •[Buyer to insert original Clauses or Paragraphs to be varied and the changed clause]	
Financial variation:	Original Contract Value:	£ [insert amount]
	Additional cost due to variation:	£ [insert amount]
	New Contract value:	£ [insert amount]

1. This Variation must be agreed and signed by both Parties to this Contract and shall only be effective from the date it is signed by the Buyer.
2. Words and expressions in this Variation shall have the meanings given to them in this Contract.

Schedule 21 (Variation Form), Crown Copyright 2023

3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.



Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

## Schedule 22 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the **"Insurances"**). The Supplier shall ensure that each of the Insurances is effective no later than the Effective Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### 3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

#### **4. Evidence of insurance you must provide**

The Supplier shall upon the Effective Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

#### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.

- 5.2 Where the Supplier intends to claim under any of the Insurances for any matters that are not related to the Deliverables and/or this Contract, the Supplier shall, where such claim is likely to result in the level of cover available under any of the Insurances being reduced below the minimum limit of indemnity specified in this Schedule, promptly notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule.

#### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of this Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of £100,000 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

## **ANNEX: REQUIRED INSURANCES**

### **PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE**

#### **1. Insured**

The Supplier

#### **2. Interest**

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

2.1.2 loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

#### **3. Limit of indemnity**

3.1 Not less than USD\$5,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but USD\$5,000,000 in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).

#### **4. Territorial limits**

**United Kingdom**

**Canada**

**United States of America**

#### **5. Period of insurance**

From the date of this Contract for the period of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

#### **6. Cover features and extensions**

Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Supplier is legally liable.

#### **7. Principal exclusions**

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

- 7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.
- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

## 8. Maximum deductible threshold

Not to exceed [REDACTED]  
[REDACTED] for each and every third party property damage claim (personal injury claims to be paid in full).

## PART B: UNITED KINGDOM COMPULSORY INSURANCES

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

## PART C: ADDITIONAL INSURANCES

Professional Indemnity Insurance	Where the Buyer requirement includes a potential breach of professional duty by the Supplier in connection with professional advice and /or professional services to be maintained for six (6) years after the End Date
Cyber Liability Insurance	Where the Buyer requirement includes specific cyber risk exposures.
Public Liability Insurance	Cover of £5,000,000

## PROFESSIONAL INDEMNITY INSURANCE

### 1. Insured

The Supplier

## **2. Interest**

To indemnify the insured (as specified in paragraph 1 above) for all sums which the insured (as specified in paragraph 1 above) shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specified in Paragraph 5 below) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

## **3. Limit of indemnity**

Not less than USD 1,000,000 in respect of any one claim and in the aggregate per annum.

## **4. Period of insurance**

From the date of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing (a) throughout the period of the Contract or until earlier termination of this Contract and (b) for a period of 6 years thereafter.

## **5. Cover features and extensions**

Retroactive cover to apply to any "claims made policy wording" in respect of this Contract or retroactive date to be no later than the Effective Date.

## **6. Principal exclusions**

6.1 War and related perils

6.2 Nuclear and radioactive risks

## **7. Maximum deductible threshold**

Not to exceed [REDACTED]  
[REDACTED] for each and every claim.

Schedule 24 (Financial Difficulties), Crown Copyright 2023

## Schedule 24 (Financial Difficulties)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Applicable Financial Indicators"</b>	means the financial indicators from Part C of Annex 2 which are to apply to the Monitored Suppliers as set out in Part B of Annex 3;
<b>"Credit Rating Threshold"</b>	the minimum credit rating level for each entity in the FDE Group as set out in Part A of Annex 2;
<b>"Credit Reference Agencies"</b>	the credit reference agencies listed in Part <b>Error! Reference source not found.</b> of Annex 1;
<b>"Financial Distress Service Continuity Plan"</b>	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Buyer would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity;
<b>"Financial Indicators"</b>	in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Part C of Annex 2; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
<b>"Financial Target Thresholds"</b>	means the target thresholds for each of the Financial Indicators set out at Part C of Annex 2;
<b>"Primary Metric"</b>	Financial indicators pursuant to Paragraph 5.4
<b>"Monitored Supplier"</b>	those entities specified in Part B of Annex 3; and
<b>"Rating Agencies"</b>	the rating agencies listed in Part A of Annex 1.



## 2. When this Schedule applies

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the FDE Group and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive under this Contract until the termination or expiry of this Contract.

## 3. Credit Ratings

- 3.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Part A of Annex 2.
- 3.2 The Supplier shall:
  - 3.2.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies; and
  - 3.2.2 promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group.
- 3.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 7 if credit rating is the Primary Metric, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have given a credit rating level for that FDE Group entity which is below the applicable Credit Rating Threshold.

## 4. Financial Indicators

- 4.1 The Supplier shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Part C of Annex 2 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date
- 4.2 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: *Standard Financial Ratios of Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers – May 2021* (as amended, supplemented or replaced from time to time) which as at the Effective Date can be found at:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987132/Assessing and monitoring the economic and financial standing of suppliers guidance note May 2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987132/Assessing_and_monitoring_the_economic_and_financial_standing_of_suppliers_guidance_note_May_2021.pdf)
- 4.3 Each report submitted by the Supplier pursuant to Paragraph 4.1 shall:

## Schedule 24 (Financial Difficulties), Crown Copyright 2023

- 4.3.1 be a single report with separate sections for each of the FDE Group entities;
  - 4.3.2 contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
  - 4.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
  - 4.3.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
  - 4.3.5 include a history of the Financial Indicators reported by the Supplier in numerical and/or graph form to enable the Buyer to easily analyse and assess the trends in financial performance.
- 4.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 7 if financial indicators are the Primary Metric, the Financial Indicator of an FDE Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:
- 4.4.1 a report submitted by the Supplier pursuant to Paragraph 4.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any **two** of the Financial Indicators set out in Part C of Annex 2 of this Schedule;
  - 4.4.2 a report submitted by the Supplier pursuant to Paragraph 4.1 does not comply with the requirements set out in Paragraph 4.3; or
  - 4.4.3 the Supplier does not deliver a report pursuant to Paragraph 4.3 in accordance with the applicable monitoring and reporting frequency.

## 5. What happens if there is a financial distress event

- 5.1 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.
- 5.2 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the

## Schedule 24 (Financial Difficulties), Crown Copyright 2023

Buyer shall have the rights and remedies as set out in Paragraphs 5.4 to 5.6.

5.3 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 5.4 without first giving the Supplier ten (10) Working Days to:

5.3.1 rectify such late or non-payment; or

5.3.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.

5.4 The Supplier shall (and shall procure that each Additional FDE Group Member shall):

5.4.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of this Contract and delivery of the Deliverables in accordance this Contract; and

5.4.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 5.4.1) that the Financial Distress Event could impact on the continued performance of this Contract and delivery of the Deliverables in accordance with this Contract:

- (a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event);
- (b) use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Buyer; and
- (c) provide such financial information relating to FDE Group entity as the Buyer may reasonably require.

5.5 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:

5.5.1 Approved;

5.5.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been Approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or

5.5.3 finally rejected by the Buyer.

5.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:

5.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance this Contract and delivery of the Deliverables in accordance with this Contract;

5.6.2 provide a written report of the results of each review and assessment carried out under Paragraph 5.6.1 to the Buyer;

5.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 5.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 5.5 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and

5.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

5.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 5.6.

## **6. When the Buyer can terminate for financial distress**

6.1 The Buyer shall be entitled to terminate this Contract for Material Default if:

6.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 5.1;

6.1.2 the Supplier fails to comply with any part of Paragraph 5.4;

6.1.3 subject to Paragraph 6.2, the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 5.5.3;

6.1.4 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to Paragraph 5.5.2;

6.1.5 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to Paragraph 5.5.2; and/or

6.1.6 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 5.6.4,

and the consequences of termination in Clause 14.5.1 shall apply.

6.2 A Material Default may only occur under Paragraph 6.1.3 after the expiry of the first five (5) Working Days period for the Supplier to submit a revised draft of the first draft of the Financial Distress Service Continuity Plan starting on and from the date on which the Buyer first notified the Supplier that Supplier must submit a revised draft of the first draft Financial Distress Service Continuity Plan.

## **7. What happens If your Primary Metric is still good**

Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Supplier evidences to the Buyer's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:

7.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 5.4 to 5.6; and

7.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 5.4.2(c)).

Schedule 24 (Financial Difficulties), Crown Copyright 2023

## **ANNEX 1: RATING AGENCIES AND CREDIT REFERENCE**

### **AGENCIES Part A: Rating Agencies**

**Company Watch** – H Score 0 to 100

**Dun & Bradstreet** failure score 1 to 100

**Financial Accounts** provided by Company verified from Companies House or other such independent body

Schedule 24 (Financial Difficulties), Crown Copyright 2023

**ANNEX 2: CREDIT RATINGS, CREDIT SCORES AND FINANCIAL  
INDICATORS Part A: Credit Rating**

Entity	Credit rating (long term)	Credit Rating Threshold
	Company Watch H score	Dun and Bradstreet Failure Score
Supplier	>25	>35

**Part C: Financial Indicators****Table 1: Financial Indicators for the Supplier**

<b>Financial Indicator</b>	<b>Calculation<sup>1</sup></b>	<b>Financial Target Threshold :</b>	<b>Monitoring and Reporting Frequency</b>
<b>1</b>  <b>The higher of</b>  <b>(a) the Operating Margin for the most recent 12 month period and</b>  <b>(b) the average Operating Margin for the last two 12 month periods</b>	<b>Operating Margin</b> $= \text{Operating Profit} / \text{Revenue}$	<b>At least 5%</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end. With comparative figures for the year before.</i>  <i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>
<b>2. Generated an Operating Profit in the last two annual accounting periods / in the last 2 years.</b>	<b>Operating Profit</b>	<b>Operating Profit &gt; £0</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before.</i>  <i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>
<b>10.</b>  <b>Current Ratio</b>  <b>Has maintained a current ratio above the threshold in the last two annual accounting</b>	<b>Current Ratio =</b> $(\text{Current Assets} / \text{Current Liabilities})$	<b>&gt; 1.0</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i>



## Schedule 24 (Financial Difficulties), Crown Copyright 2023

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold :	Monitoring and Reporting Frequency
periods/ in the last 2 years.			<i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>
<b>4. Working Capital</b>	<b>Working capital =</b> Current assets – Current liabilities	<b>&gt; £200k</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i>  <i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>
<b>3. Net Asset value</b>  <b>Showing a positive Net Asset value</b>	<b>Net Asset Value =</b> Total assets – total liabilities	<b>&gt; £Nil</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i>  <i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>

Schedule 24 (Financial Difficulties), Crown Copyright 2023

**Table 2: Financial Indicators for Key Subcontractors based in overseas region (North America) and/ or in UK**

## Schedule 24 (Financial Difficulties), Crown Copyright 2023

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency
<b>1.</b> <b>Operating Margin or</b> <b>The higher of</b> <b>(a) the Operating Margin for the most recent 12-month period and</b> <b>(b) the average Operating Margin for the last two 12 month periods</b>	$\text{Operating Margin} = \frac{\text{Operating Profit}}{\text{Revenue}}$	>3%	<p><i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i></p> <p><i>Tested and reported yearly in arrears within 180 days days of each accounting reference date.</i></p>
<b>2.</b> <b>Has not reported a net operating loss during the contract lifetime</b>	$\text{Positive Operating Profit}$	>USD/£ 0	<p><i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i></p> <p><i>Tested and reported yearly in arrears within 180 days days of each accounting reference date.</i></p>
<b>4.</b> <b>Current Ratio</b> <b>Have maintained a current ratio above the threshold in the last two annual accounting periods/ in last 2 years, covering contract lifetime</b>	$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$	>1.0	<p><i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i></p> <p><i>Tested and reported yearly in arrears within 180 days days of each accounting reference date.</i></p>

## Schedule 24 (Financial Difficulties), Crown Copyright 2023

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency
<b>5.</b> <b>Positive Net Asset value</b> <b>Not reported a negative net asset value during contract lifetime</b>	<i>Net Asset value</i> <i>= Total Assets – Total Liabilities</i>	<b>NAV &gt; USD/£ 0</b>	<i>Based upon tested &amp; reported figures for the last 12 months ending on the relevant accounting reference date / half year end . With comparative figures for the year before</i>  <i>Tested and reported yearly in arrears within 180 days of each accounting reference date.</i>

Key: 1 – See above & Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

Schedule 24 (Financial Difficulties), Crown Copyright 2023

**ANNEX 3 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED****SUPPLIERS Part B: Monitored Suppliers**

Entity Name	Company Number	Applicable Financial Indicators  (these are the Financial Indicators from the table in Part C of Annex 2 which are to apply to the Monitored Suppliers)
Entity 1 Group Member of Supplier		1. Operating Margin 2. Positive Operating Profit in last two years 3. Current Ratio 4. Positive Working Capital. 5. Positive Net Asset Value Same as Key supplier
Entity 2 Key Sub-contractors		1. Operating Margin 2. Positive Operating Profit in last two years 3. Current Ratio 4. Positive Working Capital. 5. Positive Net Asset Value

## Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan		
Details of the Notifiable Default:	<i>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</i>	
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from	
Signed by Buyer:		Date:
Supplier [Revised] Rectification Plan		
Cause of the Notifiable Default	[add	
Anticipated impact assessment:	[add	
Actual effect of Notifiable Default:	[add	
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]
Timescale for complete Rectification of Notifiable Default	[X Working Days ]	
Steps taken to prevent recurrence of Notifiable Default	<b>Steps</b>	<b>Timescale</b>
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]

## Schedule 25 (Rectification Plan), Crown Copyright 2023

	[...]	[date]	
Signed by the Supplier:		Date:	
<b>Review of Rectification Plan Buyer</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

## Schedule 26 (Sustainability)

### 1. Definitions

**“Waste Hierarchy”** means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011:

- (a) Prevention;
- (b) Preparing for re-use;
- (c) Recycling;
- (d) Other Recovery; and
- (e) Disposal.

## Part A

### 1. Public Sector Equality Duty

1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:

1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2 advance:

- (a) equality of opportunity; and
- (b) good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### 2. Employment Law

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

### 3. Modern Slavery

3.1 The Supplier:

3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;



- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies;
- 3.1.12 if the Supplier is in Default under Paragraphs 3.1.1 to 3.1.11 of this Part A of Schedule 26 the Buyer may by notice:
- (a) require the Supplier to remove from performance of this Contract any sub-contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
  - (b) immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply; and

3.1.13 shall, if the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains).

3.2 If the Supplier notifies the Buyer pursuant to Clause 3.1.11 it shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with this Contract.

3.3 If the Supplier is in Default under Paragraph 3.1 of this Part A of Schedule 26 [Guidance: Include if Optional paragraph **Error! Reference source not found.** of Part **Error! Reference source not found.** of this Schedule is included or Paragraph **Error! Reference source not found.** of Part **Error! Reference source not found.** of Schedule 26] the Buyer may by notice:

3.3.1 require the Supplier to remove from performance of this Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or

3.3.2 immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

#### 4. Environmental Requirements

4.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.

4.2 In performing its obligations under this Contract, the Supplier shall, where applicable to this Contract, to the reasonable satisfaction of the Buyer:

4.2.1 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;

4.2.2 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and

4.2.3 ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.

4.3 In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry

or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.

4.4 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

4.5 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

## 5. Supplier Code of Conduct

5.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1163536/Supplier\\_Code\\_of\\_Conduct\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf)

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

## 6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-5 of this Part A above within fourteen (14) days of such request, [provided that such requests are limited to [two (2)] per requirement per Contract Year].

## Schedule 27 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under this Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
  - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
  - 1.4.1 a copy of the proposed Key Sub-Contract; and
  - 1.4.2 any further information reasonably requested by the Buyer.

1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:

- 1.5.1 provisions which will enable the Supplier to discharge its obligations under the this Contract;
- 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
- 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
- 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
- 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under this Contract in respect of:
  - a) the data protection requirements set out in Clause 18 (Data protection);
  - b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
  - c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
  - d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
  - e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
- 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this Contract) and 14.5 (What happens if this Contract ends) of this Contract;
- 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
- 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).

1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

## Schedule 29 (Key Supplier Staff)

### 1. Key Supplier Staff

- 1.1 The Annex 1 (Key Role) to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## Annex 1- Key Roles

Role		Role Description
Supplier Implementation Manager		Responsible for the implementation of the contracted requirements, ensuring all activities completed in time for Go Live on 01 April 2025. Should be dedicated to the service throughout implementation, and may be the same role as the Supplier Account Manager.
Supplier Account Manager		Responsible for the contractual relationship with DBT team, responsible for overall service management and reporting of performance. Should be available at least 3 days per week from Go-Live.
Supplier Operations Manager		Responsible for the operational delivery of the service and the day-to-day relationship with the DBT North America team – should be dedicated to the service and available during local working hours.
Supplier International Market Adviser		Responsible for the delivery of the service to Client businesses, delivering market advice and guidance and leading on end-to-end support for business users
Supplier Sponsor	Senior	Accountable for the services delivered by the supplier team, and senior representative at governance meetings



## Schedule 30 (Exit Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier in connection with the Deliverables but which are also used by the Supplier for other purposes;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement

Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;

**"Transferring Assets"** has the meaning given to it in Paragraph 8.2.1 of this Schedule;

**"Transferring Contracts"** has the meaning given to it in Paragraph 8.2.3 of this Schedule; and

**"Virtual Library"** the data repository hosted by the Supplier containing the accurate information about this Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

## **2. Supplier must always be prepared for contract exit**

2.1 The Supplier shall within thirty (30) days from the Effective Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall within thirty (30) days from the Effective Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:

2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and

2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs (consistent with Annex 1 of Schedule 36 (Intellectual Property) which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables,

and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form.

2.3 The Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).

## 2.4 The Supplier shall:

2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and

2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Effective Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

## 3. Assisting re-competition for Deliverables

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

## 4. Exit Plan

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission

pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 how the Exit Information is obtained;
- 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
- 4.3.3 the management structure to be employed during the Termination Assistance Period;
- 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
- 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
- 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
- 4.3.10 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.14 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (Charges). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.

4.5 The Supplier shall:

4.5.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:

- (a) every Twelve (12) months throughout the Contract Period;
- (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
- (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than [ten (10) Working Days] after the date of the Termination Assistance Notice;
- (d) as soon as reasonably possible following, and in any event no later than [twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.6 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.

- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
  - 5.2.2 the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
  - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
  - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
  - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
  - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer; and
  - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable

adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

7.2.1 cease to use the Government Data;

7.2.2 vacate any Buyer Premises;

7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

(a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and

(b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.

## 8. Assets, Sub-contracts and Software

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
  - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
  - 8.2.2 which, if any, of:
    - (a) the Exclusive Assets that are not Transferable Assets; and
    - (b) the Non-Exclusive Assets,the Buyer and/or the Replacement Supplier requires the continued use of; and
  - 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.
- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.



8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.

8.7 The Buyer shall:

8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.

8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

## **9. No charges**

Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

## **10. Dividing the bills**

All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall

be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

- 10.1 the amounts shall be annualised and divided by three hundred and sixty five (365) to reach a daily rate;
- 10.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 10.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

# Annex 1: Scope of Termination Assistance

## 1. Scope of Termination Assistance

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
  - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
  - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) Months immediately prior to the commencement of Termination Assistance;
  - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of twelve (12) Months after the Termination Assistance Period;
  - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
  - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
  - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
  - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
  - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
  - 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
  - 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth

transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- (a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

- (a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
- (b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
- (c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;
- (d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- (e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier will:

1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Contract; and

1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:

1.4.1 copies of up-to-date procedures and operations manuals;

1.4.2 product information;

1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:

- (a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
- (b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and

1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

## Schedule 36 (Intellectual Property Rights)

### 1. General Provisions and Ownership of IPR

- 1.1. Any New IPR created under this Contract is owned by the Buyer.
- 1.2. Each Party keeps ownership of its own Existing IPR.
- 1.3. Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with Paragraphs 1.1 and 1.2, it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- 1.4. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.
- 1.5. Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.
- 1.6. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule and keep this updated throughout the Contract Period.
- 1.7. If the Supplier becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Buyer has not received the licences to Supplier Existing IPRs or Third Party IPRs required by Paragraphs 2 and 4, the Supplier must, within 10 Working Days notify the Buyer:
  - 1.7.1. the specific Intellectual Property Rights the Buyer has not received licences to; and
  - 1.7.2. the Deliverables affected.
- 1.8. For the avoidance of doubt:
  - 1.8.1. except as provided for in Paragraphs 1.11.2.2(c)(1) or 1.15.2.2 and 1.15.2.3, the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs 2 and 4;
  - 1.8.2. the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:
    - 1.8.2.1. sections 55 and 56 of the Patents Act 1977;
    - 1.8.2.2. section 12 of the Registered Designs Act 1949; or

1.8.2.3. sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

## **2. Licences in respect of Supplier Existing IPR**

1.9. The Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 1.11 in respect of each Deliverable where:

1.9.1. the Supplier Existing IPR is embedded in the Deliverable;

1.9.2. the Supplier Existing IPR is necessary for the Buyer to use the Deliverable for its intended purpose; or

1.9.3. the Deliverable is a customisation or adaptation of Supplier Existing IPR.

1.10. The categories of Supplier Existing IPR described in Paragraph 1.9 are mutually exclusive.

1.11. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:

1.11.1. in the case of Supplier Existing IPR embedded in a Deliverable:

1.11.1.1. has no restriction on the identity of any transferee or sub-licensee;

1.11.1.2. allows the Buyer and any transferee or sub-licensee to use, copy and adapt the Supplier Existing IPR for any of the purposes set out in Paragraph 1.12; and

1.11.1.3. is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph;

1.11.2. in the case of Supplier Existing IPR that is necessary for the Buyer to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:

1.11.2.1. allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Existing IPRs for any of the purposes set out in Paragraph 1.12;

1.11.2.2. is transferrable to only:

(a) a Crown Body;





- (b) any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or
- (c) a person or organisation that is not a direct competitor of the Supplier and that transferee either:
  - (1) enters into a direct arrangement with the Supplier in the form set out in Annex **Error! Reference source not found.**; or
  - (2) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);

1.11.2.3.is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:

- (a) enters into a direct arrangement with the Supplier in the form set out in Annex **Error! Reference source not found.**; or
- (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

1.11.2.4.is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub- licensee with any wider rights than those granted to the Buyer under this Paragraph.

1.12. For the purposes of Paragraph 1.11, the relevant purposes are:

- 1.12.1. to allow the Buyer or any End User to receive and use the Deliverables;
- 1.12.2. to allow the Buyer to commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items; and
- 1.12.3. for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

### 3. Licences granted by the Buyer

1.13. The Buyer grants the Supplier a licence to the New IPR and Buyer Existing IPR that:

- 1.13.1. is non-exclusive, royalty-free and non-transferable;
- 1.13.2. is sub-licensable to any Sub-contractor where:
  - 1.13.2.1. the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential); and
  - 1.13.2.2. the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;
- 1.13.3. allows the Supplier and any sub-licensee to use, copy and adapt any Buyer Existing IPR and New IPR for the purpose of fulfilling its obligations under this Contract; and
- 1.13.4. terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.
- 1.14. When the licence granted under Paragraph 1.13 terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph 1.13.2:
  - 1.14.1. immediately cease all use of the Buyer Existing IPR and New IPR (including the Government Data within which the Buyer Existing IPR or New IPR may subsist);
  - 1.14.2. either:
    - 1.14.2.1. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR, New IPR and the Government Data; or
    - 1.14.2.2. if the Buyer has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Buyer Existing IPR, the New IPR and the Government Data (as the case may be); and
  - 1.14.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR, New IPR and Government Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

#### **4. Licences in respect of Third-party IPR**

- 1.15. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless:

## Schedule 36 (Intellectual Property Rights), Crown Copyright 2023

1.15.1. Approval is granted by the Buyer; and

1.15.2. one of the following conditions is met:

1.15.2.1. the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph 1.16;

1.15.2.2. if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 1.15.2.1, all the following conditions are met:

(a) the Supplier has notified the Buyer in writing giving details of:

(1) what licence terms can be obtained from the relevant third party; and

(2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;

(b) the Buyer has agreed to accept the licence terms of one of those third parties; and

(c) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Buyer on those terms; or

1.15.2.3. the Buyer has provided authorisation to the use of the Third Party IPR in writing, with reference to the acts authorised and the specific IPR involved.

1.16. The Third Party IPR licence referred to in Paragraph 1.15 is the licence set out in Paragraph 1.11 as if:

1.16.1. the term Third Party IPR were substituted for the term Supplier Existing IPR; and

1.16.2. the term third party were substituted for the term Supplier, in each place they occur.

## 5. Open Licence Publication

1.17. Subject to Paragraph 1.21, the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items.

1.18. The Supplier warrants that:

## Schedule 36 (Intellectual Property Rights), Crown Copyright 2023

- 1.18.1. the New IPR Items are suitable for release under Open Licence;
- 1.18.2. in developing the New IPR is has used reasonable endeavours to ensure that:
  - 1.18.2.1.the publication by the Buyer will not:
    - (a) allow a third party to use them in any way that could reasonably be foreseen to compromise the operation or security of the New IPRs;
    - (b) cause any harm or damage to any party using them; or
    - (c) breach the rights of any third party;
  - 1.18.2.2.they do not contain any material which would bring the Buyer into disrepute if published.
- 1.19. The Supplier must not include in the New IPR provided for publication by Open Licence any Supplier Existing IPRs unless the Supplier consents to:
  - 1.19.1. their publication by the Buyer under Open Licence; and
  - 1.19.2. their subsequent licence and treatment as Open Licence under the terms of the licence chosen by the Buyer.
- 1.20. The Supplier must supply any or all New IPR Items in a format (whether it is provided in any other format or not) suitable for publication under an Open Licence (the **Open Licence Publication Material**) within thirty (30) Working Days of written request from the Buyer (**Buyer Open Licence Request**).
- 1.21. The Supplier may within fifteen (15) Working Days of Buyer Open Licence Request under Paragraph 1.20 request in writing that the Buyer excludes all or part of:
  - 1.21.1. the New IPR Items; or
  - 1.21.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph 1.20,

from Open Licence publication.
- 1.22. The Supplier's request under Paragraph 1.21 must include the Supplier's assessment of the impact the Buyer's agreeing to the request would have on its ability to publish other New IPR Items under an Open Licence.
- 1.23. Any decision to Approve any such request from the Supplier under Paragraph 1.21 shall be at the Buyer's sole discretion, not to be unreasonably withheld or delayed, or made subject to unreasonable conditions.

## 6. Patents

- 1.24. Where a patent owned by the Supplier is infringed by the use of the New IPR by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

Schedule 36 (Intellectual Property Rights), Crown Copyright 2023

**ANNEX 1: NEW IPR AND SPECIALLY WRITTEN SOFTWARE**

Name of New IPR	Details

Name of Specially Written Software	Details

