



# **CONTRACT FOR THE PROVISION OF THE DELIVERY OF OFFICIAL CONTROLS IN APPROVED ESTABLISHMENTS IN ENGLAND AND WALES**

## **CONTRACT REFERENCE NUMBER LOT 8: Wales and the West Area 3**

This document forms the contract for the Services between:

**Food Standards Agency (“Buyer”) having its main or registered office at Clive House, 70 Petty France, Westminster, London SW1H 9EX**

and

**Hallmark Official Controls Ltd (“Supplier”), Unit 3, Damery Works, Berkeley, GL13 9JR**

to be effective from **31st March 2025** until **31st March 2030**  
unless varied by extension.

## **Core Terms – Mid-tier**

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## **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 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 Deliverables and / or 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 Implementation**

- 3.1.1 From the Effective Date, each Party shall perform its obligations as set out in Schedule 8 (Implementation Plan) and the Implementation Plan, in accordance with the Milestones and any timescales otherwise set out in the Implementation Plan or as otherwise agreed by the Parties.

#### **3.2 Provision of the Deliverables**

- 3.2.1 From the Start Date, the Supplier must provide the Deliverables:
- in respect of the Lot or Lot(s), and in the corresponding Area or Area(s), indicated in the Award Form;
- in compliance with:
- i. the Standards;
  - ii. the Specification;
  - iii. the Documentation;
  - iv. the Tender Response; and
  - v. this Contract;
- using reasonable skill and care;
- using Good Industry Practice;
- using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- on the dates agreed; and
- in compliance with Law.
- 3.2.2 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to the Buyer and 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:
- 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";
- being open, transparent and responsive in sharing relevant and accurate information with the Buyer and any Buyer Third Parties;

where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with the Buyer and any Buyer Third Parties;

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

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

### **3.3 Additional Obligations in relation to Services**

- 3.3.1 Late Delivery of any 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 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 (including the Excluded Equipment) 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 and / or Food Business Operator's operations, or either the operations of either Buyer's or Food Business Operator's employees or other contractors.
- 3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises and / or Food Business Operator Premises (as applicable) in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises and / or Buyer Assets and / or Food Business Operator Premises, other than fair wear and tear.
- 3.3.7 The Supplier must ensure all Services and anything used to Deliver the Services (excluding the Excluded Equipment) are of good quality and free from defects.
- 3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Deliverables but doing so does not stop it from using its other rights under this Contract.

### **Service Levels**

- 3.3.9 Subject to provisions of Part B of Schedule 8 (Implementation Plan), in its provision of the Deliverables (including the Services), the Supplier shall at all times comply with Schedule

10 (Service Levels).

## **Security and BCDR**

3.3.10 The Supplier shall ensure the safety and security of the Services in accordance with Schedule 2 (Specification) and the provisions of Schedule 16 (Security).

3.3.11 The Parties shall comply with the provisions of the BCDR Plan and Schedule 14 (Business Continuity and Disaster Recovery).

## **4. Pricing and payments**

4.1 In exchange for the Deliverables, the Buyer shall pay the Charges in accordance with this Clause 4 and Schedule 3 (Charges).

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) Calendar 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) Calendar 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 Start 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 Personnel.
- 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 any Audit (of the same type) of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

#### **Open Book Accounting and Contract Management**

- 6.12 Open book accounting applies to this Contract. In addition to its obligations as set out at Paragraph 6 of Schedule 13 (Contract Management) in relation to Open Book Contract Management, the Supplier shall provide to the Buyer, or its appointed third party representatives, e.g. external auditors, all reasonable assistance to examine and verify Supplier's accounts and costing data, including all Open Book Data. This will include, but not be limited to, financial and management accounts, employment and payroll records.
- 6.13 The Supplier shall, within one Month of the end of each Contract Year, provide the Buyer with a report ("**Annual Open Book Accounting Report**"), in respect of its provision of the Deliverables which shall include the following information:
- the Supplier's performance in the period since the last Annual Open Book Accounting Report;
  - the Supplier's cumulative performance during the Contract Period;
  - the revenue received by the Supplier from the Buyer in the period since the last Annual Open Book Accounting

Report. The revenue will be broken down to show Charges for the relevant Lot or Lots and other revenue received;

the direct costs (excluding VAT and the Supplier's overhead costs) incurred by the Supplier by Lot in the period since the last Annual Open Book Accounting Report. The direct costs will be broken down to show labour and other costs;

the contribution this Contract makes to the Supplier's overheads; and

the profit made by the Supplier in relation to this Contract since the last Annual Open Book Accounting Report. The profit will be calculated as revenue less direct costs less overhead contribution.

6.14 The Annual Open Book Accounting Report shall be drawn up in accordance with the Supplier's accounting standards (which at the Effective Date are UK Generally Accepted Accounting Principles) and in accordance with the principles set out at Paragraph 6 of Schedule 13 (Contract Management) and shall be certified by the Supplier's finance director as a true reflection of the information contained in it and the performance of this Contract for the period that it covers.

6.15 The Annual Open Book Accounting Report shall be subject to the confidentiality provisions contained in Clause 19 (What you must keep confidential).

6.16 The Supplier shall, by the end of the following Month to which the information relates, provide the Buyer with two reports ("**Monthly Profit and Loss Statement**" & "**Daily Cashflow Statement**"), in respect of its provision of the Deliverables which shall include the following information:

Monthly Profit and Loss Statement to include a Monthly detailed breakdown of income and expenditure;

Monthly Profit and Loss Statement to reflect the Monthly net profit / loss;

Daily Cashflow Statement to provide a daily breakdown of the cashflow position including all income and expenditure items.

6.17 The information provided in each Annual Open Book Accounting Report, Monthly Profit and Loss Statement and Daily Cashflow Statement will be used to manage the risk around Supplier's provision of the Deliverables for the relevant Lot(s).

## **7. Supplier Personnel**

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

7.1.1 be appropriately trained and qualified (including in accordance with the requirements set in relation to Schedule 2

(Specification) (as applicable));

- 7.1.2 be vetted using Good Industry Practice, the Security Policy and in accordance with Schedule 32 (Background Checks); and
- 7.1.3 comply with all conduct requirements when on Buyer Premises or Food Business Operator Premises.
- 7.2 Where the Buyer decides one of the Supplier Personnel 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 Personnel needing to access the Food Business Operator 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 Personnel.
- 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.

## **8. Supply chain**

### **8.1 Appointing Sub-contractors**

- 8.1.1 The Supplier must exercise due skill and care when it selects and appoints Sub-contractors to ensure that the Supplier is able to:
  - (a) manage Sub-contractors 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:

where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or

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:

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;



require the Supplier to pay all Subcontractors in full, within thirty (30) Calendar Days of receiving a valid, undisputed invoice; and

allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) Calendar 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:

there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;

the acts or omissions of the Sub-contractor have caused or materially contributed to a right of termination under Clause 14.4;

a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;

the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or

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 Sub-contractors and those employed or engaged by them (including all Sub-Contractor Personnel) 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 Personnel, 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, Sub-contractor, Supplier Personnel and Sub-Contractor Personnel 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 (Dealing with Claims).
- 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 11.3.2; 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 or for in-sourcing**

The Buyer has the right to terminate this Contract at any time:

14.3.1 in whole or in part without reason by giving the Supplier not less than six (6) Months' notice (unless a different notice period is set out in the Award Form);

14.3.2 in part for purpose of Buyer's in-sourcing of part of the Deliverables by giving the Supplier not less than six (6) Months' notice,

and if it's terminated under this Clause 14.3, 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:

there's a Supplier Insolvency Event;

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;

there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;

the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) Days of the request;

there's any Material Default of this Contract;

there's any Material Default of any Joint Controller Agreement relating to this Contract;

there's a Default of Clause 12 or 31;

the performance of the Supplier causes a Critical Service Level Failure to occur;

there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);

there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;

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;

the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or

the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.

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 0) to 0) 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 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 (b) or 3.3.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

The Buyer's payment obligations under the terminated Contract stop immediately.

Accumulated rights of the Parties are not affected.

The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.

The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.

The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

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 24.4: each party must cover its own Losses; and Clauses 0) to 0) apply.

14.5.3 The following Clauses survive the termination or expiry of this Contract: **Error! Reference source not found.**, 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 24.4 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:

reject the Variation; or

increase the Charges, except where the right to partial termination is under Clause 14.3.1.

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 £2 million or 125% of the Estimated Yearly Charges as 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 Insurances in Schedule 22 (Insurance Requirements).

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

18.1 The Supplier must process Personal Data and ensure that Supplier Personnel 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 Buyer's SharePoint and send the Buyer copies via a secure encrypted method upon reasonable request.

18.4 The Supplier must ensure that any Supplier, Subcontractor and Sub processor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Sub processor) 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, the ICT 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 Personnel on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Personnel 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 (Staff Transfer) 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 Contract or any part of it in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Personnel do not either.
- 19.8 Promptly following the Effective Date, the Supplier shall ensure that an authorised signatory of the Supplier signs and returns to the Buyer a

confidentiality undertaking in the form included at Part B of Schedule 5 (Confidentiality and Commercially Sensitive Information).

## **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, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.6 of Part C, 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 Subject to Clause 24.2, no Party shall be liable for any failure to perform, or delay in performing, one or more of its obligations if and to the extent that the failure or delay is caused by a Force Majeure Event, provided that such failure or delay could not have been prevented by reasonable precautions.
- 24.2 A Party shall only be entitled to claim relief in relation to an obligation or obligations under Clause 24.1, in respect of a Force Majeure Event, if it both:
- 24.2.1 provides a Force Majeure Notice to the other Party; and
  - 24.2.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.3 Any failure or delay by the Supplier to perform any obligation 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.
- 24.4 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) Calendar Days continuously.
- 24.5 For the avoidance of doubt, where a Party claims relief in relation to one or more of its obligations under Clause 24.1 (the **Affected Obligations**):
- 24.5.1 relief shall be in relation to the Affected Obligations only;
  - 24.5.2 such Party shall not be relieved of its obligations under this Contract (other than the Affected Obligations), and shall remain liable for any failure to perform, or delay in perform, those obligations.

## **25. 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.

## **26. 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.

## **27. 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 Sub-contractor if it considers that:
- 27.2.1 the appointment of a proposed Sub-contractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 27.2.2 the proposed Sub-contractor 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 Personnel 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 Sub-contractors 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 Personnel, 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 Personnel, 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 Personnel 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 any Buyer Premises or Food Business Operator Premises (as applicable), 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 any Buyer Premises or Food Business Operator Premises that relate to the performance of this Contract.

### **34. Environment**

- 34.1 When working at the Food Business Operator Premises 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 Personnel 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 Personnel 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 Personnel.

35.4 If any of the Supplier Personnel 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 Buyer 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 0 to 0 shall apply.

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

37.1 As soon as it is aware of it the Supplier and Supplier Personnel 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 Personnel 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 Subject to Clause 39.7, 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 this Clause 39.5.

39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

39.7 Nothing in this Clause 39 shall prevent the Buyer from commencing court proceedings in relation to any Dispute.

39.8 Where a Dispute is a compensation claim made against the Supplier by a Food Business Operator, the Parties will first follow the process set out in Paragraph 2.14 to 2.16 of Schedule 2 (Specification) in relation to such Dispute. Where relevant Dispute cannot be resolved in accordance with the process set out at Paragraph 2.14 to 2.16 of Schedule 2 (Specification), the Dispute shall be referred to senior representatives of the Parties who have authority to settle the Dispute (as per Clause 39.1).

**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:
- |   |   |
|---|---|
| <b>"Accounting Reference Date"</b>                          | has the meaning given to it in Schedule 37 (Corporate Resolution Planning);   |
| <b>"Action Plan"</b>  | has the meaning given to it in Schedule 10 (Service Levels);  |
| <b>"Actual Transferring Former Supplier Employees"</b>      | has the meaning given to it in Schedule 3 (Charges);  |
| <b>"Actual Transferring Former Supplier Employee Costs"</b> | has the meaning given to it in Schedule 3 (Charges);  |
| <b>"Actual TUPE Information"</b>                            | has the meaning given to it in Schedule 3 (Charges);  |
| <b>"Addendum"</b>   | has the meaning given to it in Schedule 20 (Data Processing);   |
| <b>"Additional FDE Group Member"</b>                        | means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties); |

<b>"Adjustable Charges"</b>	has the meaning given to it in Schedule 3 (Charges);
<b>"Affected Obligations"</b>	has the meaning given to it in Clause 24.5 of the Core Terms.
<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>"Annex"</b>	extra information which supports a Schedule.
<b>"Annual Costs"</b>	has the meaning given to it in Part A of Annex 1 to Schedule 3 (Charges).
<b>"Annual Open Book Accounting Report"</b>	has the meaning given to it in Clause 6.13 of the Core Terms.
<b>"Annual Revenue"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning).
<b>"Annual Review"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management).
<b>"Annual Review Process"</b>	has the meaning given to it in Schedule 3 (Charges).
	has the meaning given to it in Schedule 3 (Charges).



<b>"Anticipated Transferring Former Supplier Employees"</b>	
<b>"Anticipated Transferring Former Employee Costs"</b>	has the meaning given to it in Schedule 3 (Charges).
<b>"Anticipated TUPE Information"</b>	has the meaning given to it in Schedule 3 (Charges).
<b>"Anti-Virus Software"</b>	has the meaning given to it Schedule 16 (Security);
<b>"Approval"</b>	the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed; accordingly,
<b>"Area"</b>	means the geographical area or areas, as stated in the Award Form, in which the Supplier shall (in each case) be required to provide the Deliverables.
<b>"Area Management Team Meetings"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management).
<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>"Assurance"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<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> </ul>

- (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);
- (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.
- (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;
	(l) undertake a Training Audit in accordance with Paragraph 3 of Schedule 2 (Specification);
	(m) undertake an audit of Supplier's provision of Export Related Activities pursuant to Paragraph 4 of Schedule 2 (Specification);
	(n) require an annual security assurance audit in accordance with Paragraph 9 of Schedule 2 (Specification);
<b>"Auditor"</b>	<ul style="list-style-type: none"> <li>(a) the Buyer's internal and external auditors;</li> <li>(b) the Buyer's statutory or regulatory auditors;</li> <li>(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li> <li>(d) HM Treasury or the Cabinet Office;</li> <li>(e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</li> <li>(f) successors or assigns of any of the above;</li> </ul>
<b>"Authorisation Request"</b>	has the meaning given to it in Schedule 2 (Specification);
<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>"Awarding Body"</b>	means either of the Royal Society for Public Health (RSPH) or FDQ;
<b>"Backfill Rates"</b>	has the meaning given to it in Schedule 3 (Charges);
<b>"BCDR Plan"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Benchmarking Report"</b>	has the meaning given to it in Paragraph 3.3 of Schedule 12 (Benchmarking);
<b>"Benchmark Review"</b>	has the meaning given to it in Schedule 12 (Benchmarking);

<b>"Benchmarked Deliverables"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Breach of Security"</b>	has the meaning given to it in Schedule 16 (Security)
<b>"Business Continuity Plan"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Business Recovery Plan"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Buyer"</b>	the public sector purchaser identified as such in the Award 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 Data"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Buyer Cause"</b>	has the meaning given to it in the Award Form;
<b>"Buyer Equipment"</b>	has the meaning given to it Schedule 16 (Security);
<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>	has the meaning given to it in Schedule 16 (Security);
<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 (which for the avoidance of doubt, shall include any supplier to the Buyer in relation to any lot not awarded to the Supplier);
<b>"Buyer's Confidential Information"</b>	<ul style="list-style-type: none"> <li>(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);</li> <li>(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; and</li> <li>(c) information derived from any of the above;</li> </ul>
<b>"Buyer's SharePoint"</b>	means the web based document management and storage system operated and managed by the Buyer;

<b>"Cabinet Office Markets and Suppliers Team"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Calendar Days"</b>	every calendar day including Saturday, Sunday and public holidays.
<b>"Call-Off Services"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Certification Default"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Certification Rectification Plan"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Certification Requirements"</b>	has the meaning given to it in Schedule 16 (Security);
<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 and further described in Schedule 3 (Charges), 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>"Claim Losses"</b>	has the meaning given to it in Schedule 20 (Data Processing);

<b>"cOA"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Cost Categories"</b>	has the meaning given to it in Schedule 3 (Charges);
<b>"cOV"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Collaborative Working Principles"</b>	means the obligations on the Supplier as set out at Clause 3.1.3;
<b>"Commercial Optimisation Review" or "Supplier Finance Meetings"</b>	has the meaning given to it in Annex 1 of Schedule 13 (Contract Management);
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in Part A of Schedule 5 (Confidentiality and 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>"Comparable Deliverables"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Comparable Rates"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<b>"Comparison Group"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<b>"Compliance Officer"</b>	as identified in Schedule 29 (Key Supplier Personnel);
<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 Personnel 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 Finder"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);
<b>"Contract Manager"</b>	as identified in Schedule 29 (Key Supplier Personnel);
<b>"Contract Management Timeline"</b>	has the meaning given to it in Paragraph 1.1 of Annex A, Part B of Schedule 10 (Service Levels);
<b>"Contract Performance Management Meetings"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management);
<b>"Contract Period"</b>	the term of this Contract from the Effective Date until the End Date;
<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 Services"</b>	has the meaning given to it in Schedule 2 (Specification);
<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>"Corporate Change Event"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Corporate Change Event Grace Period"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Corporate Resolvability Assessment (Structural Review)"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<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 Work Day, of engaging the Supplier Personnel, including:</p> <ul style="list-style-type: none"> <li>(i) base salary paid to the Supplier Personnel;</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) work place accommodation;</li> <li>(viii) work place 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>"Compensation for Critical Service Level Failure"</b>	has the meaning given to it in Paragraph 3 of Schedule 10 (Service Levels);
<b>"Continuous Improvement Plan"</b>	has the meaning given to it in Paragraph 1.3 of Schedule 11 (Continuous Improvement);
<b>"Court"</b>	has the meaning given to it in Schedule 20 (Data Processing);
<b>"Critical National Infrastructure"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Critical Service Contract "</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Critical Service Level Failure"</b>	has the meaning given to it in Schedule 10 (Service Levels);
<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>"CRP Information"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);

<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Cyber Essentials Plus"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Cyber Essentials Scheme"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Daily Cashflow Statement"</b>	has the meaning given to it in Clause 6.16 of the Core Terms;
<b>"Dairy Animal Herd Health Checks"</b>	has the meaning given to it in Schedule 2 (Specification);
<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>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<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>"Day"</b>	means a Working Day unless otherwise specified in the Award Form and <b>"Days"</b> shall be construed accordingly.
<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 Personnel 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;
<b>"Defect"</b>	<p>any of the following:</p> <ul style="list-style-type: none"> <li>(a) any error, damage or defect in the manufacturing of a Deliverable; or</li> <li>(b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or</li> <li>(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</li> <li>(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;</li> </ul>

<b>"Delay"</b>	has the meaning given to it in Schedule 8 (Implementation Plan)
<b>"Delay Payments"</b>	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;
<b>"Deliverable Item"</b>	has the meaning given to it in Schedule 8 (Implementation Plan)
<b>"Deliverables"</b>	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 confirmation in writing to the Supplier". <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Delivery of Meat Official Controls"</b>	means the delivery of any form of control that the competent authority performs for the verification of compliance with food law, including animal health and animal welfare rules as further detailed in the FSA Manual for Official Controls and Specification;
<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>"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 data-bbox="703 1088 1458 1335">(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 data-bbox="703 1357 1458 1435">(b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li data-bbox="703 1458 1458 1536">(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>"Emergency Slaughter"</b>	has the meaning given to it in Schedule 2 (Specification);
<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 (which may be 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>"End User Device"</b>	has the meaning given to it in Schedule 16 (Security);
<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>"Equivalent Data"</b>	has the meaning given to it in Schedule 12 (Benchmarking);



<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>"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>"EU SSRS"</b>	has the meaning given to it in Schedule 20 (Data Processing);
<b>"Exclusive Assets"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Excluded Equipment"</b>	means all equipment which the Buyer shall be required to provide to the Supplier as referred to in Paragraph 9.1.1 to 9.1.4 of Schedule 2 (Specification);
<b>"Exit Manager"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<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 Information"</b>	has the meaning given to it in Paragraph 3.1 of Schedule 30 (Exit Management);
<b>"Exit Plan"</b>	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Management);
<b>"Expiry Date"</b>	the date of the end of this Contract as stated in the Award Form;
<b>"Export Related Activities"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Exposure Information (Contracts List)"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
<b>"FDE Group"</b>	the Supplier and any Additional FDE Group Member;
<b>"Financial Distress Event"</b>	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> <li>(a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;</li> <li>(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;</li> <li>(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;</li> <li>(d) any FDE Group entity commits a material breach of covenant to its lenders;</li> <li>(e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums</li> </ul>

- 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) Both 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;

**"Financial Penalties"**

has the meaning given to it in Schedule 20 (Data Processing);

**"Financial Information and Commentary"**

has the meaning given to it in Schedule 37 (Corporate Resolution Planning);

**"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;

<b>"Financial Target Thresholds"</b>	has the meaning given to it in Schedule 24 (Financial Difficulties);
<b>"Financial Transparency Objectives"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Personnel in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;</li> <li>(b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</li> <li>(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;</li> <li>(d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;</li> <li>(e) the Parties challenging each other with ideas for efficiency and improvements; and</li> <li>(f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;</li> </ul>
<b>"First Service Year"</b>	means the 12 Month period beginning on the Start Date;
<b>"FOIA"</b>	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;
<b>"Former Supplier"</b>	has the meaning given to it in Schedule 7 (Staff Transfer);
<b>"FBO Audit"</b>	has the meaning given to it in Schedule 2 (Specification);

**“Food Business Operator” or “FBO”**

means the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control as defined in Regulation (EC) No 178/2002;

**“Food Business Operator Premises” or “FBO Premises”**

in each case refers to the third-party premises of a Food Business Operator where the Supplier shall be required to deliver the Services (which shall include but not be limited to, slaughterhouses, cutting plants and cold stores, which are owned and operated by Food Business Operators);

**“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 Personnel (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

	(iii) any failure of delay caused by a lack of funds, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
<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>"FSA"</b>	means the Buyer;
<b>"FVA"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"General Anti-Abuse Rule"</b>	<ul style="list-style-type: none"> <li>(a) the legislation in Part 5 of the Finance Act 2013; and</li> <li>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</li> </ul>
<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>"Good Value"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<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> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</p> <p>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <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>"Guarantee"</b>	<p>has the meaning given to in in Schedule 23 (Guarantee);</p>
<b>"Guarantor"</b>	<p>has the meaning given to in in Schedule 23 (Guarantee);</p>
<b>"Halifax Abuse Principle"</b>	<p>the principle explained in the CJEU Case C-255/02 Halifax and others;</p>
<b>"HMG Baseline Personnel Security Standard"</b>	<p>has the meaning given to it in Schedule 16 (Security);</p>
<b>"HMRC"</b>	<p>His Majesty's Revenue and Customs;</p>
<b>"ICT Environment"</b>	<p>the Buyer System and the Supplier System;</p>
<b>"ICT Policy"</b>	<p>the Buyer's policy in respect of information and communications technology, referred to in the Award</p>



Form, 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;

**"Impact Assessment"**

an assessment of the impact of a Variation request by the Buyer completed in good faith, including:

- (a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract;
- (b) details of the cost of implementing the proposed Variation;
- (c) 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;
- (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
- (e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;

**"Implementation Plan"**

the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;

**"Implementation Period"**

has the meaning given to it in Schedule 8 (Implementation Plan);

**"Improvement Action Plan"**

has the meaning given to it in Paragraph 4.2 of Schedule 18 (Supply Chain Visibility);

**"Incorporated Terms"**

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>"Index"</b>	has the meaning given to it in Paragraph 7 of Schedule 3 (Charges);
<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>"Initial Delivery Period"</b>	has the meaning given to it in Schedule 8 (Implementation Period);
<b>"Insolvency Event"</b>	<p>with respect to any person, means:</p> <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> <li>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</li> </ul> </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 obtain a</li> </ul>

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) Calendar 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) Calendar 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;

- (iii) (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
- (iv) (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
- (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;

**"Installation Works"**

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;

**"Intellectual Property Rights" or "IPR"**

- (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;
- (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
- (c) all other rights having equivalent or similar effect in any country or jurisdiction;

**"IP Completion Day"**

has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;

**"IPR Claim"**

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>"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 Roles"</b>	has the meaning given to it in Schedule 29 (Key Supplier Staff);
<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>"KPI"</b>	has the meaning given to it in Schedule 10 (Service Levels);
<b>"KPI Policy"</b>	has the meaning given to it in Paragraph 3 of Part A, Annex A of Schedule 10 (Service Levels);
<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>"Lot"</b>	means the lot or lots awarded to the Supplier, as specified in the Award Form, which shall (in the case of each such lot) correspond to an Area, such Area in respect of which the Supplier shall be required to provide the Deliverables;
<b>"Lot Proforma"</b>	has the meaning given to it in Schedule 10 (Service Levels);

<b>"Major Impact"</b>	has the meaning given to it in the impact table at paragraph 4.5 of Annex A of Schedule 10 (Service Levels;
<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, application software macros, or configurations, 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>"Managed Service"</b>	means the Services shall be delivered in compliance with the Tax Centre of Excellence criteria for a contracted out service and shall not be delivered as a supply of staff (which shall include, as a main component, a supplier management structure in place to line manage and directly task Supplier Personnel in the delivery of the Services).
<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>"Marketing Contact"</b>	shall be the person identified in the Award Form;
<b>"Meat Inspection Qualification"</b>	means the <a href="#">Level 4 Diploma in Proficiency in Meat</a> from FDQ or <a href="#">Level 4 Diploma in Proficiency in Meat</a> and <a href="#">Level 4 Award for Proficiency in Pre Slaughter Inspection of White Meat Species</a> and/or <a href="#">Level 2 Award for Proficiency in Poultry Meat Inspection</a> from RSPH;
<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>"Minor Impact"</b>	has the meaning given to it in the impact table at paragraph 4.5 of Annex A of Schedule 10 (Service Levels;

<b>"Moderate Impact"</b>	has the meaning given to it in the impact table at paragraph 4.5 of Annex A of Schedule 10 (Service Levels);
<b>"Monitored Supplier"</b>	has the meaning given to it in Schedule 24 (Financial Difficulties);
<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"Monthly Instalment"</b>	has the meaning given to it in Part A of Annex1 to Schedule 3 (Charges);
<b>"Monthly Profit and Loss Statement"</b>	has the meaning given to it in Clause 6.16 of the Core Terms;
<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>"National Contract / Supplier Meetings"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management);
<b>"NCSC Cloud Security Principles"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"NCSC Device Guidance"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Net Book Value"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"New IPR"</b>	(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>(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>"Non- Exclusive Assets"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Non-Indexation Period"</b>	has the meaning given to it in Paragraph 7.3 of Schedule 3 (Charges);
<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>"Notified Sub-contractor"</b>	has the meaning given to it in Schedule 7 (Staff Transfer);
<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> <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</p>

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 Personnel (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 Book Contract Management"**

has the meaning given to it in Schedule 13 (Contract Management);

**"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 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;

**"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;

**"Operational Board"**

has the meaning given to it in Schedule 13 (Contract Management);

**"Operational Days"**

	the Days on which relevant FBO Premises is operational, and Supplier Personnel are required to attend;
<b>"Operational Delivery Meetings"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management);
<b>"Other Government Department" or "OGD"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Overhead"</b>	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 Personnel and accordingly included within limb (a) of the definition of "Costs";
<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>"Pass-Through Costs"</b>	has the meaning given to it in Part C of Annex 1 to Schedule 3 (Charges);
<b>"Performance Monitoring Reports"</b>	has the meaning given to it in Paragraph 1.3 of Annex A to Part B of Schedule 10 (Service Levels);
<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:  
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>;

<b>"Primary Metric"</b>	has the meaning given to it in Schedule 24 (Financial Difficulties);
<b>"Privileged User"</b>	has the meaning given to it in Schedule 16 (Security)
<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 Sub-processor 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 Activity"</b>	has the meaning given to it in Schedule 16 (Security);
<b>"Prohibited Acts"</b>	<ul style="list-style-type: none"> <li>(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: <ul style="list-style-type: none"> <li>(i) induce that person to perform improperly a relevant function or activity; or</li> <li>(ii) reward that person for improper performance of a relevant function or activity;</li> </ul> </li> <li>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an</li> </ul>

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;

**"Prohibition Notice"**

has the meaning given to it in Schedule 16 (Security);

**"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);

**"Provisional Staffing Information"**

has the meaning given to it in Schedule 3 (Charges);

**"Public Sector Body"**

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

<b>"Public Sector Dependant Supplier"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Quarter"</b>	a 3-month period (April to June; July to September; October to December and January to March) and <b>"Quarterly"</b> shall be interpreted accordingly;
<b>"Rating Agencies"</b>	has the meaning given to it in Schedule 24 (Financial Difficulties);
<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>	means 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 Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</li> <li>(b) subsistence expenses incurred by Supplier Personnel 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;</li> </ul>
<b>"Related Supplier"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Relevant Buyer"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Relevant Certifications"</b>	has the meaning given to it Schedule 16 (Security);
<b>"Relevant Convictions"</b>	<p>means any previous or pending prosecution, conviction or caution (excluding any spent conviction under the Rehabilitation of Offenders Act 1974) relating to offences involving dishonesty, terrorism, immigration, firearms, fraud, forgery, tax evasion, offences against people (including sexual offences), or any other offences relevant to the Deliverables as the Buyer may specify as listed in Annex 1 of Schedule 32 (Background Checks);</p>
<b>"Relevant Requirements"</b>	<p>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;</p>



<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Relevant Transfer"</b>	has the meaning given to it in Schedule 7 (Staff Transfer);
<b>"Relevant Transfer Date"</b>	has the meaning given to it in Schedule 7 (Staff Transfer);
<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 Goods"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<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 Services"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<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>"Request Recipient"</b>	has the meaning given to it in Paragraph 4.8 of Schedule 20 (Data Processing);
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);
<b>"Review Date"</b>	has the meaning given to it in Schedule 3 (Charges);

<b>"Review Report"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Revised Rectification Plan"</b>	means a revised version of the Rectification Plan in accordance with Schedule 25 (Rectification Plan);
<b>"Satisfaction Surveys"</b>	has the meaning given to it in Paragraph 2.1 Annex A, Part B of Schedule 10 (Service Levels);
<b>"Sampling Activities"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Schedules"</b>	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
<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 Credit Cap"</b>	has the meaning given to it in Schedule 10 (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 Level Failure"</b>	has the meaning given to it in Schedule 10 (Service Levels);
<b>"Service Level Performance Measure"</b>	has the meaning given to it in Schedule 10 (Service Levels);

<b>"Service Level Requirements"</b>	has the meaning given to it in Paragraph 2.1 of Schedule 10 (Service Levels);
<b>"Service Level Threshold"</b>	has the meaning given to it in Schedule 10 (Service Levels);
<b>"Service Period"</b>	has the meaning given to it Schedule 10 (Service Levels);
<b>"Services"</b>	<p>the services which the Supplier shall provide to the Buyer from the Start Date as specified in Schedule 2 (Specification), in accordance with the terms of this Contract, which shall include:</p> <ul style="list-style-type: none"> <li>(a) the Core Services; and</li> <li>(b) the Call-Off Services.</li> </ul>
<b>"Service Year"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) First Service Year; and</li> <li>(b) each subsequent 12 Month period following the First Service Year,</li> </ul>
<b>"Sites"</b>	<p>means any premises:</p> <ul style="list-style-type: none"> <li>(a) from or at which: <ul style="list-style-type: none"> <li>(i) the Services and / or Deliverables are (or are to be) provided; or</li> <li>(ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services and / or Deliverables; or</li> </ul> </li> <li>(b) where: <ul style="list-style-type: none"> <li>(i) any part of the Supplier Information Management System is situated; or</li> <li>(ii) any physical interface with the Buyer System takes place,</li> </ul> </li> </ul> <p>which shall include all Food Business Operator Premises and any applicable third-party premises;</p>
<b>"SME"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);

<b>"SME Management Information Reports"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);
<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 Schedule 10 (Service Levels);
<b>"Social Value KPIs"</b>	the Social Value priorities set out in Schedule 2 (Specification) and Schedule 10 (Service Levels);
<b>"Social Value Report"</b>	the report the Supplier is required to provide to the Buyer pursuant to Schedule 10 (Service Levels);
<b>"Soft Cap"</b>	has the meaning given to it in Schedule 3 (Charges);
<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>"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>"Special Terms"</b>	means any special terms as set out in the Award Form (if any);
<b>"Standards"</b>	<p>means any:</p> <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><li>(d) relevant Government codes of practice and guidance applicable from time to time;</li></ul>
<b>"Standard Contractual Clauses"</b>	means the standard data protection clauses specified in Article 46 of the United Kingdom General Data Protection Regulation setting out the appropriate safeguards for the transmission of personal data outside the combined territories of the United Kingdom and the European Economic Area;
<b>"Statement of Resource" or "SOR"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Start Date"</b>	has the meaning given to it in the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;
<b>"Step-In Trigger Event"</b>	means:

- (a) the Supplier's level of performance constituting a Critical Service Level Failure;
- (b) the Supplier committing a Material Default which is irremediable;
- (c) where a right of termination is expressly reserved in this Contract;
- (d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;
- (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;
- (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;
- (g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;
- (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
- (i) a need by the Buyer to take action to discharge a statutory duty;

**"Step-Out Plan"**

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;

**"Storage Media"**

the part of any device that is capable of storing and retrieving data;

**"Strategic Suppliers"**

has the meaning given to it in Schedule 37 (Corporate Resolution Planning);

**"Sub-Contract"**

any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party:

- (a) provides the Deliverables (or any part of them);

	<ul style="list-style-type: none"> <li>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</li> <li>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</li> </ul>
<b>"Sub-contractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Sub-contractor Personnel"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) any individual engaged, directly or indirectly, or employed, by any Sub-contractor; and</li> <li>(b) engaged in or likely to be engaged in: <ul style="list-style-type: none"> <li>(i) the performance or management of the Services and / or Deliverables; or</li> <li>(ii) the provision of facilities or services that are necessary for the provision of the Services and / or Deliverables;</li> </ul> </li> </ul>
<b>"Sub-processor"</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 Data Protection Officer"</b>	means the Supplier's Data Protection Officer as outlined in Annex 1 to Schedule 29 (Key Supplier Staff);

<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, including the items listed at Paragraph 9.1.5 and 9.2 of Schedule 2 (Specification), but excluding the Excluded Equipment;
<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 Information Management System"</b>	has the meaning given to it Schedule 16 (Security);
<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>	<p>where the Supplier has failed to:</p> <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Services in accordance with the Service Levels ; and/or</li> </ul> <p>comply with an obligation under this Contract;</p>
<b>"Supplier Personnel"</b>	means any individual engaged, directly or indirectly, or employed by the Supplier or any Sub-contractor in the management or performance of the Supplier's obligations under this Contract.
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any



	Deductions and total Costs (in nominal cash flow terms) in respect of this Contract for the relevant period;
<b>"Supplier's Proposals"</b>	has the meaning given to it in Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Supplier System"</b>	the information and communications technology system used by the Supplier in 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>	<p>(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;</p> <p>(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;</p> <p>(c) information derived from any of (a) and (b) above;</p>
<b>"Supplier's Contract Manager"</b>	is the Contract Manager for the Supplier as identified in the Award Form;
<b>"Supplier Partnership Engagement Group Meeting"</b>	has the meaning given to it in Part 2 of Annex 1 to Schedule 13 (Contract Management);
<b>"Supply Chain Information Report Template"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);
<b>"Supporting Documentation"</b>	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;

<b>"Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>"Termination Assistance"</b>	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;
<b>"Termination Assistance Period"</b>	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);
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
<b>"Termination Notice"</b>	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;
<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>"Third Party Beneficiary"</b>	has the meaning given to it in Clause 23.1 of the Core Terms;
<b>"Third Party Provisions"</b>	has the meaning given to it in Clause 23.1 of the Core Terms;
<b>"Time Recording System"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Training Audit"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Transferrable Assets"</b>	has the meaning given to it in Schedule 30 (Exit Management);

<b>"Transferrable Contracts"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Transferring Assets"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Transferring Contracts"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Transparency Information"</b>	<ul style="list-style-type: none"> <li>a) the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for –</li> <li>b) 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>c) 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>"Unannounced Inspection" or "UAI"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Unconnected Sub-contract"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);
<b>"Unconnected Sub-Contractor"</b>	has the meaning given to it in Schedule 18 (Supply Chain Visibility);
<b>"Upper Quartile"</b>	has the meaning given to it in Schedule 12 (Benchmarking);
<b>"UKAS"</b>	means the United Kingdom Accreditation Service;

<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>"UK Public Sector Business"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"VA"</b>	has the meaning given to it in Schedule 2 (Specification);
<b>"Valid"</b>	has the meaning given to it in Schedule 37 (Corporate Resolution Planning);
<b>"Variable Costs"</b>	has the meaning given to it in Part B of Annex 1 to Schedule 3 (Charges);
<b>"Variation"</b>	means a variation to this Contract;
<b>"Variation 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>"Virtual Library"</b>	has the meaning given to it in Schedule 30 (Exit Management);
<b>"Work Day"</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 Personnel working on the provision of the Deliverables excluding time spent travelling and lunch breaks;
<b>"Worker"</b>	any one of the Supplier Personnel which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procuremen">https://www.gov.uk/government/publications/procuremen</a>

t-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)

### 1. Overview and Definitions

1.1. This Schedule sets out Services that the Supplier will provide to the Buyer, pursuant to the terms of the Contract.

1.2. The Supplier shall ensure that the Services are at all times provided in accordance with:

1.2.1. this Schedule 2 (Specification);

1.2.2. the Standards;

1.2.3. the [FSA Manual for Official Controls](#) (MOC) (as may be updated from time to time) including (but not limited to) any Law referred to therein.

1.3. In this Schedule the following abbreviations shall have the following meanings:

Abbreviation	Meaning
ABP	Animal By-Products
AMI	Ante Mortem Inspection
BSE	Bovine Spongiform Encephalopathy
bTB	Bovine Tuberculosis
cOA	Contract Official Auxiliary (and any reference to MHI or Meat Hygiene Inspector shall also refer to the Contract Official Auxiliary role)
COC	Certificate of Competence
cOV	Contract Official Veterinarian
CPD	Continuous Professional Development
EAP	Employee Assistance Programme
EU	European Union
FBO	Food Business Operator
FCI	Food Chain Information
FSA	Food Standards Agency
FVC	Field Veterinary Coordinator
FVL	Field Veterinary Leader
GHE	Game Handling Establishments
HACCP	Hazard Analysis and Critical Control Points
ITL	Inspection Team Leader
KPI	Key Performance Indicator
MOC	Manual of Official Controls
OGD	Other Government Departments
OPOAO	Other Products of Animal Origin
OTM	Over Thirty Months
PMI	Post-mortem Inspection
nOV	Novice Official Veterinarian
PPE	Personal Protective Equipment
RCVS	Royal College of Veterinary Surgeons
RTE	Ready to Eat
SOR	Statement of Resource
SRM	Specified Risk Material
TCOC	Temporary Certificate of Competence
TOA	Trainee Official Auxiliary

TSE	Transmissible Spongiform Encephalopathies
UAI	Unannounced Inspections/Unannounced Inspector
UK	United Kingdom

## 2. Background, Intention and Service Overview

**2.1.** The Food Standards Agency (FSA) is a non-ministerial government department governed by a board appointed to act in the public interest, with the task of protecting consumers in relation to food. It covers England, Wales and Northern Ireland with offices in London, Cardiff, Birmingham, Belfast and York.

**2.2.** The FSA's main objective is to 'ensure food is safe and is what it says it is' and to protect the public from risks that may arise in connection with the consumption of food, including risks that are associated with the way food is produced or supplied (the "**Objective**"). The FSA puts the consumer first and operates to a strategy to be an excellent, modern and accountable regulator.

**2.3.** This Contract will support the Objective through the provision of services in relation to the Delivery of Meat Official Controls in FBO Premises approved by FSA and (where required) dairy establishments, across England and Wales.

### Service Overview

**2.4.** Pursuant to the terms of this Contract, the Supplier shall provide:

**2.4.1.** from the Start Date and throughout the Contract Period on an ongoing basis, the Core Services (as described in further detail at Paragraph 2.5 and Paragraph 3 of this Schedule 2 (Specification) below);

**2.4.2.** from the Start Date and throughout the Contract Period, as required and upon request from the Buyer, the Call-Off Services (as described in further detail at Paragraph 2.6 and Paragraph 4 of this Schedule 2 (Specification) below).

**2.5.** The Supplier shall provide a Managed Service for the provision of cOV and cOA to undertake the Delivery of Meat Official Controls in accordance with assimilated EU and UK law in certain Food Business Operator Premises in the relevant Area or Area(s) to which its Lot or Lots(s) correspond (such Food Business Operator Premises which shall be approved by FSA) (the **Core Services**). The Food Business Operator Premises in which the Supplier shall provide the Core Services shall comprise:

**2.5.1.** meat establishments (slaughterhouses, cutting plants and approved game handling establishments) which are owned and operated by a Food Business Operator; and

**2.5.2.** where required by the Buyer:

- a)** certain additional premises under local authority control; and / or
- b)** dairy establishments.

**2.6.** The Supplier shall also provide cOV and cOA (as a Managed Service) to undertake certain additional services as required by the Buyer, which shall comprise:

- 2.6.1.** Food Business Operator Audits;
- 2.6.2.** Unannounced Inspections;
- 2.6.3.** Export Related Activities;
- 2.6.4.** Dairy Animal Herd Health Checks;
- 2.6.5.** Other Sampling Activities;
- 2.6.6.** Emergency Slaughter; and
- 2.6.7.** Backfill Services,

together, the **"Call-Off Services"**. The Supplier shall provide the Call-Off Services on such third party premises (including FBO Premises) as the Buyer may require.

**2.7.** The Supplier shall ensure that all cOV and cOA (as Supplier Personnel) deliver the Core Services and Call-Off Services accordance with the [FSA Manual for Official Controls](#) (MOC). The FSA Manual for Official Controls may be updated from time to time – where such amendment would have a material impact on Supplier's provision of the Services, such amendment shall be subject to the Variation Procedure.

### **Supplier Personnel**

**2.8.** The Supplier must ensure that all cOV and cOA provided to deliver the Services are capable and competent to deliver those Services in accordance with the requirements of Annexes 1, 2, 4 and 5 (as applicable). The FSA reserves the right to assess the capability and competency of cOV and cOA provided to deliver the Services in line with the requirements of Annexes 1, 2, 4 and 5 (as applicable), at any time during the Contract Period. Where the FSA has concerns and/or evidence about the effectiveness of the any cOA/cOV in relation to carrying out their duties and/or following instructions as per the MOC, the Supplier will be expected to address the personal performance of the individual cOA/cOV (as applicable), which may include rotating their deployment or replacing them with a more suitable cOA/cOV (with the agreement of the FSA), or removal of the individual altogether from delivering the Services until the Supplier can demonstrate to the FSA (in its sole discretion) that the relevant individual has the required capability to deliver the Services. The FSA may at any time during the Contract Period request rotation of cOV and cOA staff providing the Services in order to share good practice (such rotation to be made in agreement with the Supplier).

### **Changes**



**2.9.** Any changes proposed by the Supplier to its management structure which impact on the Supplier's delivery of the Services under this Contract must be agreed with the FSA via the Variation Procedure, prior to implementation of such changes. Without prejudice to FSA's rights and remedies under this Contract, the FSA shall be permitted to consider any failure to comply with this Paragraph 2.9 in accordance with the Service Levels applicable to this Contract.

### **Lots and Corresponding Areas**

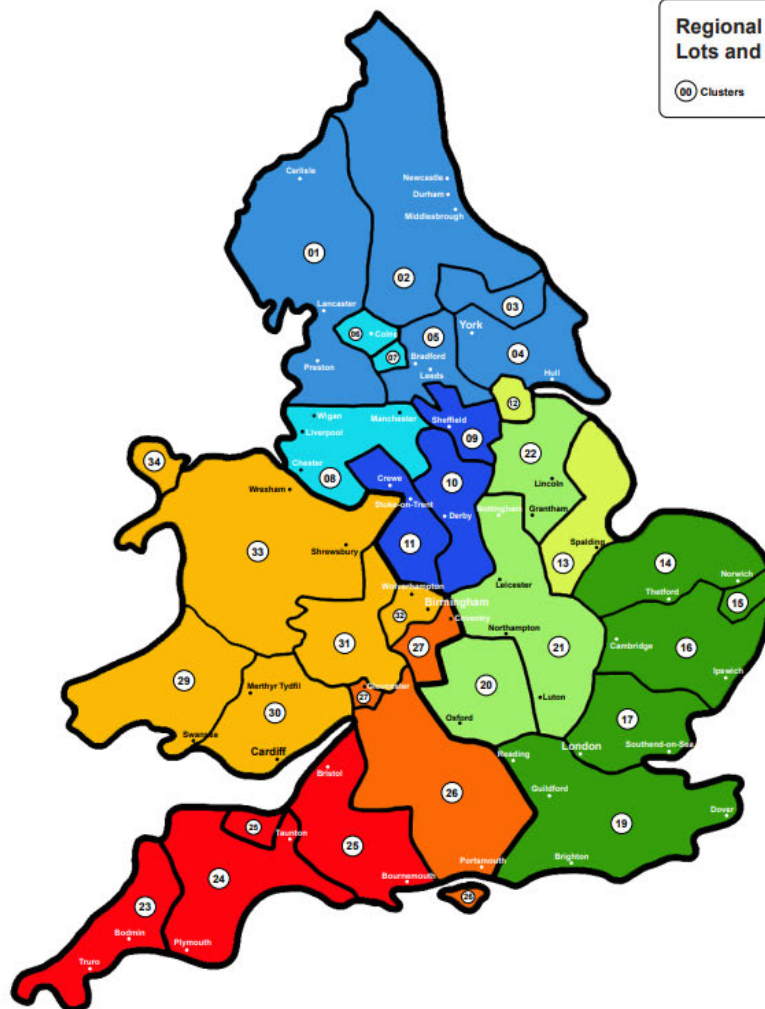
**2.10.** The FSA Field Operations structure is split into 3 regions with subsequent areas and clusters forming a geographic organizational framework for both technical and administrative governance and reporting shown in the table below:

<b>National</b>	<b>Head of Field Operations</b>					
	<b>North</b>		<b>East</b>		<b>Wales and West</b>	
<b>Regional</b>	Head of Operational Delivery		Head of Operational Delivery		Head of Operational Delivery	
	Operations Manager	Field Veterinary Leader	Operations Manager	Field Veterinary Leader	Operations Manager	Field Veterinary Leader
<b>Area</b>	Area Manager	Field Veterinary Coordinator	Area Manager	Field Veterinary Coordinator	Area Manager	Field Veterinary Coordinator
<b>Cluster</b>	FBO Premises based teams led by Inspection Team Leaders (ITLs)					

**2.10.1.** The FSA is responsible for arranging the provision of Delivery of Meat Official Controls across England and Wales. The below map shows the geographical structure of each of the lots in which Delivery of Meat Official Controls must be arranged by the FSA i.e. the geographical area to which each lot relates:

**Map Key:**

- Lot 1** North 1 & 3
- Lot 2** North 2
- Lot 3** North 4
- Lot 4** East 1
- Lot 5** East 2
- Lot 6** East 3 & 4
- Lot 7** Wales & West 1 & 2
- Lot 8** Wales & West 3
- Lot 9** Wales & West 4



**2.10.2.** The geographical area to which each lot relates is also set out more granular detail in the table below:

Lot	Area
Lot 1	N1 and N3
Lot 2	N2
Lot 3	N4
Lot 4	E1
Lot 5	E2
Lot 6	E3 and E4
Lot 7	WW1 and WW2
Lot 8	WW3
Lot 9	WW4

**2.10.3.** The Supplier shall provide the Services in the Area or Areas to which each Lot or Lots awarded to the Supplier (as stated in the Award Form) relates. The exact geographical boundaries of each applicable Area will be communicated by the Buyer to the Supplier.

## **Other Government Departments**

- 2.11.** The Supplier agrees that, on request and instruction from the FSA, the Supplier may be required to provide the Services on behalf of the FSA to other government departments, such other government departments as listed at Annex 3 to this Schedule 2 (Specification) (together the "**Other Government Departments** or **OGD**"). To the extent that the FSA instructs the Supplier to provide the Services to an Other Government Department, in addition to its obligations in respect of the Services as set out in this Schedule 2 (Specification), the Supplier agrees that its provision of the Services shall be subject to the relevant OGD's Service Level Agreement (such Service Level Agreements as set out at Annex 3 to this Schedule 2). Details of the Services which the FSA may instruct the Supplier to provide to OGD are detailed in Annex 3 and the MOC. Where the Services are provided to OGD, Supplier's provision of the Services to OGD shall remain subject to Paragraph 2.12, 2.13 and Schedule 3 (Charges), and no separate charging or time recording obligations or provisions will apply, except that the Supplier shall ensure that all time recorded by Supplier Personnel in the provision of Services to OGD is charged to the applicable time recording code for that OGD.

## **Charging**

- 2.12.** Unless otherwise stated in this Schedule 2 (Specification) or Schedule 3 (Charges), the Supplier's:

- 2.12.1.** provision of the Core Services; and
- 2.12.2.** any chargeable Call-Off Services,

shall be charged to the Supplier in accordance with Schedule 3 (Charges) as a Variable Cost.

- 2.13.** For the purpose of calculation of the Variable Costs payable by the FSA in relation to the applicable Core Services and Call-Off Services described in this Schedule 2 (Specification), each Supplier Personnel deployed in the provision of the Services shall be required to submit a daily timesheet to the FSA's Time Recording System, such timesheet to be submitted in accordance with:

- 2.13.1.** in accordance with Paragraph 7 of this Schedule 2 (Specification);
- 2.13.2.** in accordance with the FSA's Time Recording Guidance;
- 2.13.3.** using time code(s) applicable to relevant Services provided (in accordance with guidance provided in this Schedule 2 (Specification) or as otherwise instructed by the FSA).

## **FBO Claims**

**2.14.** Where the Supplier Personnel does not deliver the Services as required by this Contract, and that results in a compensation claim against the Supplier by a Food Business Operator:

**2.14.1.** the Supplier shall promptly notify the Buyer; and

**2.14.2.** upon notification by the Supplier, the FSA (in particular, FSA Field Ops management staff (ITL/AM)) shall:

- a) liaise with the relevant FBO to (in its sole discretion) validate or reject the claim for compensation (where appropriate, in accordance with evidence provided by the FBO in relation to its claim);
- b) where the claim is validated by the FSA complete the claim form at Annex 9 to this Schedule;
- c) provide any validated claim form to the Supplier for its agreement or rejection.

**2.15.** Where:

**2.15.1.** the Supplier rejects a validated claim form, the issue will be escalated to FSA Head of Operational Delivery for the relevant Lot to which the issue relates for a decision (to be determined in the FSA's sole discretion);

**2.15.2.** the Supplier accepts a validated claim form it will be the responsibility of the Supplier to settle the claim for the validated amount with the relevant FBO.

**2.16.** The Parties agree that all compensation claims by FBO's made against the Supplier must be escalated to the FSA using the process set out in Paragraph 2.14 to 2.16, to be reviewed and agreed with FSA.

### **3. Core Services**

**3.1.** In respect of those cOVs and cOAs which are appointed by the Supplier to provide the Core Services, the Supplier shall provide inductions for cOVs and cOAs in each Food Business Operator Premises that they will be working in so that they fully understand requirements of each Food Business Operator Premises (as applicable). All Supplier Personnel providing the Core Services at each Food Business Operator Premises (including any cOVs and cOAs) must be fully inducted to the relevant Food Business Operator Premises, before being deployed to those Food Business Operator Premises.

#### **3.2. Contract Official Veterinarian Requirements**

**3.3.** The Supplier shall ensure that all Supplier Personnel supplied as cOVs to provide the Services under the terms of the Contract are:

**3.3.1.** appointed as an Official Veterinarian in accordance with assimilated Regulation (EU) 2019/624 Annex II, Chapter I (if implemented);

**3.3.2.** suitably qualified, experienced and competent to deliver Services under this Contract;

- 3.3.3.** members of the Royal College of Veterinary Surgeons (MRCVS);
- 3.3.4.** have completed the OV course, delivered by Bristol University. The Supplier acknowledges that the OV course is currently delivered virtually, but it is envisaged that from April 2025 it will be delivered in a hybrid way with some face to face attendance;
- 3.3.5.** meet the requirements set out at Annex 1 (Job Description) and (Annex 2) Person Specification.
- 3.4.** Upon completion of the course referred to Paragraph 3.3.4 above (and provided all other requirements of 3.3 are satisfied), the Parties agree that the relevant cOV shall be classed as a Novice OV (nOV) only, until such time that the practical 200 hours required by Law are completed by the relevant nOV and required assessment is passed.
- 3.5.** Each cOV appointed by the Supplier to provide the Services shall carry out the Delivery of Meat Official Controls in accordance with assimilated Regulation (EU) 2017/625, in approved Food Business Operator Premises.
- 3.6.** The Supplier shall ensure that all cOV appointed by the Supplier to provide the Services have knowledge and understanding of the [FSA Manual for Official Controls](#), including in particular Volumes 1 & 2, and the following additional subject matter areas (where relevant cOV's provision of the Services any Food Business Operator Premises requires appropriate subject controls):
  - 3.6.1.** Ante and postmortem inspection procedures (AMI and PMI);
  - 3.6.2.** Emergency slaughter;
  - 3.6.3.** Animal welfare controls;
  - 3.6.4.** Hunted wild and farmed game processing;
  - 3.6.5.** Supervision of removal of vertebral column in Over Thirty Month (OTM) cattle in cutting plants;
  - 3.6.6.** Removal, separation and handling of animal by-products;
  - 3.6.7.** Sampling procedures for routine and non-routine purposes;
  - 3.6.8.** Management and control of health and identification marks and equipment;
  - 3.6.9.** Collection of evidence for audit and enforcement purposes, and to assist decisions on Food Business Operator Premises approvals;
  - 3.6.10.** Application of timely, proportionate and sound enforcement recommendations for breaches of Law to the VEDM team;
  - 3.6.11.** Food chain information (traceability);
  - 3.6.12.** HACCP (Hazard Analysis Critical Control Point) procedures;
  - 3.6.13.** Record keeping and reporting systems;
  - 3.6.14.** Specific import and export requirements for the plants they are allocated to work;
  - 3.6.15.** Biosecurity controls – specifically cleaning and disinfection of livestock vehicles

**3.7.** The Supplier shall ensure that the competency of the cOV meets the requirements of the relevant Food Business Operator Premises to which they are deployed to provide the Services and relevant Services they are being deployed to provide.

**3.8.** In assessing the competency of the relevant Supplier Personnel deployed to provide the Services at a Food Business Operator Premises, the Supplier acknowledges that the following factors increase the complexity of the Food Business Operator Premises and the Supplier shall have regard to such factors in making its assessment:

**3.8.1.** Shift systems at Food Business Operator Premises

**3.8.2.** Seasonal Food Business Operator Premises

**3.8.3.** Multi species Food Business Operator Premises

**3.8.4.** Multiple slaughter methods (stun and non-stun)

**3.8.5.** Night working Food Business Operator Premises

**3.8.6.** Religious festivals

**3.8.7.** Third Country Export Food Business Operator Premises – approved or preparing for approval.

**3.8.8.** History of compliance at Food Business Operator Premises

**3.8.9.** Food Business Operator Premises which are approved game handling establishments

**3.8.10.** High Speed Processing Lines

**3.8.11.** Processing older or emergency slaughter animals

**3.8.12.** Bullying and Harassment Incidents at Food Business Operator Premises

**3.8.13.** Non-compliant businesses

**3.8.14.** PIAs

**3.9.** The Supplier acknowledges that if one or more than one of the above factors listed at Paragraph 3.8 are present in respect of a Food Business Operator Premises this increases the complexity of the Food Business Operator Premises. In circumstances of increased complexity in relation to a Food Business Operator Premises, the Supplier shall ensure that an experienced cOV is deployed to provide the Services (as may be required) at the relevant Food Business Operator Premises. The Supplier agrees that an experienced cOV is one that has over twelve (12) Months experience of the Delivery of Meat Official Controls for the FSA. Where the aforementioned level of experience is not available, the Supplier shall provide additional support to the relevant cOV deployed, as agreed by the FSA.

**3.10. NOT USED**

**3.11. Contract Official Auxiliaries Requirements**

**3.12.** The Supplier shall ensure that all Supplier Personnel supplied as cOAs to provide the Services under the terms of the Contract:

**3.12.1.** are appointed as an Official Auxiliary in accordance with assimilated Regulation 2019/624 Annex II, Chapter II;

- 3.12.2. are suitably qualified, experienced and competent to deliver the Services under this Contract;
- 3.12.3. meet the requirements of Annex 4 (Job Description) and Annex 5 (Person Specification);
- 3.12.4. have suitable practical postmortem inspection and knife skills or appropriate skills for the species and speed of the line in the relevant Food Business Operator Premises to which they are deployed to provide the Services.

3.13. In relation to those requirements stated at Paragraph 3.12, the FSA will require assurance of satisfactory competence of the relevant cOA before authorising relevant cOA to engage in the Delivery of Meat Official Controls.

3.14. The Supplier shall ensure that all cOA appointed by the Supplier to provide the Services have sound knowledge and experience of the [FSA Manual for Official Controls](#), and in particular the following additional subject matter areas (where relevant cOA's provision of the Services at any Food Business Operator Premises requires appropriate subject controls):

- 3.14.1. Ability to carry out postmortem inspection procedures as outlined in the MOC for the Food Business Operator Premises to which they are deployed;
- 3.14.2. Animal welfare controls;
- 3.14.3. Hunted wild and farmed game processing;
- 3.14.4. Supervision of removal of vertebral column in Over Thirty Month (OTM) cattle in cutting plants;
- 3.14.5. Removal, separation and handling of animal by-products;
- 3.14.6. Sampling procedures for routine and non-routine purposes;
- 3.14.7. Collection of evidence for audit and enforcement purposes;
- 3.14.8. Food chain traceability;
- 3.14.9. HACCP (Hazard Analysis Critical Control Point) procedures;
- 3.14.10. Administrative tasks such as record keeping and reporting systems.

3.15. The Supplier shall ensure that the competency of the cOA meets the requirements of the relevant Food Business Operator Premises to which they are deployed to provide the Services and relevant Services they are being deployed to provide.

### **3.16. Novice OV (nOV)**

#### **Novice OV Requirements**

3.17. "Novice OVs" are defined as those individuals who have completed the theoretical part of the OV training, but have not yet successfully completed:

- 3.17.1. a minimum of two hundred (200) hours practical training (in accordance with the requirements of Annex 6 to this Schedule 2 (Specification)); and
- 3.17.2. successfully completed the associated Assessment Process (as referred to at Paragraph 3.21 below).

- 3.18.** The Supplier agrees that Novice OV's appointed by the Supplier to provide the Services shall be permitted to work under supervision only (see Paragraph 3.19 below) until such time as relevant Novice OV has:
- 3.18.1.** successfully passed the Assessment Process within the agreed assessment period for their working pattern;
  - 3.18.2.** gained the OV qualification;
  - 3.18.3.** completed the requisite two hundred (200) hours practical training (in accordance with the requirements of Annex 6 to this Schedule 2 (Specification)). The Supplier acknowledges that Annex 6 sets out the core and additional areas where practical hours are required to be completed and set out the minimum hours for each area as part of the 200 hours required overall. Annex 6 also sets out the assessment periods for different working patterns;
  - 3.18.4.** met the requirements of Paragraph 3.20 below.
- 3.19.** The Supplier acknowledges and agrees that any Novice OV appointed by the Supplier to provide the Services must meet the criteria stated at paragraph 3.18 above, before they are allowed to work independently.
- 3.20.** nOV supervision: In addition to their induction, nOVs must be deemed competent and complete at least 40 probationary hours, which are relevant to the species with which they will be working, under direct supervision of a full OV, **before** working independently. Thereafter, they can work under remote supervision (with periodic checks from an experienced OV at least once per Month) but will be directly supervised in other species/abattoirs until deemed fully competent. The Supplier acknowledges that this time (i.e.. the 40 hours) will not be chargeable through time recording as a Variable Cost (pursuant to Schedule 3 (Charges)).
- 3.21.** Assessment Process: The Parties agree that the "**Assessment Process**" applicable to Novice OV's is as per the instructions in the MOC Chapter 10 Operational Training.
- 3.22.** **Trainee OA (tOA)**
- 3.23.** "**Trainee OAs**" are defined as those individuals who are in the process of acquiring the necessary skills to achieve a Meat Inspection Qualification from an Awarding Body, or individuals who have completed the theoretical training required by the Law in the delivery of Meat Inspection skills.
- 3.24.** To the extent any tOA is appointed by the Supplier to provide the Services, the Supplier shall ensure that such tOA is at all times supervised by a fully authorised existing cOV or an existing cOA with a minimum experience of twelve (12) Months in providing the Services to the FSA.
- 3.25.** The Supplier shall allow the FSA visibility of its training and assessment processes (as applicable to Trainee OAs) where required by FSA.

### **Auditing of Supplier Training Systems**



- 3.26.** During the Contract Period, the FSA shall be permitted to undertake External Quality Assurance (EQA) audits of the Supplier's training systems for assurance that the systems the Supplier has in place in relation to training of Supplier Personnel (including in relation to training of Novice OV's and Trainee OAs) meet the FSA's standards and the requirements of this Schedule 2 (Specification) (each, a **Training Audit**).
- 3.27.** The FSA shall be permitted to undertake two Training Audits per year. For the purpose of each Training Audit, the Supplier shall provide the FSA (and to the extent required, its authorised representatives) with full access to the Supplier's training system and records (as required to complete the relevant Training Audit).
- 3.28.** The Supplier agrees and acknowledges that, as part of any Training Audit, FSA shall be permitted to audit the format and content of training provided to Supplier Personnel, as well as checking any relevant assessment of Supplier Personnel and / or related training activities.
- 3.29.** The FSA will produce a report of each Training Audit which will be discussed with the Supplier following the relevant Training Audit. The Supplier shall ensure that any concerns addressed by the Training Audit in relation to Supplier's training system, as outlined in the relevant audit report, are addressed prior to the next Training Audit and / or in line with any agreed deadlines.
- 3.30.** The Supplier agrees and acknowledges that FSA may also require access to the Supplier's training systems and assessments during inward trade missions to demonstrate compliance with requirements and competence of relevant Supplier Personnel. The Supplier shall provide such access upon an ad hoc basis upon request by the FSA.

#### **4. Call Off Services**

##### **4.1. Food Business Operator (FBO) Audits**

- 4.2.** The FSA may request that, in specific geographic locations, the Supplier provides appropriately trained and qualified cOV to undertake audit of certain FBOs (namely, stand-alone cutting plants and game handling establishments (GHE)) (each, an **FBO Audit**), each FBO Audit to be undertaken in accordance with the requirements of Paragraph 4.2 to 4.10 of this Schedule 2 (Specification).
- 4.3.** The Supplier acknowledges that any cOV completing FBO Audits will be operating under the responsibility of the AVL for auditing purposes and will liaise with the FSA's relevant contract representative on the managerial issues. All cOV completing FBO Audits will be required to attend local team and technical meetings to keep in touch with the rest of the FSA audit team and shall become familiar with the procedures and consistency exercises carried out as part of the development of the team. The FSA shall provide training to all cOV's provided by the Supplier to complete FBO Audits on FSA audit systems and shall support the cOV on any audit related issues throughout provision by cOV of Services relating to FBO Audits.
- 4.4.** The Supplier shall ensure that all qualified cOVs provided for completion of FBO Audits:

- 4.4.1. are sufficiently and suitably located to assist delivery of FBO Audits at required locations;
  - 4.4.2. have at least 2 years' experience of Delivery of Meat Official Controls across a variety of approved meat premises;
  - 4.4.3. have completed the advanced HACCP (level 4), the Food Safety lead auditor training course and the FSA audit systems training (audit systems training to be provided by FSA).
- 4.5. Advanced scheduling of FBO Audit work will be made by the FSA Audit Veterinary Leaders (AVLs) each Month in relation to each Lot (and therefore corresponding Area) for which the Supplier provides the Services. The FSA shall email the Supplier in relation to any FBO Audit which the Supplier is required to complete. The FSA shall provide at least fourteen (14) Days' notice in advance of any Month in which an FBO Audit is required to be completed by the Supplier.
- 4.6. The following activities in relation to Supplier's completion of FBO Audits shall be considered "chargeable" for the purpose of Paragraph 2.12: audit preparation time (completed off FBO Premises); audit visit to the FBO Premises; audit report write up (usually completed off FBO Premises); related enforcement activity. These chargeable activities should be recorded by Supplier Personnel on relevant timesheet primarily under the activity code IAUD, occasional use of GAUD and for enforcement IENF (where industry chargeable) and NENF (where non-chargeable). Full details can be found in the FSA's Time Recording Guidance, including the Time Recording Coding Guidance. Travelling time (NTRV) is not included as a chargeable audit activity. If in doubt clearance should be sought from the Audit Veterinary Leader (AVL).
- 4.7. **Timeliness of carrying out FBO Audits:** The Supplier shall be required to complete full and partial FBO Audits of FBO's as required and in accordance with the risk-based frequency determined by the FSA's audit system (access to which shall be provided by the FSA).
- 4.8. **Timely reporting on the outcome of FBO audits:** The Supplier shall be required to report the outcome of all FBO Audits within 10 Working Days of the relevant FBO Audit taking place. All FBO Audit reports will be submitted to the FSA using the K2 online system.
- 4.9. **Audit Quality:** The Supplier shall ensure the quality of the each FBO Audit report meets the required quality standards set out in the KPIs stated in Schedule 10 (Service Levels) under the following categories:
  - 4.9.1. Acceptable standard of spelling/grammar
  - 4.9.2. Details of the non-compliances that is sufficient to justify its categorisation.
  - 4.9.3. Non-compliance summary reflects what is identified in the relevant FBO Audit report.
  - 4.9.4. Correct use of the "Link" facility for non-compliances. Linking of non-compliances should be done to prevent the same deficiency from being raised as different non-compliances in more than one question in the relevant FBO Audit. If the relevant cOV auditing considers that there is a deficiency that constitutes a non-

compliance that applies to several questions, the relevant cOV should use the link tool so that the same deficiency is recorded in all the applicable questions. Once the questions are linked, they will count as a single non-compliance for FBO Audit outcome purposes.

**4.9.5.** Closure of non-compliances that have been resolved during the audited period.

**4.10.** Where a Supplier is required to complete any FBO Audit, the performance regarding the delivery of the FBO Audit will be assessed against the Service Level referred to as "Delivery of Meat Official Controls" in Schedule 10 (Service Levels).

**4.11. Unannounced Inspections (UAI)**

**4.11.1.** The Supplier may be required to provide cOV to undertake unannounced inspections (UAI) in certain approved Food Business Operator Premises, including in respect Ready to Eat (RTE) products (each an "**Unannounced Inspection**" or "**UAI**").

**4.11.2.** Those Food Operator Premises at which Unannounced Inspections may be required may include:

- a) establishments approved for Ready to Eat (RTE) products (where relevant Unannounced Inspected can be conducted by cOV only);
- b) stand-alone cutting premises (between audit cycles).

**4.11.3.** The Supplier shall ensure that all qualified cOVs provided for completion of Unannounced Inspections:

- a) are familiar with the relevant areas as set out in the MOC;
- b) Where applicable, will also provide assurance of the effectiveness of the FBO controls following the instructions in the MOC;
- c) have two (2) years' experience of Delivery of Meat Official Controls in variety of approved meat premises;
- d) have an Advanced HACCP (level 4) Qualification for RTE products.

**4.11.4.** Advance scheduling of UAI work will be made by the FSA UAI Team each Quarter, with at least 30 Days' notice of the first Month of the Quarter prior to the UAI visit being completed. This will be completed by Lot (and therefore Area to which each Lot relates) and broken down to Months in each Quarter. Notification will be completed by email to the Supplier.

**4.11.5.** The following activities in relation to Supplier's completion of UAI's shall be considered "chargeable" for the purpose of Paragraph 2.12: preparation time (completed off FBO Premises); UAI visit (at the FBO Premises); report write up (usually completed off site) and activities related to gathering evidence for enforcement action. These chargeable activities should be recorded under the NUAI activity code and in the case of enforcement IENF or NENF as appropriate in line with FSA Time Recording Guidance. The UAI preparation time, UAI visit time and

UAI Report input time should be split with the appropriate timesheet comments used. Travel time is not chargeable by Supplier.

**4.11.6.Attendance:** The Supplier is required to carry out each UAI scheduled visits within the set timeframe communicated to it by the FSA.

**4.11.7.Submission of UAI report:** The Supplier shall be required to submit UAI reports using the UAI reporting system within five (5) Working Days of the relevant UAI visit to which the UAI report relates. Reports are to be submitted to the relevant FBO to which the UAI relates within ten (10) Working Days of the relevant UAI visit.

**4.11.8.Submission of UAI letters.** The Supplier shall be required to submit Written Advice letters to the Veterinary Enforcement Decision Making (VEDM) Team in relation to each UAI, within two (2) Working Days of each relevant UAI visit, and the Supplier shall submit the relevant Written Advice to the FBO within five (5) Working Days of the relevant UAI visit.

**4.11.9.** The Supplier shall ensure that all photos and documentation generated in relation to any UAI is stored in the appropriate folder in the FSA SharePoint Site as per the MOC.

**4.11.10. Quality of UAI Report:** The Supplier shall ensure the quality of the any UAI reports meets the required quality standards set out the KPIs under the following categories:

- a) No spelling or grammatical errors or minor spelling /grammatical errors that do not affect the reading of the report.
- b) Deficiencies raised are correctly identified and explained, raised under the correct regulation with description of corrective actions by FBO.
- c) Hierarchy of enforcement is followed and/or target dates for compliance are appropriate for the risk.
- d) All documentation related to the visit is completed timely and correctly.

**4.11.11.** Where the Supplier is required to complete any Unannounced Inspection, relevant Unannounced Inspection this shall be included in the Delivery of Meat Official Controls for performance management as required.

## **4.12. Export Related Activities**

**4.12.1.** Whilst the FSA is not the competent authority for export related activities, and these activities do not fall under the statutory duties the FSA is required to deliver, the FSA will support the meat industry by offering export related activities at the Hourly Rates applicable to provision of Services under this Contract to certain Food Business Operator Premises which fulfil certain criteria. In

line with the foregoing, the Buyer may require that the Supplier provide cOV's for the provision of certain export related activities in slaughterhouses, co-located cutting plants and co-located cold stores (the **Export Related Activities**).

- 4.12.2.** The Supplier shall make cOVs available to provide Export Related Activities in slaughterhouses (and co-located cutting plants and cold stores) on Operational Days where there is full time cOV presence.
- 4.12.3.** The following activities required to complete the Export Related Activities shall be completed by the Supplier Personnel in accordance with hours resourced and provided for under relevant FBO's SOR and will therefore be chargeable via the SOR (and SOR process): Internal movement documents (Support Health Attestations (SHAs, Internal Movement Certificates IMCs or Vet declarations), or with an agreed extension to such SOR with prior arrangement with FSA.
- 4.12.4.** The Supplier shall ensure that the Export Related Activities are undertaken by trained OV's only. Where certification is included in the SOR for an FBO Premises, the Supplier must provide trained cOVs to carry out this activity at the relevant FBO Premises.
- 4.12.5.** For the purpose of Supplier's provision of Export Related Activities, interested Food Business Operator will be assessed by local management teams including Supplier management and FVC, to determine whether the onsite OV at applicable Food Business Operator Premises has capacity to complete relevant Export Related Activities. If Export Related Activities are to be completed at a Food Business Operator Premises, then this will be added to the Food Business Operator's SOR. The Supplier acknowledges that completion of Export Related Activities at relevant Food Business Operator Premises may require deployment of an additional OV (for which the Agreed SOR Notice Periods shall apply) and shall provide such additional resource upon request from FSA, as may be required.
- 4.12.6.** The Supplier agrees that the Export Related Activities which it may be required to provide include (but shall not be limited to):
- a) Verification of FBO compliance with the export requirements;
  - b) completion of the internal movement documents (including SHAs, IMCs and Vet declarations);
  - c) completion of any other relevant verification activities and paperwork such as OV check lists;
- 4.12.7.** The Parties agree and acknowledge that the FSA does not currently complete broader export certification activities (e.g. Export Health Certificates). To the extent that the FSA requires that such broader activities are completed by the Supplier pursuant to the terms of this Contract, the Parties shall agree additional of such services in accordance with the Variation Procedure.

**4.12.8.**Time Recording Code: All time spent on Export Related Activities recorded by Supplier Personnel to timecode HLVI.

**4.12.9.**The Supplier's performance of Export Related Activities will be assessed by way of Audit of the Export Related Activities and the results of any such Audit will be fed into the contract management process (as set out in Schedule 13 (Contract Management)). The relevant Auditor will inform the FVC/FVL of any issues found in relation to the OV performance undertaking of Export Related Activities and these will be addressed through the contract management process. Performance management information will be provided Quarterly, although if significant performance issues are identified they will be addressed by exception on a case-by-case basis.

**4.13. Dairy Animal Herd Health Checks**

**4.14.** The Supplier may be required to provide cOV to undertake inspections on registered dairy farms within England and Wales that are not part of the Red Tractor Dairy Assurance Scheme to ensure herd health requirements within OCR are being met (**Dairy Animal Herd Health Checks**).

**4.15.** Experience: The Supplier shall ensure that all cOVs provided to undertake Dairy Animal Herd Health Checks have completed the bespoke FSA herd health training package.

**4.16.** The Supplier shall ensure that Dairy Animal Herd Health Checks are completed once a year in respect of all FBO Premises identified by the FSA dairy operations team to the Supplier as requiring Dairy Animal Herd Health Checks. Required FBO Premises may change slightly throughout the year but up to date data can be obtained by accessing an interactive map which will be made available to the cOV.

**4.17.** The Supplier's provision of Dairy Animal Herd Health Checks (in each case) shall be:

**4.17.1.** charged at a fixed rate, to be agreed between the Buyer and Supplier on a case by case basis and prior to Supplier's provision of the relevant Dairy Animal Health Check;

**4.17.2.**payable in accordance with Part C of Annex 1 to Schedule 3 (Charges).

**4.18.** Assessments can be scheduled at the discretion of the SDP and can be completed at any point within the reporting year.

**4.19.** The Supplier shall ensure that all reporting required by the FSA in relation to Dairy Animal Herd Health Checks is completed via a Microsoft Office form, a link to which will be provided by the FSA to the Supplier. These forms can be completed on a phone or laptop. The Supplier shall ensure that relevant assessment forms (as part of its reporting requirements) should be completed by the end of the week in which the relevant Dairy Animal Herd Health Check took place (unless non-compliance has been identified in relevant Dairy Animal Herd Health Check, in which case Supplier shall notify FSA's dairy operations team immediately of such non-compliance).

**4.20.** Where the Supplier is required to undertake any Dairy Animal Herd Health Check, such Dairy Animal Herd Health Check, shall be assessed against the Service Level referred to as "Delivery of Meat Official Controls" in Schedule 10 (Service Levels).

**4.21. Other Sampling Activities**

**4.22.** The FSA may require Supplier to provide support in taking certain samples for research purposes ("**Sampling Activities**"). Where Sampling Activities are required, the FSA shall provide the Supplier with a full specification of the Sampling Activities required, and submission obligations in relation to the same (to allow planning of resources to be undertaken by the Supplier and the costs and time recording associated with any such Sampling Activities to be discussed and agreed between the Parties).

**4.23. Emergency Slaughter** - This applies to Lot 1, 2 and 3

**4.24.** The FSA may require that the Supplier undertake the emergency slaughter of animals suffering pain at Food Operator Business Premises (each, an "**Emergency Slaughter**"). The Supplier shall ensure it has attendance arrangements in place which will include hours outside of the agreed SORs for each FBO Premises in order to meet post mortem inspection time limits. Local FSA management will determine if FBOs require this Emergency Slaughter to be provided within the resourcing in relevant FBO's agreed SOR or on an ad hoc basis, but where ad hoc it will still be recorded as a provision within the SOR. Applicable call out charges are a matter between the FSA and the relevant FBO. There will be a higher call out charge for the ad hoc requirement but FBOs will only be charged for the actual attendance time at the Food Operator Premises. Where FBOs have the emergency slaughter requirement built into their SOR as a regular requirement they will be charged for the hours detailed in the SOR, unless the OV can be redeployed which is unlikely, but the call out charge will be lower.

**4.25.** The "on call/ out of hours service" will be recompensed as a Pass-Through Cost, on a Monthly basis to ensure appropriate cOVs are available to deliver this Service (as detailed in Schedule 3 (Charges)). The Supplier will provide detail by email of all instances of out of hours Emergency Slaughter services provided during any given Month within 5 Working Days of the end of each Month. This will assist in accurate charging to FBOs and any additional time costs payable to the Supplier.

**4.26. Attendance in Court as a Witness**

**4.27.** The Supplier acknowledges that certain Supplier Personnel used by the Supplier in its provision of the Services, in particular cOVs and cOAs, may be required to attend court as witnesses in relation to the Services such Supplier Personnel have provided. The Supplier acknowledges that such requirement to attend court may arise several years after relevant enforcement action is taken. Where it is a possibility that Supplier Personnel may be required to appear as witness, the Supplier shall ensure that the FSA has the relevant Supplier Personnel's up to date contact details (in order that the FSA is able to arrange appearance by the relevant Supplier Personnel in court when required through the Supplier). If the relevant Supplier Personnel is no longer engaged by the Supplier, including where they have left the UK, the Supplier

shall use best endeavours to secure relevant Supplier Personnel's attendance at court as required. The FSA Operations shall be responsible for paying for travel and accommodation costs arising directly out of relevant Supplier Personnel's attendance as a witness in court.

**4.28. Backfill FVC and VA**

**4.29.** From the Start Date and from time to time during the Contract Period, the Buyer may require that, in its provision of the Services, the Supplier provides appropriately qualified Supplier Personnel to backfill FVC or VA roles.

**4.30.** The cost of Supplier's provision of Backfill Staff shall be agreed and charged in accordance with Part E of Annex 1 to Schedule 3 (Charges).

**5. Authorisation**

**5.1.** The Supplier shall ensure that all Supplier Personnel provided by the Supplier to undertake the Services (including Delivery of Meat Official Controls) in approved FBO Premises, are authorised by FSA.

**5.2.** Notwithstanding Paragraph 5.1 above, to the extent the Supplier is required by the FSA to provide the Services to OGD, the Supplier shall ensure that all Supplier Personnel provided by the Supplier to undertake the Services for that relevant OGD are additionally authorised by the relevant OGD to whom the Services shall be provided, such authorisation to be administered by FSA.

**5.3.** The Supplier agrees and acknowledges that Supplier Personnel are not permitted to deliver Services under this Contract unless authorised in accordance with this Paragraph 5. In order for individual Supplier Personnel to be authorised for provision of Services, the Supplier shall request authorisation of individual Supplier Personnel using the form at Annex 7 of this Schedule 2 (Specification) (each, an **Authorisation Request**).

**5.4.** Authorisation Requests must be provided, alongside all evidence required, to [CSU@food.gov.uk](mailto:CSU@food.gov.uk). Please note the authorisation process for any Authorisation Request may take up to ten (10) Working Days. CSU will verify the information provided in an Authorisation Request and if content, will process the authorisation for the relevant Supplier Personnel. When the authorisation has been processed, the Supplier will be sent instructions on how to request access to the Guess Access Systems for the authorised Supplier Personnel through an access portal (which will create a guest account). Please note, only Supplier Personnel who have been authorised by FSA will have a guest access account for the Guess Access Systems. Any requests for accounts sent to FSA by the Supplier for Supplier Personnel that have not been authorised will be declined and may delay the process.

**5.5.** Please note guest access accounts will be deactivated if not used with ninety (90) Days and a further request will need to be made through Microsoft, which sends a security email to CSU who will check the authorisation status of the relevant Supplier Personnel. If the Supplier Personnel is authorised the request will be approved, if not the request will be declined.

**5.6.** Guest access is required for Supplier Personnel access the following FSA systems (**Guest Access Systems**):

**5.6.1.** TAPP (Timesheets)



- 5.6.2. IRIS
- 5.6.3. Chronos
- 5.6.4. SharePoint (e.g. Plant documents)
- 5.6.5. Intranet sites (e.g. Manual of Official Controls, TEC Files, Reference Cards)
- 5.6.6. Audit & Enforcement
- 5.6.7. CapTa
- 5.6.8. Cattle Non-Compliance
- 5.6.9. Cleansing Disinfection
- 5.6.10. Cutting plant inspection report
- 5.6.11. Dairy scheduling
- 5.6.12. Establishments and People
- 5.6.13. FBO Audits
- 5.6.14. Salmonella Testing
- 5.6.15. Slaughterman licence
- 5.6.16. Statement of Resources
- 5.6.17. Unannounced Inspections
- 5.6.18. Welfare Assurance Team

5.7. The Supplier is required to have effective resource planning to ensure all authorisations for Supplier Personnel are in place before Supplier Personnel are deployed to deliver the Services under this Contract (ie. by the Start Date).

5.8. To the extent any Supplier Personnel records time to the FSA's Time Recording System which relates to Supplier Personnel's provision of Services prior to their authorisation (or prior to their authorisation taking effect) such time will not be chargeable to the FSA and FSA shall not pay any Charges in respect of the same.

## 6. Attendance

6.1. In relation to each FBO Premises for which the Supplier is required to provide the Core Services, the FSA shall provide a "**Statement of Resource**" (SOR). The Statement of Resource shall set out the required attendance levels and for the Supplier's cOA and cOV at the relevant FBO Premises to which it relates, in order for the Supplier to deliver the Core Services in line with the FSA's requirements in respect of that FBO Premises.

6.2. The SOR is agreed between the relevant Food Business Operator (FBO) and the FSA. The Supplier will be notified by the FSA of any change to the resourcing requirements set out in an individual SOR in line with the applicable notice period set out in the table at Paragraph 6.17 below and the detail otherwise set out in this Paragraph 6. The Supplier acknowledges that any SOR is subject to change depending on industry requirements and specific notice periods applicable are required for increases or decreases in resource.

6.3. All Supplier Personnel are required to be at the inspection point or lairage relating to the relevant FBO Premises at the start time indicated in the applicable SOR. All required duties of the Supplier Personnel in relation to a FBO Premises (as indicated by FSA to Supplier in the applicable SOR) are to be completed before Supplier Personnel leave the FBO Premises unless reporting facilities are not in operation (in which case remote access may be

used to complete reporting tasks outside of the resourcing period stated in the SOR/ off-site from the FBO premises).

- 6.4. Unpaid breaks.** Each individual Supplier Personnel providing the Core Services is entitled to an uninterrupted (by the FBO or FBO's staff) unpaid break of thirty (30) mins (where Supplier Personnel's daily working time in relation to a FBO Premises as indicated in the SOR is more than six (6) hours). Relevant break should be a break in working time and should not be taken either at the start or end of a Working Day. Unpaid breaks that are recorded on the SOR for premises working six (6) hours or less are to be taken as breaks and recorded as a break on the timesheet system.
- 6.5.** If unpaid breaks that are recorded on the SOR for FBO Premises working six (6) hour or less are not taken as breaks (e.g. the FBO does not stop for a break), they should not be recorded as a break (or if they are interrupted, only the uninterrupted time is recorded as a break, e.g. only fifteen (15) minutes of a thirty (30) minute break recorded as a break taken and a note made on the timesheet as to the reason.) Where an unpaid break is recorded on the SOR but the FBO Premises repeatedly works through the break or where the FBO Premises has no unpaid break recorded in the SOR but repeatedly takes a break this will trigger a review of the SOR.
- 6.6.** Where a FBO Premises works more than six (6) hours without an unpaid break, whether it is in the SOR or not, would be a breach of the Working Time Regulations, and should be reported to the FSA for further investigation. Unpaid breaks not recorded in the SOR for FBO Premises working six (6) hours or less are not to be taken as breaks and offline duties should be undertaken during this time.
- 6.7.** Where a FBO Premises works six (6) hours or less where no unpaid break is recorded in the SOR and a break is taken due to stoppage, if no additional offline duties can be undertaken IUWT is to be used on the timesheet. However, please note that FSA waives certain charges in line with the charging guide so there may be situations where the downtime is booked as NUWT or NIDT. Supplier will be advised by a manager if those 2 codes need to be used. Whatever activity codes are applicable for the day they should not exceed the overall SOR hours for the FBO Premises unless overtime working is required and agreed between the FSA team and the FBO, or other factors arise which require longer FSA attendance such as enforcement activity. If an FBO chooses to work less than the agreed SOR hours for that FBO Premises, Supplier Personnel are permitted to record IUWT up to their contractual hours as indicated in the SOR, where they are paid for this time, as per local management instructions to cater for exceptions and industry requirements. Local FSA management will need to consider to possible redeployment and any cost incurred by the Supplier that cannot be recovered elsewhere. If the FBO chooses to operate above the agreed SOR hours for an FBO Premises, prior agreement will be required from Supplier Personnel deployed to the relevant FBO Premises to work beyond the hours stated in the SOR, for which the Supplier Personnel will be paid for the additional hours they have worked.
- 6.8.** Where a new FBO Premises is approved, the FSA will produce an SOR for that FBO Premises and there will be up to thirty (30) Calendar Days for the Supplier to provide the required resource to fulfil the requirements of the for

that new FBO Premises. The resource is chargeable to the FSA from the start date of the SOR. Where there is a delay in the start date which was within the control of the FBO to prevent, then the FBO is responsible for the cost of the resource from the start date.

- 6.9.** Where a FBO Premises has its approval revoked or suspended or FSA controls are withdrawn owing to non-payment of judgment debt, the FSA will give the Supplier thirty (30) Calendar Days' notice to allow the Supplier to redeploy Supplier Personnel deployed to the relevant FBO Premises concerned, where possible. If FSA fails to provide this notice to the Supplier, the Supplier is entitled to claim downtime for any Supplier Personnel staff that have been unable to be redeployed from the FSA using the claim form at Annex 8 to this Schedule 2 (Specification).
- 6.10.** Where a FBO Premises decides to close, FSA are required to give the Supplier thirty (30) Calendar Days' notice to allow Supplier to redeploy their Supplier Personnel deployed to the FBO Premises concerned.
- 6.11.** Where operations at a FBO Premises operation are discontinuous (such as approved game handling establishments which operate during game seasons only) the FSA shall provide the Supplier with fourteen (14) Working Days' that cOV attendance at relevant FBO Premises is required or should be resumed (as applicable).
- 6.12.** The FSA is required to give the Supplier thirty (30) Calendar Days' notice for an increase or decrease in cOV resource required in relation to a FBO Premises.
- 6.13.** The FSA will endeavour to give the Supplier seven (7) Calendar Days' notice for an increase or decrease in cOA resource required in relation to a FBO Premises. However, there are often requirements that arise at short notice beyond the control of the FSA, and in these instances the FSA will provide two (2) clear Working Days' notice. Any more urgent provision will be by local arrangement.
- 6.14.** For additional cOA requests for a FBO Premises beyond an agreed SOR, the FSA will reimburse the Supplier for the full amount of the request, except where this request is cancelled or reduced by the FSA giving two (2) clear Working Days' notice. Where less than two (2) clear Working Days' notice is given, the FSA will reimburse the Supplier for the resource stated in the initial request to a maximum of two (2) Working Days (provided that the Supplier is not able to be redeploy the relevant Supplier Personnel elsewhere).
- 6.15.** The Supplier is expected to make every effort to find alternative work for cOA and cOV resources required by a SOR, but which has been cancelled, to avoid the charging of underutilised time to the FSA. The Supplier is only able to claim for underutilised time where they have been unable to re-deploy the resource and there is a demonstrable cost to the Supplier resulting directly from Supplier's inability to re-deploy (i.e. contractual requirement to pay the relevant Supplier Personnel which cannot be re-deployed).
- 6.16.** The FSA hold Regional Engagement and Development Days (READ) and other events, which will require provision of significant backfill of employed OA positions by the Supplier, outside of normal peak periods. The

Supplier shall be required to provide Supplier Personnel resourcing to fill the relevant backfill required by the FSA. The FSA will give the Supplier a minimum of three (3) Months' notice of the date of a READ and the backfill resourcing requirements which the Supplier is required to provide, in order to allow the Supplier to put a plan in place to resource the backfill appropriately for the FSA with Supplier Personnel.

#### 6.17. Resource Request Notice and Cancellation Periods

Resource Request	cOV	cOA
Changes to SOR Requirement	Thirty (30) Calendar Days	Seven (7) Calendar Days
Standard Request (Rota requirements as standard)	NA	Seven (7) Calendar Days
Short Term Request (previously emergency cover, outside of standard rota request)	NA	Two (2) clear Working Days
Cancellation of Request	Thirty (30) Calendar Days unless redeployment can be found by the Supplier earlier	Two (2) clear Working Days

### 7. Time Recording

- 7.1. The Supplier shall ensure that Supplier Personnel complete all time-recording in accordance with the "**Time Recording Guidance**" set out here: [Time Recording Guidance on www.food.gov.uk](http://www.food.gov.uk/time-recording-guidance)
- 7.2. The Supplier shall ensure that all time recording is completed, and all timesheets are submitted, using the FSA's time recording system, TAPP (**Time Recording System**). The management side of the system is called TAPPAS. The FSA shall provide Supplier with a full set of guides for use of TAPP and TAPPAS, and the Supplier shall adhere to all such guidance in its use of TAPP and TAPPAS.
- 7.3. The Supplier shall ensure that all Supplier Personnel submit timesheets in respect of time spent in provision of the Services. The Supplier shall approve and rectify issues with declined timesheets, in accordance with the timescales set out in the Time Recording Guidance and additional guides (as referred to in Paragraph 7.2 above).
- 7.4. The Supplier acknowledges that the FSA uses the timesheets submitted by the Supplier on the Time Recording System for charging of the Variable Costs and other industry charging. The Supplier shall ensure that all timesheets submitted to the Time Recording System are accurate and submitted in a timely manner.
- 7.5. The Supplier shall ensure that all timesheets submitted by all Supplier Personnel providing the Services are submitted by 12:00 noon on a Monday and approved by the Supplier by 17:00 on the Tuesday of the following week to which they relate. Any timesheet(s) not submitted and approved within thirteen (13) weeks of the date the Services to which the timesheet relates were delivered will not be paid by the FSA.

**7.6.** All managers who are required to authorise supplier timesheets through TAPPAS must have guest access before being added to the system. Any managers who are delivering official controls cannot authorise timesheets during the SOR hours.

## **8. Reporting Requirements**

**8.1.** The Supplier shall adhere to the reporting requirements relating to its provision of the Services as detailed in the MOC, including but not limited to the reporting requirements summarised in the table below:

<b>What</b>	<b>Where</b>	<b>When</b>
Throughput	IRIS	Daily
Ante Mortem and Post Mortem Inspection Data	IRIS	Daily
Animal Welfare Referrals to APHA	Chronos	Daily
Enforcement Action	Chronos	Daily
Contamination,	Slaughter Hygiene Verification (SHV)	
Cattle Passport Checks and Non Compliances	Cattle Non Compliance (CNC) System	Daily
Number of Vehicles checked for completion of Cleansing and Disinfection before leaving site and non-compliances	Cleansing and Disinfection (C&D) System	Weekly
Eligible Sheep Available and number Tested for TSE	TSE 6/1	
Provision of Supplier Personnel leaving lists	Emailed to <a href="mailto:CSU@food.gov.uk">CSU@food.gov.uk</a>	Monthly in Arrears
Provision of Financial data in the required workbook format	Emailed to <a href="mailto:FSADOC@food.gov.uk">FSADOC@food.gov.uk</a>	Monthly in Arrears

Please see the MOC for full details of the reporting required.

## **8.2. Submission of Enforcement Recommendations to the Veterinary Enforcement Decision Making (VEDM) Team**

**8.2.1.** Where, in the course of its provision of the Services, the Supplier or any Supplier Personnel suspect non-compliance by FBO Premises with applicable Law, the Supplier shall ensure that a cOV promptly attends the relevant FBO Premises and performs an investigation to confirm or to eliminate that suspicion. Following attendance at the relevant FBO Premises, the relevant coV shall notify the FSA Veterinary Enforcement Decision Making Team:

- a) of the relevant FBO Premises and relevant suspected non-compliance;
- b) whether the suspected non-compliance was established; and
- c) where required, its recommendation for enforcement action,

promptly and at all times in accordance with the timelines set out in Paragraph 8.2.4 below.

**8.2.2.** Where non-compliance is established, the cOV shall also recommend:

- a) any action necessary to determine the origin and extent of the non-compliance and to establish the responsibilities; and
- b) appropriate measures to ensure that the Food Business Operator concerned remedies the non-compliance and prevents further occurrences of such non-compliance. When deciding which measures to take, the cOV shall take account of the nature of that non-compliance and the Food Business Operator's past record with regard to compliance.

**8.2.3.** Decisions concerning the escalation of enforcement by cOVs in slaughterhouses or cOVs undertaking UAI's will be made by an FSA Veterinary Enforcement Delivery Manager (VEDM). This includes the decisions made after the provision of written advice, through to formal enforcement action and referrals for investigation.

**8.2.4.** The table below shows the timescales the cOV is to follow when providing recommendations for enforcement to the VEDM Team:

Type of enforcement	OV Deadline Days
CoC revocation	2 Days
CoC suspension	2 Days
Extension of HIN	1 Day
Extension of written advice	1 Day
Hygiene improvement notice	2 Days
Notice of disposal of ABP	1 Day
RAN	1 Day
Return CoC after suspension	1 Day
RFI	8 Days
Warning letter to CoC holder	2 Days
WCN	1 Day
WEN	1 Day
Withdrawal notice for the disposal of ABP	1 Day
Withdrawal of hygiene improvement notice - letter	1 Day
Withdrawal of RAN	1 Day
Written advice	3 Days

## **9. Equipment**

### **9.1. PPE.**

**9.1.1.** The FSA shall supply all Supplier Personnel which are contract staff with:

- 9.1.1.1.** a safety helmet with the FSA logo; and

**9.1.1.2.** health marking equipment that includes a premises specific health mark and health marking ink.

**9.1.2.** The FSA will provide the Supplier with laundry for all Supplier Personnel engaged in the provision of the Services. FSA operational management teams will manage the laundry provision and any issues arising on behalf of the Supplier. If disposable garments are worn for ad hoc occasions, they must meet the specification for protective clothing for use against solid particulates (Type 5) or protective clothing for use against liquid chemicals (Type 6). Type 5 and Type 6 disposables must comply with EN340:2003

**9.1.3.** The FSA shall supply Supplier with the following single use items below for use by both contract and employed Supplier Personnel engaged in the provision of the Services:

- 9.1.3.1. Disposable gloves
- 9.1.3.2. Hairnets
- 9.1.3.3. Disposable oversleeves
- 9.1.3.4. Beard Masks
- 9.1.3.5. Corded ear plugs
- 9.1.3.6. Disposable RPE masks
- 9.1.3.7. Disposable 3 ply face coverings
- 9.1.3.8. Hand sanitiser
- 9.1.3.9. Clinical wipes
- 9.1.3.10. Trigger spray sanitiser
- 9.1.3.11. Face fit testing solutions A and B
- 9.1.3.12. Anti Fog spray.

**9.1.4.** The FSA shall supply the following reusable items below for use by both contract and employed Supplier Personnel engaged in the provision of the Services:

- 9.1.4.1. Helmet mounted full face visor.
- 9.1.4.2. Cough guards

**9.1.5.** The Supplier agrees and acknowledges that it is the Supplier's responsibility to supply their Supplier Personnel (both contract and employed) engaged in the provision of the Services with the equipment listed below (as appropriate and required dependent on the roles and duties being undertaken by the relevant Supplier Personnel). Please note this list is neither prescriptive nor exhaustive:

- 9.1.5.1. Chainmail glove – to be worn on the non-knife hand, to cover the hand or the hand and forearm.
- 9.1.5.2. Safety wellingtons white and/or green as required to meet ISO 20345 S4 CI
- 9.1.5.3. Waterproof apron
- 9.1.5.4. Suitable hearing protection to meet the health and safety requirements of the premises in which staff are delivering services.
- 9.1.5.5. Cold weather under garments.



- 9.1.5.6. Victorinox knives 62/ 15cm boning knife or equivalent.
- 9.1.5.7. Scabbard (if required) with belt.
- 9.1.5.8. Bobet sharp easy spring tensioned sharpening steel or equivalent.
- 9.1.5.9. Kit bag for transportation
- 9.1.5.10. Temperature probe calibrated annually to -18°C, 0°C, +4°C, +7°C, +37°C and +82°C (cOV only)
- 9.1.5.11. Stethoscope (cOV only)
- 9.1.5.12. Thermometer for use on live animals (cOV only)
- 9.1.5.13. Digital light meter (cOV only)

## **9.2. IT Equipment, Software and Associated Security**

**9.2.1.** The Supplier shall provide Supplier Personnel engaged in the provision of the Services with suitable IT equipment, security support and associated training relevant to their deployment in accordance with this Paragraph 9. The requirements of this Paragraph 9 are in addition to the Supplier's obligations as set out in Schedule 16 (Security) which covers the comprehensive technical and organisational security requirements for this Contract and Schedule 32 (Background Checks).

**9.2.2.** The Supplier shall ensure that all Supplier Personnel engaged in the provision of the Services will be provided with the equipment set out in this Paragraph 9.2:

- 9.2.2.1. A company issued Laptop (or Tablet) and Mobile phone (2 devices), or Samsung Dex enabled phone to use with monitors/docking stations. The device must have the Microsoft Edge browser installed in addition to the Supplier's core operating system and applications. Any laptop or phone issued by the Supplier to Supplier Personnel in accordance with this Paragraph 9.2.2.1 shall comply with the minimum specification for devices as set out at Annex 10 to this Schedule 2 (Specification).
- 9.2.2.2. The Supplier shall ensure that the Supplier Personnel only use company issued equipment which complies with the requirements of this Paragraph 8, and not their own personal devices, in their provision of the Services.
- 9.2.2.3. The Supplier shall ensure that mobile devices provided to Supplier Personnel are also issued with:
  - 9.2.2.3.1. Camera function with the ability to embed with date/time/location.
  - 9.2.2.3.2. 4/5G secure hotspot to allow connection to laptop or secure device, when FSA Plant Broadband is not available.
  - 9.2.2.3.3. The ability to use an authentication application (such as Microsoft (recommended) or Google Authenticator) to allow access FSA infrastructure and services using Multifactor authentication.



**9.2.3.** The Supplier shall ensure that all Supplier Personnel are provided with the following:

- 9.2.3.1. Personal and secure storage areas to store documents and data offline and online.
- 9.2.3.2. Ability to connect over the internet to FSA services and FSA storage areas which use Microsoft 365 technology and applications.
- 9.2.3.3. Ability to use Edge browsers and to request guest accounts in FSA Azure Active Directory to access services.
- 9.2.3.4. Corporate email address/account per user
- 9.2.3.5. Specific software, where Microsoft Edge is not able to provide the following functionality:
  - 9.2.3.5.1. pdf reader for guidance
  - 9.2.3.5.2. video player for training
- 9.2.3.6. Printing – ability to print either by connecting to FSA or Supplier provided devices.

**9.2.4.** The Supplier shall make the following available to Supplier Personnel in their provision of the Services:

- 9.2.4.1. Instructions and/or training to ensure Supplier Personnel compliance with FSA acceptable use policy and the FSA security policies (including the FSA's Security Policy and ICT Policy). This includes ensuring all Supplier Personnel go through the mandated security and data protection module training from Civil Service Learning on an annual basis during the Contract Period;
- 9.2.4.2. A central IT support service (i.e. a service desk) to provide first line technical support for all Supplier Personnel. This function will work in partnership with FSA's support services. First line calls are triaged by the Supplier for resolution. If resolution is not possible, then the calls are to be escalated to the FSA service desk;
- 9.2.4.3. A resilient and accessible service desk contact method for all Supplier Personnel;
- 9.2.4.4. IT induction and "how to use" training for Supplier Personnel for connecting to and using all FSA application;
- 9.2.4.5. Office 365 licencing and training – including Microsoft Teams, SharePoint, etc.

**9.2.5.** The Supplier shall also ensure it is able to comply with following requirements of the FSA in relation to its provision of the Services:

- 9.2.5.1. deploy a process to provide the FSA details of head count on a rolling Month basis including the identity of starters and leavers.
- 9.2.5.2. undertake an annual security assurance Audit, with results provided promptly to the FSA;
- 9.2.5.3. deploy Azure Entra ID – identity provider needed for guest access to Guest Access Systems.

- 9.2.5.4. to ensure company devices used for this Contract comply with the end user devices requirements set out at Paragraph 4 of Annex A of Schedule 16 (Security);
- 9.2.5.5. provide staff with Fit for Purpose (FFP), compliant Equipment.
- 9.2.5.6. comply with the Cyber Essential Scheme Plus <https://www.cyberessentials.ncsc.gov.uk/> as specified in Schedule 19 (Cyber Essentials Scheme);
- 9.2.5.7. demonstrate compliance when using cloud services against the cloud security principles. Offshoring of data outside the UK must be approved by FSA. <https://www.ncsc.gov.uk/collection/cloud-security?curPage=/collection/cloud-security/implementing-the-cloud-security-principles;>
- 9.2.5.8. ensure that supplied devices use an operating system that is in manufacturer support and up to date;
- 9.2.5.9. Ensure that training and processes are in place for all Supplier Personnel devices to be kept up to date by installing updates to the latest but one security update (n-1);
- 9.2.5.10. ensure that Supplier Personnel devices have antivirus protection.
- 9.2.6.** The Supplier shall comply with the FSA Operational Instruction for taking, handling and storage of photographic and video evidence.
- 9.2.7.** The Supplier shall reflect the requirements set out in this Paragraph 9 within their internal documented protocols.
- 9.2.8.** All Supplier Personnel shall be required to comply with the procedures included in this Paragraph 8 (which are to be part of routine induction training). These include:
  - 9.2.8.1. Only using official channels of communication for any matters relating to any FSA business (including the transfer of data).
  - 9.2.8.2. Only using company issued mobile devices for capturing and transferring photographic evidence.
  - 9.2.8.3. Prohibiting the use of company mobile devices for any non-work related activities.
  - 9.2.8.4. Procedures for uploading images collected as part of the enforcement process to the FSA SharePoint site.
  - 9.2.8.5. Protocols for referring images to supervisors for guidance on whether further action is appropriate.
  - 9.2.8.6. The timely deletion of images from mobile devices.
- 9.2.9.** The Supplier shall confirm with all Supplier Personnel, on at least an annual basis during the Contract Period, during face to face catch ups with line managers that relevant Supplier Personnel have followed the taking, handling and storage of photographic and video evidence protocols listed in 9.2.8 and that all images have been deleted as required.

**9.2.10.** The Supplier shall produce an internal audit checklist to include a direct physical check of all Supplier Personnel mobile devices to ensure compliance with the protocols listed in 9.2.8. These checks are to be undertaken on site during any internal Audit where the relevant section of the checklist has been identified for completion. The Supplier is to collate the results and report this to the FSA.

**9.2.11.** Supplier administrative support team will undertake a random check of 10% of any enforcement action submitted to the FSA Veterinary Enforcement Decision Team on a Quarterly basis to ensure that no images have been stored in the Supplier's systems instead of on the FSA SharePoint site.

## **10. Health and Safety Requirements**

**10.1.** The Supplier shall be required to cooperate and coordinate management of health and safety risk in its provision of the Services, including but not limited to risk assessments and safe systems of work to meet the requirements of health and safety Law.

**10.2.** The Supplier shall maintain a robust system for recording and sharing health and safety related incidents arising in its provision of the Services (including but not limited to "near miss" incidents, accidents and bullying and harassment) and subsequent investigation outcomes of those incidents.

## **11. Innovation and Efficiency**

**11.1.** The Supplier shall comply with the requirements of Schedule 11 (Continuous Improvement).

**11.2.** In addition to its requirements pursuant to Schedule 11 (Continuous Improvement) the Supplier shall be required to provide full cooperation and support for future innovations and pilots of alternative delivery models that the Buyer and any Buyer Third Party may wish to trial. Such pilots will have clear objectives, agreed timescales and measurable targets to ensure efficiencies are captured in quantifiable terms.

**11.3.** If pilots are identified that would see reduced operational activity, the Continuous Improvement Plan shall be updated to include details of the results of the pilot and, should the Supplier's costs in providing the Services to the Buyer be reduced as a result of proposed pilot, all costs savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables. The Supplier is expected to take all reasonable actions to minimize any loss of income such as offsetting the forecast reduction through reasonable redeployment or alternative duties. Any change to the definition of a pilot, including extension of timescale will be communicated to the Supplier in advance. The objectives and measurable benefits would still be captured as outlined above.

**11.4.** The Buyer reserves the right to bring in additional expertise where necessary in relation to any pilots conducted pursuant to this Paragraph 11.

**11.5.** In accordance with Paragraph 1.12 of Schedule 11 (Continuous Improvement), at any time during the Contract Period of this Contract, the

Supplier may make a proposal for gainshare. Where the Buyer deems gainshare applicable:

11.5.1.1. Schedule 11 (Continuous Improvement), including in particular Paragraph 1.12 shall apply to such gainshare proposal;

11.5.1.2. the Parties shall use the gainshare proposal at Annex 11 to this Schedule 2 (Specification) as a starting point for such discussions on gainshare (although Parties will be free to agree an alternative gainshare proposal to the extent the proposal at Annex 11 to this Schedule 12 (Specification) is deemed by the Parties to be inappropriate).

## **12. NOT USED**

## **13. NOT USED**

## **14. Wellbeing**

**14.1.** The Supplier shall ensure that all Supplier Personnel have access to support and resources to maintain and safeguard personal wellbeing in the form of an Employee Assistance Programme (EAP). The EAP is to support and improve the workforce performance by supporting and guiding employees in dealing with personal wellbeing, work and home related problems and those of their immediate families which impact upon them.

**14.2.** The EAP scheme should give Supplier Personnel access to the following support:

**14.2.1.** A confidential helpline support and counselling service that is both employee and manager focussed.

**14.2.2.** Access to documentation and resources explaining what services are available including a series of self-help tools via a website or other media.

**14.2.3.** The annual review meeting will require Supplier assurance of support and resources available.

## **15. Complaints and Whistleblowing**

**15.1.** The Supplier shall provide assurance that a written policy is in place for raising concerns, including qualifying disclosures under the Public Interest Disclosure Act 1998, and communicated and available to all Supplier Personnel (including sub-contracted or locum employees). Where the content of an incident or issue raised under such arrangements is relevant to the Services provided, the Supplier is required to inform the FSA immediately through its nominated manager.

**15.2.** In relation to such concerns, together with complaints made by third parties to the FSA and about the Supplier (which, where the complaint is made directly to the Supplier, the Supplier must immediately inform the FSA), the Supplier is required to co-operate with any FSA investigation into alleged wrongdoing or complaint relating to the Services. This may result in financial compensation to claimants paid directly by the Supplier or by the FSA and subsequently recovered by the FSA from the Supplier (as per process set out at Paragraph 2.14 to 2.16). From time to time the FSA may consult with the Supplier on specific guidance to support these arrangements.

- 15.3.** The Supplier shall on an annual basis produce a report to the FSA detailing all concerns and complaints received and relevant to the service provided, made by Supplier Personnel (including sub-contracted or locum) and external third parties including outcomes and any remedial action taken.

## **16. Welsh Language**

- 16.1.** The Supplier will be legally obliged to comply with the commitments and obligations outlined in the FSA's statutory [Welsh Language Scheme 2019-2022](#), specifically point 4.4 onwards, in all its undertakings (including provision of the Services) in Wales. This scheme outlines how the FSA will provide a bilingual service of an equal standard to the public in Wales, a commitment that extends to third parties undertaking regulatory functions on its behalf. Should the Supplier foresee any difficulties with the provision of the Services, they should engage with the Agency's Welsh Language Unit to discuss at the first possible opportunity. The Supplier should consult with the Welsh Language Unit on any matters regarding or affecting the Welsh Language, including but not limited to Welsh translation, correspondence and use of the language.

## **17. Social Value**

Our social value priorities are tackling inequality in the contract workforce, which is [Theme 4, Sub Criteria 6.1](#).

The Supplier shall be required to demonstrate how its company culture promotes an inclusive working environment and promotes retention and progression by providing evidence of the policies and strategies that are in place to support the same. The Supplier shall be required to provide examples of how these strategies/policies have been successful and to provide information on improvements planned to these strategies and policies over the course of the Contract Period.

Our Social Value priorities are:

1. Recruitment and retention of Supplier Personnel in the Delivery of Meat Official Controls on behalf of FSA.
2. Promotion of an inclusive working environment that supports retention.
3. Company culture that supports progression of Supplier Personnel.

***[Note to bidders: A KPI on Social Value will be contractualised based on the Tenderer's proposal and as set out in the Tender Response.]***

## **18. Annexes to the Specification**

- 18.1. OV Job Description and Person Specification**
- 18.2. OV Competency and Behaviour Profile**
- 18.3. SLA requirements for OGD**
- 18.4. OA Job Description and Person Specification**
- 18.5. OA Competency and Behaviour Profile**
- 18.6. nOV Practical Hours Requirements and Assessment Periods**
- 18.7. Supplier Authorisation Request Form**
- 18.8. Approval Suspension/Revocation Downtime Claim Form**
- 18.9. FBO Compensation Process**
- 18.10. Minimum Specification for Supplier Devices**
- 18.11. Gainshare**

## **ANNEX 1: CONTRACT OFFICIAL VETERINARIAN (cOV) JOB DESCRIPTION & PERSON SPECIFICATION**

**Job Purpose:** The FSA's strategic plan commits to the development of alternative or complementary delivery models, including their sustainable funding – for meat and other food businesses.

The Official Veterinarian primarily

- Provides a technical and leadership role, in an approved premise providing technical advice and direction to the plant inspection team to ensure the efficient and consistent Delivery of Meat Official Controls and associated tasks, as defined within the Manual for Official Controls (MOC).
- Builds and manages effective relationships with the plant Food Business Operator (FBO) and other stakeholders and takes responsibility for health and safety management at plant level.

### **Key Responsibilities**

#### **Statutory duties:**

- Inspection tasks:
  - Assessment of food chain information.
  - Conducting ante-mortem inspection of animals for slaughter.
  - Verification of animal welfare compliance: including assessment of the suitability and competence of persons applying for a temporary Certificate of Competence (TCoC), and verification of Certificates of Competence (CoCs) for staff working at the premises
  - Conducting postmortem inspection: if this task is delegated to Official Auxiliaries, the post holder must regularly check the work of the OAs and in the case of animals having undergone emergency slaughter outside the slaughterhouse, carry out the inspection personally.
  - Verification of compliance with Transmissible Spongiform Encephalopathy and Animal By-Products requirements
  - Health marking
- Verification of slaughter hygiene standards
- Verification of FBO compliance the microbiological criteria
- Verification of FBO traceability systems
- Verification of food safety management systems

#### **Action following controls:**

- Collection and communication of inspection results
- Assessment of and decision making in relation to food chain information, live animals, animal welfare and meat

#### **Enforcement**

- Verify that the FBO complies with legislative requirements through their own food safety management procedures.
- Gather evidence to support targeted enforcement for the FSA and other enforcement agencies as required.
- Follow risk based procedures to take fair and proportionate enforcement actions to ensure compliance is achieved working with FBOs to create action plans to achieve compliance.

- Understanding of all areas of non-compliance, the stage of escalation and active monitoring through to compliance or with a view to taking further action to control the risks at the establishment
- Gathering and secure storage of evidence
- Responsibility for all timely enforcement and it's escalation
- Completion and collation of paperwork and electronic enforcement systems
- Delivery and recording of informal enforcement activity
- Drafting, service and recording of formal enforcement after consultation and direction from the FSA Field Veterinary Coordinator (FVC)
- Verify continued compliance with public health, animal health and animal welfare
- Collection of evidence of repetitive non-compliance or serious deficiency with public health, animal health and animal welfare To liaise and provide evidence to FVC in regard to all formal enforcement action;
- Carry out formal enforcement action under the direction of the FVC;
- To proactively liaise with other enforcement bodies as required
- Act as a witness of fact and professional witness in legal cases as required including producing a witness statement to the required standard.
- Knowledge of how to identify potential food fraud opportunities relevant to the meat industry and how to escalate and report suspicious activities.
- Encourage and support the use of “best practice” in all aspects of operations, giving appropriate and timely advice

#### **Verification of compliance with Third Country requirements (as/when required)**

- Carry out veterinarian activities in line with specific Third Country requirements and as requested by the FSA
- Certification of product

#### **Technical leadership of the plant inspection team:**

- Responsible for the technical leadership and performance of the plant inspection team by, providing appropriate advice, coaching, support, and ensuring technical compliance through supervision of tasks. - Seek direction for FSA field management where appropriate.
- Assessment of on-going technical, competencies of OAs, ensuring that they are demonstrating competency and supported to undertake all tasks associated with their role.
- Assessment of ongoing competencies of Plant Inspection Assistants (PIAs)
- Cascade technical information as required and discuss the practical implications with the plant inspection team.
- Participation on the practical training at the plant, of Trainee OA (tOA), probationary OVs (pOV) and Veterinary Students to ensure it is carried out appropriately.
- Awareness of and commitment to all relevant FSA policies
- Provide feedback to Inspection Team Leader (ITL) on OA competence and performance.
- Accurately input data and information (business and personal) into appropriate IT systems.

#### **Stakeholder management:**

- Establish and maintain productive working relationships with the FSA, plant FBOs and other stake holders (Other Government Departments, Local Authorities, etc).



- Raise any changes to the FBO operating patterns in relation to the Statement of Resources with the FSA manager in charge of this work.
- Inform FBOs of any legislative changes that have an impact on their operation.

### **Health and Safety Management**

- Provide support to FSA field management in implementing the FSA Health and Safety Policy at plant level and provide support to the FSA Field management in completion of risk assessments and the implementation of control measures.
- Participate when required to investigate and document accidents and incidents involving the plant inspection team and make initial recommendations for preventative actions.
- Participate in plant inductions, ensuring plant inspection teams and visitors are aware of fire, first aid and other emergency procedures and provide them with health and safety information, instruction and coaching as necessary.

### **FSA Service Level Agreements (SLAs)**

- Ensure FSA services at the plant are delivered in line with SLA targets.

### **General**

- Maintain confidentiality of internal FSA communications and commercially sensitive information.
- Identify personal training needs to undertake continuing educational activities including appropriate uptake of FSA training and CPD
- Continued familiarisation with the MOC and other guidance documents as appropriate
- Any other reasonable requests

### **Mandatory Qualifications / licences, and Membership of professional bodies:**

#### **Essential:**

- Membership of the Royal College of Veterinary Surgeons (MRCVS)
- Official Veterinarian Surgeon (red/white) or OV appointment
- Knife skills training

## ANNEX 2: CONTRACT OFFICIAL VETERINARIAN (cOV) COMPETENCY AND BEHAVIOUR PROFILE

### **Veterinary competencies - Knowledge and Experience (note different degrees of knowledge will be expected depending on pOV/OV status; refer to MOC for specifics)**

- Knowledge of the national and international legal/regulatory framework, as relevant to the role.
  - Professional knowledge and experience to allow independent leadership and impact in the role. A practical understanding of the range of issues associated with veterinary science information and knowledge development.
  - Ability to provide high-quality professional/technical advice, in a format suitable for officials. Ability to resolve complex veterinary problems swiftly based on a full range of considerations, including veterinary risk, legislation and uncertainty.
  - Understanding health risks to individuals and communities with special attention to zoonotic and emerging diseases, foodborne illness, and welfare issues of animals.
  - Knowledge and understanding of the aetiology, pathogenesis, clinical signs, diagnosis and treatment of the common endemic diseases and disorders that occur in the common domestic species in the UK.
  - Awareness of exotic diseases of international importance that pose a risk to national and international biosecurity and trade.
- 
- Knowledge and understanding of the businesses related to food producing animal breeding, production and keeping.
  - Understanding animal welfare and the related responsibilities of owners, keepers, handlers and slaughterers.
  - Understanding veterinary risk assessment.
  - Commitment to learning and professional development. (basic standards: RCVS 105 hours in 3 years)
  - OV general duties
  - Verification of good hygiene practices and hazard analysis and HACCP based procedures being applied continuously and properly.
  - OV plant related duties

**IT Skills:** a minimum of basic knowledge and experience of working with IT packages (ie: Microsoft Word, Excel and e-mails)

### **Building capability for all:**

- Identify and address team or individual capability requirements and gaps to deliver current and future work
- Identify and develop all talented team members to support succession planning, devoting time to coach, mentor and develop others
- Value and respond to different personal needs in the team using these to develop others and promote inclusiveness
- Proactively manage own career and identify own learning needs with line manager, plan and carry out work-place learning opportunities

- Continually seek and act on feedback to evaluate and improve their own and team's performance

### **Making effective decisions**

- Make decisions when they are needed even if they prove difficult or unpopular
- Identify a broad range of relevant and credible information sources and recognise the need to collect new data, when necessary, from internal and external sources
- Recognise patterns and trends in a wide range of evidence/data and draw conclusions, outlining costs, benefits, risks and potentials.
- Ensure all government and public data is treated with care in line with security protocols.
- Recognise scope of own authority for decision making and empower other team members to make decisions
- Invite challenge and where appropriate involve others in decision making to help build engagement and present robust recommendations

### **Leading and communicating**

- Continually communicate with staff, helping to clarify goals and activities and the links between these and Departmental strategy
- Recognise, respect and reward the contribution and achievements of others, valuing difference.
- Communicate in a straightforward, honest and engaging manner with all stakeholders and stand ground when needed.
- Communicate using appropriate styles, methods and timing, including digital channels, to maximise understanding and impact.
- Promote the work of the Department and play an active part in supporting the Civil Service values and culture
- Role model enthusiasm and energy about their work and encourage others to do the same

### **Collaborating and partnering**

- Establish relationships with a range of stakeholders to support delivery of business outcomes
- Act as a team player, investing time to generate a common focus and genuine team spirit
- Actively seek input from a diverse range of people
- Readily share resources to support higher priority work, showing pragmatism and support for the shared goals of the organisation
- Deal with conflict in a prompt, calm and constructive manner
- Encourage collaborative team working within own team and across the Department

### **Managing a quality service**

- Make effective use of project management skills and techniques to deliver outcomes, including identifying risks and mitigating actions
- Develop, implement, maintain and review systems and service standards to ensure professional excellence and expertise and value for money.
- Work with team to set priorities, goals, objectives and timescales.
- Establish mechanisms to seek out and respond to feedback from customers about service provided.

- Promote a culture that tackles fraud and deception, keeping others informed of outcomes
- Develop proposals to improve the quality of service with involvement from a diverse range of staff, stakeholders or delivery partners.

### **Delivering at Pace**

- Successfully manage, support and stretch team to deliver agreed goals and objectives.
- Show a positive approach in keeping own and team's efforts focused on goals that really matter.
- Take responsibility for delivering expected outcomes on time and to standard yet allow teams space and authority to deliver objectives.
- Plan ahead but reassess workloads and priorities if situations change or people are facing conflicting demands.
- Regularly monitor own and team milestones or targets and act promptly to keep work and performance on track.
- Coach and support other to set and achieve challenging goals for themselves.

### **Additional Capabilities**

- Ability to express thoughts clearly orally and in writing in English, listen to the views of others and use terminology to suit the needs of the audience.
- Assemble arguments in a logical, thorough and objective manner.
- Demonstrable ability to negotiate.

### **Changing and Improving:**

- Find ways to improve systems and structures to deliver with more streamlined resources
- Regularly review procedures or systems with teams to identify improvements and simplify processes and decision making
- Be prepared to take managed risks, ensuring these are planned and their impact assessed
- Actively encourage initiative and recognise/praise ideas from a wide range of sources and stakeholders and use these to inform own thinking
- Be willing to meet the challenges of difficult or complex changes, encouraging and supporting others to do the same
- Prepare for and respond appropriately to the range of possible effects that change may have on own role/team

### **Seeing the bigger picture:**

- Be alert to emerging issues and trends which might impact or benefit own and team's work.
- Develop an understanding of own area's strategy and how this contributes to Departmental priorities
- Ensure own area/team activities are aligned to Departmental priorities
- Actively seek out and share experience to develop understanding and knowledge of own work and of team's business area

Seek to understand how the services, activities and strategies in the area work together to create value for the customer/end user.

**Achieving commercial outcomes:**

- Work effectively with different organisations such as private sector and voluntary groups (in tandem with commercial experts) to commission and source solutions to achieve policy and organisational goals
- Understand the commercial drivers that will influence a private or third sector organisation and the levers that can be used in negotiating/influencing contractual arrangements
- Be able to recognise and understand the commercial tools such as pricing models, open book accounting, supply chain management that commercial experts can deploy to extract value from contracts
- Interact confidently and effectively as an intelligent and highly credible customer with counterparts from the commercial delivery organisations and commercial experts
- Question and challenge the value being delivered through commercial arrangements with delivery partners

**Delivering value for money:**

- Recommend actions to achieve value for money and efficiency
- Cultivate and encourage an awareness of cost, using clear simple examples of benefits and how to measure outcomes
- Work confidently with performance management and financial data to prepare forecasts and manage and monitor budget against agreed plans
- Follow appropriate financial procedures to monitor contracts to ensure deliverables are achieved

### ANNEX 3: SERVICE LEVEL AGREEMENTS WITH OTHER GOVERNMENT DEPARTMENTS

Customer	Title	Brief Description
Defra and Welsh Government	SLA covering animal health and welfare delivery at approved meat premises	<ul style="list-style-type: none"> <li>• BSE Testing of cattle - verification of Food Business Operator (FBO) controls.</li> <li>• TSE Testing of Sheep – sampling and submission of assayable obex and cerebellum.</li> <li>• TSE Testing of Sheep and Goats for the Compulsory Scrapie Flock Scheme (CSFS) - – sampling and submission of assayable obex and cerebellum.</li> <li>• Animal Welfare – verification of FBO controls, reporting, referrals and enforcement.</li> <li>• Broiler Directive – production of trigger reports, weekly data and annual commission reporting.</li> <li>• Animal by Products (not SRM) – verification of FBO controls including reporting and enforcement.</li> <li>• Horse Passport Checks – 100% verification of FBO Horse ID controls including reporting and enforcement.</li> </ul>
Veterinary Medicines Directorate	SLA in respect of the National Surveillance Scheme: Residues in Meat.	Sampling and submission for veterinary residues in meat.
Veterinary Medicines Directorate	SLA in respect of the surveillance of <i>Campylobacter jejuni</i> and <i>E Coli</i> in fattening pigs	Sampling and submission of full caeca for testing for Anti-microbial resistance
British Cattle Movement Service	SLA covering cattle identification requirements at approved meat premises under the cattle identification regulations	Verification of FBO cattle ID controls and 10% checks of passports.
Animal and Plant Health Agency	SLA for notifiable disease surveillance and cleansing and disinfection of livestock vehicles	<p>Identification of notifiable diseases through ante mortem and postmortem inspection.</p> <p>Surveillance for Aujeszky's Disease and Enzootic Bovine Leukosis</p> <p>Verification of the cleansing and disinfection of livestock vehicles including recording of checks and referral of non-compliances to Trading Standards</p>

Animal and Plant Health Agency	SLA for TB sampling and submission in red meat slaughterhouses in England and Wales and DNA Tagging.	Sampling and submission of bTB samples to the lab including recording and enforcement. Sampling and submission of ears of reactor animals for DNA analysis as part of a fraud prevention exercise.
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## ANNEX 4: CONTRACT OFFICIAL AUXILIARY (cOA) JOB DESCRIPTION & PERSON SPECIFICATION

**Job Purpose:** The Food Standards Agency's strategic plan commits to the development of alternative or complementary delivery models, including their sustainable funding – for meat and other food businesses.

The Official Auxiliary primarily will assist the Official Veterinarian with all tasks, subject to the restrictions and to any specific rules laid down in EU and domestic Regulations and as interpreted as required by the FSA

### Key Responsibilities

List duties and responsibilities including (experience, skills and knowledge)

### STATUTORY DUTIES

1. **Ante Mortem (AM) Inspection, Animal Welfare and Animal Identification**
  - Assist the OV in purely practical tasks as defined in the MOC and make an initial check of animals.
  - Verify that animals are properly identified and take any necessary actions.
  - Verify animal welfare activity including plant specific action plans and undertaking Animal Welfare checks at the required frequency as part of the Animal Welfare Action Plan.
2. **Postmortem (PM) Inspection, Specified Risk Material (SRM) & Animal By Products (ABP)**
  - Carry out post-mortem inspection for detection of abnormalities of all carcasses and offal presented.
  - Identify and detain uncommon conditions for further inspection by the OV and Emergency slaughtered animals.
  - Verify FBOs compliance with TSE regulations and SRM controls.
  - Verify that carcass meat and offal rejected as unfit is removed, categorised, stained, stored and disposed of in accordance with legislative requirements.
  - Verify FBOs compliance with ABP regulations
  - Maintain an accurate record of post-mortem inspections and findings.
3. **Health and Identification Marking**
  - Apply the health mark in accordance with the legislation.
  - Verify the FBO application of the identification mark.
4. **Food Standards Agency Service Level Agreements (SLAs)**
  - Correctly collect and despatch samples for disease, conditions and residue purposes.
  - Carry out duties stated under the terms of SLA agreements with Other Government Departments and agencies as defined in the MOC.
5. **Verification and Enforcement data**
  - Collect information regarding verification of Good Hygiene Practices and HACCP based procedures as directed by the OV for the proportionate enforcement of non-compliances.
  - Assist with the accurate recording and collection of data and any other operational information required by the OV.



- Awareness of current enforcement activity at the establishment
- Gathering and secure storage of evidence including use of plant daybooks and personal notebooks.
- Provide local intelligence to the OV
- Communication of plant standards to OV
- Verify continued compliance with public health, animal health and animal welfare
- Collecting evidence of repetitive non-compliance or serious deficiency with public health, animal health and animal welfare

## **6. Food Chain Information and Collection and Communication of Inspection**

### **Results**

- Assess Food Chain Information and take action as appropriate.
- Record postmortem data and disseminate inspection data back to the FBO and primary producer.

### **OTHER DUTIES**

#### **7. Food Business Operator Liaison**

- Establish and maintain effective working relationships with plant staff.
- Communicate decisions regarding postmortem inspections in consultation with the OV.
- Communicate issues found during the verification of FBO good hygiene practices and HACCP based procedures.

#### **8. Team Involvement**

- Assist in the supervision and instruction of Trainee OAs and others as appropriate.
- Maintain high standards of professional integrity, personal motivation and work closely with others team members.
  - Demonstrate commitment to equal opportunities policies and procedures through the use of appropriate behaviours and attitudes.
  - Accurately input data and information (business and personal) into appropriate IT systems.
- Assist with evidence gathering as required

#### **9. General**

- Maintain confidentiality of internal Food Standards Agency communications and commercially sensitive information.
- Identify personal training needs to undertake continuing educational activities including appropriate uptake of FSA training and CPD
- Ensure continued familiarisation with the Manual for Official Controls and other guidance documents as appropriate
- Any other duties as required by the OV.
- In the absence of OV ensure the set procedures are followed and standards maintained.
- Provide reliable witness statements for enforcement purposes and give live evidence in a Court.

#### **10. Health and Safety**

- Undertake duties fully in accordance with FSA Health & Safety Policy; report all accidents and potential hazards in accordance with Health & Safety Policy to management.

**Mandatory Qualifications / licences, and Membership of professional bodies:****Essential**

OAs must be qualified as required by Regulation (EC) 854/2004, Annex I, Section III, Chapter IV, B (or future Regulation (EU) 2017/625 if adopted, and its Delegated Regulation (EU) 2019/624, Annex II, Chapter II). This qualification can be achieved by:

- Possession of a Meat Inspection Certificate from an approved awarding body (The Authorised Officers (Meat Inspection) Regulations 1987 refers) or;
- Membership of the Royal College of Veterinary Surgeons and competent delivery of Meat Inspection skills; or
- An equivalent Veterinary degree from an EU or third country which under independent verification and assurance approved by the FSA, fulfils the OA training requirements in the Legislation mentioned above, or;
- An equivalent qualification from a recognised (and approved by the FSA) non-EU or UK awarding body in Meat Inspection skills.
- As part of the above qualifications, OAs must have undergone Knife skills training

## **ANNEX 5: CONTRACT OFFICIAL AUXILLARY (cOA) COMPETENCY AND BEHAVIOUR PROFILE**

### **Technical competencies - Knowledge and Experience**

- Knowledge of relevant legislation and instructions in FSA Manual for Official Controls and Meat Industry Guide.
- A demonstrable understanding of the legislative requirements that the FSA enforces.
- Ability to undertake postmortem inspection, residue sampling and TSE controls.
- Ability to accurately record data either on paper or on IT systems.
- A demonstrable awareness of health and safety issues.
- Ability to maintain equipment in a functioning state to carry out tasks e.g. knife sharpening.

**IT Skills:** a minimum of basic knowledge and experience or working with IT packages (i.e.: Microsoft Word, Excel and e-mails)

### **Changing and Improving**

- Understand and apply technology to achieve efficient and effective business and personal results
- Consider and suggest ideas for improvements, sharing this feedback with others in a constructive manner
- Conduct regular reviews of what and who is required to make a project/activity successful and make on-going improvements
- Put aside preconceptions and consider new ideas on their own merits
- Help colleagues, customers and corporate partners to understand changes and why they have been introduced.
- Identify, resolve or escalate the positive and negative effects that change may have on own role/team.

### **Making effective decisions**

- Demonstrate accountability and make unbiased decisions
- Examine complex information and obtain further information to make accurate decisions
- Speak with the relevant people in order to obtain the most accurate information and get advice when unsure of how to proceed.
- Explain clearly, verbally and in writing, how a decision has been reached
- Provide advice and feedback to support others to make accurate decisions
- Monitor the storage of critical data and customer information to support decision making and conduct regular reviews to ensure it is stored accurately, confidentially and responsibly.

### **Leading and communicating**

- Display enthusiasm around goals and activities – adopting a positive approach when interacting with others
- Listen to, understand, respect and accept the value of different views, ideas and ways of working.
- Express ideas effectively, both orally and in writing, and with sensitivity and respect for others
- Confidently handle challenging conversations or interviews
- Confront and deal promptly with inappropriate language or behaviours, including bullying, harassment or discrimination.

### **Collaborating and partnering**

- Demonstrate interest in others and develop a range of contacts outside own team to help get the job done
- Change ways of working to facilitate collaboration for the benefit of the team's work
- Proactively seek information, resources and support from others outside own immediate team in order to help achieve results.
- Readily identify opportunities to share knowledge, information and learning and make progress by working with colleagues
- Listen attentively to others and check their understanding by asking questions
- Take responsibility for creating a working environment that encourages equality, diversity and inclusion

### **Managing a quality service**

- Explain clearly to customers what can be done
- Work with team to set priorities, create clear plans and manage all work to meet the needs of the customer and the business
- Ensure that levels of service are maintained – flag up risks or concerns in order to meet customer requirements.
- Keep internal teams, customers and delivery partners fully informed of plans and possibilities
- Promote adherence to relevant policies, procedures, regulations and legislation, including equality and diversity and health and safety.
- Identify common problems or weaknesses in policy or procedures that affect service and escalate these

#### **Delivering at Pace**

- Create regular reviews of what and who is required to make a project/activity successful and make on-going improvements
- Be interested and positive about what they and the team are trying to achieve
- Take ownership of problems in their own area of responsibility
- Remain positive and focused on achieving outcomes despite
- Check own and team performance against outcomes, make improvement suggestions or take corrective action when problems are identified
- Set and achieve challenging goals and monitor quality

#### **Additional capabilities**

- Ability to express thoughts clearly orally and in writing in English, listen to the views of others and use terminology to suit the needs of the audience.
- Ability to build and maintain positive working relationships
- Assemble arguments in a logical, thorough and objective manner.
- Ability to make justifiable decisions based upon available information.
- Demonstrable ability to negotiate.

#### **Desirable capabilities**

##### **Seeing the bigger picture:**

- Keep up to date with a broad set of issues relating to the work of the Department
- Develop understanding of how own and team's work supports achievement of Departmental priorities and delivery to the citizen
- Focus on the overall goal and intent of what they are trying to achieve, not just the task
- Take an active interest in expanding their knowledge of areas related to own role

##### **Building Capability for all:**

- Take ownership of team and individual development by identifying capability needs and consistently achieving development objectives
- Take responsibility for the quality of own work and seeking opportunities for improvement through continuous learning
- Proactively support the development plans of others
- Take account of the diverse contributions of team members and delegate work to improve capabilities of all
- Encourage and be open to developmental feedback from others

##### **Achieving commercial outcomes:**

- Be able to identify and access departmental procurement and commercial expertise
- Understand and be able to explain departmental approach to assigning contractual and financial delegations
- Recognise when deliverables and/or services derived from a commercial arrangement are not being delivered to the required level of quality or standard and take appropriate action
- Fully meet commercial confidentiality and data security requirements in contracts

##### **Delivering Value for Money:**

- Recommend actions to achieve value for money and efficiency
- Cultivate and encourage an awareness of cost, using clear simple examples of benefits and how to measure outcomes
- Work confidently with performance management and financial data to prepare forecasts and manage and monitor budget against agreed plans
- Follow appropriate financial procedures to monitor contracts to ensure deliverables are
- Monitor the use of resources in line with organisational procedures and plans and hold team to account

## Annex 6 - nOV Practical Hours and Assessment Periods.

### Minimum Practical Hours Requirements

	Establishment	Activity	Minimum Hours
	<b>Core</b>		
1	Red Meat Slaughterhouse	Work as slaughterhouse OV under supervision	60
2	Poultry Meat Slaughterhouse	Work as slaughterhouse OV under supervision	42
3	Co-located Red Meat Cutting Plant	Work as slaughterhouse OV under supervision	7
4	Co-located Poultry Meat Cutting Plant	Work as slaughterhouse OV under supervision	7
5	Co-located Minced Meat Plant	Work as slaughterhouse OV under supervision	7
	Co-located Meat Preparations Plant	Work as slaughterhouse OV under supervision	
	Co-located Meat Products Plant	Work as slaughterhouse OV under supervision	
	<b>Additional</b>		
7	Approved Game Handling Establishment	GHE activities – Large game	7
8	Approved Game Handling Establishment	GHE activities – small game	7
9	RTE	Confirmation of hours required if OV is to be deployed to RTE plant.	4

624/2017 Annex 2 chapter 1 – (i) auditing and verification of compliance with the requirements referred to in points a) to h).

*As per audit definition: Audit: (as per Regulation (EU) 2017/625, Article 3 (30)) means a systematic and independent examination to determine whether activities and the related results of such activities comply with planned arrangements and whether these arrangement are applied effectively and are suitable to achieve the objectives (must be segregated from the task of completing a FBO compliance audits).*

### nOV Assessment Periods

OV Working Pattern – Average Hours		nOV Assessment Period
> 30 hours per week	Full Time	12 Months
15 to 30 hours per week	Part Time	18 Months
< 15 hours per week	Part Time	24 Months

## Annex 7 – Supplier Authorisation Request Form

- Please note 10 Working Days' notice is required for authorisation of new Supplier Personnel. No new Supplier Personnel should be deployed to provide Services without authorisation in place. This process ensures that both FSA and Other Government Department authorisations are in place before the individual Supplier Personnel is deployed to provide Services under this Contract.
- Reactivation of a previous authorisation requires 2 Working Days' notice.
- Appendix A details the authorisation evidence required by FSA.

### Section 1: Authorisation Details

1.1 Official Veterinarian (OV)

1.2 Official Auxiliary (OA)

1.3 Deployment Start Date

1.4 Has Baseline Personnel Security Standard Checks been completed?

1.5 Personal Details:

Title, Full Forenames, Full Surname, Home Address

1.6 Work email address

### Section 2: Qualifications

2.1 Previous FSA Employee Number (SP Number)

2.2 Previous Authorisation attached?

**2.3** Details of Other SP numbers (if applicable)

--

**2.4** What certificates have been attached?

--

**2.5** OV

MRCVS Number

--

**2.6** OA

MRCVS Number if applicable

EU Vet

Other European Vet (non-EU)

Australian, New Zealand, South African, Canadian or American Vet

Other Third Country Vet

FDQ Certified OA

OA Certified in compliance with SI 1987/133

EU OA


**2.7** Statement of Comparability Provided

--

**2.8** Has the individual successfully completed the pre-deployment competency assessment?

--



### Section 3: Training

I confirm that the individual has undertaken relevant training in all current Retained EU and domestic legislation including but not limited to:

- 2.6 Food Safety and Hygiene  
Animal Welfare  
Animal By Products  
Animal Health  
TSE  
Knife Skills  
All Practical Hours required have been completed


### Section 4: Supplier Declaration

I declare that the information I have given is correct to the best of my knowledge and belief and request an authorisation for this individual.

I understand that the information contained in this form may be held on a computer system.

Signature

--

Name

--

Date

[Click here to enter a date.](#)

Position in Organisation

--

## Appendix A

<b>Novice OV (nOV) to OV</b>	<b>Evidence</b>
Red Meat Slaughter	Veterinary Degree or previous authorisation. Full registration with RVCS Completion of practical hours Completion of nOV assessment within agreed period.
Poultry Meat Slaughter	
Red Meat Cutting	
Poultry Meat Cutting	
MM/MPrep/MProd/MSM	
Wild Game	Completion of Supplier wild game training and required practical hours
RTE	Completion of HACCP Level 4 and at least 4 practical hours

<b>Temporary Registered nOV to OV</b>	<b>Evidence</b>
Red Meat Slaughter	Veterinary Degree or previous authorisation. Completion of practical hours Completion of nOV assessment within agreed period.
Poultry Meat Slaughter	
Red Meat Cutting	
Poultry Meat Cutting	
MM/MPrep/MProd/MSM	
Wild Game	Completion of Supplier wild game training and required practical hours
RTE	Completion of HACCP Level 4 and at least 4 practical hours
	Achieving IELTS or OEL Level 7 and full registration with RCVS

<b>OA</b>	<b>Evidence</b>
Wild Game	Completion of Supplier wild game training and required practical hours

## Annex 8 – Supplier Downtime Claim Form

To be used as a result of suspension or revocation of approval by FSA or withdrawal of meat controls as a consequence of non-payment of FSA judgement debt.

### Section 1: Premises Details

1.1 Approval Name

1.2 Approval Number

1.3 Suspension/Revocation  
Date

1.4 Supplier Notification  
Date

### Section 2: Staffing Detail

2.1 SOR Hours supplier expected to  
deliver

2.2 SP Numbers for OVs

2.3 SP Numbers for MHIs

2.4 OV Hours Reallocated

2.5 OV Hours Claimed

**2.6** Cost of OV Hours Claimed

**2.7** MHI Hours Reallocated

**2.8** MHI Hours Claimed

**2.9** Cost of MHI Hours Claimed

**2.10** Claim submitted by

**2.11** Date Claim Submitted


### Section 3: Approval of Claim

I confirm that I have verified the claim from the supplier and approve the claim for payment.

--

Signature

--

Name

--

Date

[Click here to enter a date.](#)

Job Title

--

**Claim Passed to Finance for Payment:**

**Date  
passed to  
Finance**

[Click here to enter a date.](#)

**Outcome of Supplier  
Review**

--

**Annex 9 FBO Compensation Claim form for services delivered under FSADOC.**

**This form is to be completed by FSA Management.**

**Section 1: Premises Details**

**1.1** Approval Name

**1.2** Approval Number

**1.3** FBO Contact Name

**1.4** FBO Contact Number  
and Email address.

**1.5** Detail of event which  
has led to the claim:

## Section 2: Costs Incurred

	Cost £	Evidence Provided
2.1	[Insert Detail Here]	
2.2	[Insert Detail Here]	
2.3	[Insert Detail Here]	
2.4	[Insert Detail Here]	
2.5	[Insert Detail Here]	
2.6	[Insert Detail Here]	
2.7	Insert Detail Here]	
2.8	[Insert Detail Here]	
2.9	[Insert Detail Here]	
2.10	[Insert Detail Here]	
2.11	[Insert Detail Here]	
2.12	[Insert Detail Here]	
2.13	[Insert Detail Here]	
2.14	[Insert Detail Here]	
2.15	[Insert Detail Here]	
2.16	[Insert Detail Here]	
2.17	[Insert Detail Here]	
2.18	[Insert Detail Here]	
2.19	[Insert Detail Here]	
2.20	[Insert Detail Here]	
2.21	[Insert Detail Here]	
2.22	[Insert Detail Here]	

### Section 3: Total Cost of Claim

2.6 Total cost of Claim


Evidence provided by the FBO to support the claim:

--

### Section 4: FSA Validation of Claim

I confirm that I have verified the claim from the FBO using evidence provided by the FBO and that the costs being claimed are actual costs that the FBO has incurred as a result of a failure by the supplier to deliver services as required under the contract.

Signature

--

Name

--

Date

[Click here to enter a date.](#)

Job Title

--

Claim Passed to the supplier:

Name of Supplier

--

Name of Supplier Representative

--

Date passed to supplier

[Click here to enter a date.](#)

Outcome of Supplier Review

--



## Annex 10 – Minimum Specification for Supplier Devices

	<b>Standard Laptop</b>
<b>Processor</b>	11th Generation Intel Core i5 4 Core/ 8 Thread/ 2.4Ghz
<b>Operating System</b>	Windows 11 Pro 64 bit Autopilot Compliant Image, No pre-loaded Office or other evaluation software Please Note: Full Windows 11 Pro, not the Pro N edition
<b>Memory</b>	16 Gb DDR4 2666MHz
<b>Storage</b>	256 Gb SSD
<b>Display</b>	14.0" FHD (1920x1080)
<b>Graphics</b>	Integrated Intel XE Graphics
<b>Camera</b>	Video quality: HD 720p, Photo: 0.9mp 1280x720 Infrared
<b>Connectivity</b>	IEEE 802.11 compliant WiFi (Pref: Intel Wi-Fi 6 AX201) Bluetooth 5x Ethernet port or USB/ Ethernet adapter
<b>Ports</b>	1 USB-C, 2 x (3 x preferred) USB 3.0, 1 x HDMI or Display Port
<b>Battery</b>	Min 12 hours, pref: 16 hours
<b>Weight</b>	1.6 Kg or less
<b>Environment</b>	Energy Star 8.0 Qualified

## Phone Spec

	<b>Standard</b>	<b>Dex</b>
<b>Device</b>		
<b>Size</b>	154 x 70 x 7 mm	154 x 70 x 7 mm
<b>Operating System</b>	Android 14	Android 14
<b>Features</b>		Samsung DeX, Samsung Wireless DeX
<b>Processor</b>		
<b>CPU Speed</b>	2.6GHz, 2GHz	2.6GHz, 2GHz
<b>Display</b>		
<b>Resolution (Main Display)</b>	1080 x 2340 (FHD+)	1080 x 2340 (FHD+)
<b>Technology (Main Display)</b>	Super AMOLED	Super AMOLED
<b>Colour Depth (Main Display)</b>	16M	16M
<b>Max Refresh Rate (Main Display)</b>	120 Hz	120 Hz
<b>Storage/Memory</b>		
<b>Memory</b>	8Gb	8Gb
<b>Storage</b>	128Gb	128Gb
<b>Mobile Network</b>		
<b>Number of SIM</b>	Dual-SIM	Dual-SIM
<b>SIM Type</b>	ESIM SIM 1 + Hybrid (SIM or MicroSD)	ESIM SIM 1 + Hybrid (SIM or MicroSD)

<b>Physical SIM size</b>	Nano-SIM (4FF)	Nano-SIM (4FF)
<b>Technology</b>	GSM / HSPA / LTE / 5G	GSM / HSPA / LTE / 5G
<b>Connectivity</b>		
<b>USB Version</b>	USB Type-C 2.0, OTG	USB Type-C 2.0, OTG
<b>Wi-Fi</b>	Wi-Fi 802.11 a/b/g/n/ac, dual-band, Wi-Fi Direct	Wi-Fi 802.11 a/b/g/n/ac, dual-band, Wi-Fi Direct
<b>Bluetooth Version</b>	5.3, A2DP, LE	5.3, A2DP, LE
<b>NFC</b>	Yes	Yes
<b>Camera</b>		
<b>Rear Camera - Resolution (Multiple)</b>	48.0 MP + 8.0 MP + 5.0 MP	48.0 MP + 8.0 MP + 5.0 MP
<b>Rear Camera - F Number (Multiple)</b>	F1.8 , F2.2 , F2.4	F1.8 , F2.2 , F2.4
<b>Rear Camera Zoom</b>	Digital to 10x	Digital to 10x
<b>Front Camera – Resolution</b>	13.0 MP	13.0 MP
<b>Flash</b>	Rear Camera	Rear Camera
<b>Video Recording Resolution</b>	UHD 4K (3840 x 2160)@30fps	UHD 4K (3840 x 2160)@30fps
<b>Slow Motion</b>	480fps @HD, 240fps @HD	480fps @HD, 240fps @HD
<b>Security</b>		
<b>Sensors</b>	Fingerprint (under display, optical) Virtual proximity sensing	Fingerprint (under display, optical) Virtual proximity sensing
<b>Authentication</b>	Face recognition	Face recognition

## **ANNEX 11: GAINSHARE APPROACH AND CALCULATION**

Delivering Innovation and Efficiency within this Contract is important to the FSA. However, it is recognised that under the current payment mechanism the Supplier may not be sufficiently incentivised to provide proposals that are commercially and operationally beneficial for both Parties. The FSA is therefore proposing a gainshare mechanism to share the benefits of implemented innovation and/or efficiency measures between the parties.

This section sets out at a commercial principal level the proposed approach to:

- Developing innovation and/or efficiency proposals
- Calculation and payment of gainshare deriving from successful innovation/efficiency proposals.

### **Commercial Principles**

#### **Development and agreement of Innovation and/or Efficiency Proposals**

- Both Parties can initiate the development of Innovation/Efficiency Proposals for consideration by the Head of Operational Assurance & Excellence and Head of Field Operations (or their delegated leads).
- Proposals will be presented at the Operational Board Meetings detailed in Schedule 13.
- The Party initiating the proposal will set out their innovation/efficiency proposal to include:
  - The operational and financial impact of the proposal,
  - A risk and impact assessment and a clear delivery plan.

The Parties will work together to estimate and agree the value of the benefits that will be delivered.

- In exceptional circumstances, the FSA may require additional work to be undertaken to develop the proposal into a more detailed Business Case. When this occurs the FSA may choose (at its discretion) to reimburse the Supplier for time incurred in developing this.
- Where the innovation/efficiency is anticipated to result in quantified operational benefits to the FSA, but also in an increase in ongoing cost to the Supplier but not a reduction of charges to the FSA the proposal shall include a proposed variation of the charges. The gainshare mechanism shall not apply.
- Where implementation of the innovation and/or efficiency requires the Supplier to incur material Implementation costs, the FSA and Supplier will discuss an appropriate cost sharing mechanism.
- The decision on whether to implement a gainshare proposal will be made by the Head of Field Operations and the Head of Operational Assurance & Excellence.

### **Ongoing monitoring and assessment of benefits**

- The Supplier shall record the quantified operational and financial benefits on a Monthly basis until the agreed end date whereby the innovation/efficiency initiative has ended, and it is incorporated into business as usual, or until a decision has been made to stop the innovation / efficiency initiative, whichever is earlier. The FSA national contract management team will support this evidence gathering where necessary.
- The Head of Field Operations and Head of Operational Assurance & Excellence can decide to stop, continue or expand innovation / efficiency initiatives.

### **Payment of gain share**

- Gainshare payments shall be agreed and approved at the Operational Board Meetings and payable as soon as is practical following a successful conclusion to a gainshare initiative.
- The Supplier shall provide the FSA with a calculation of gainshare payments with reference to the anticipated quantifiable benefits set out in the accepted proposal and the actually achieved benefits. The gainshare payment will be capped at 10 weeks of agreed impact.
- Where the innovation/efficiency is anticipated to result in a reduction of charges to the FSA, the gainshare payment shall be calculated in accordance with mechanism A.
- Where the innovation/efficiency is not anticipated to result in a reduction of charges to the FSA, but is anticipated to reduce costs to the Supplier, the FSA will have the right to a notional gainshare payment which shall be calculated in accordance with mechanism B. The notional gainshare payment shall be deducted from the charges in the invoice due immediately after the anniversary of the contract commencement date.

### **Calculation of gain share**

Gain shares shall be calculated in accordance with the following mechanisms:

#### **Mechanism A:**

Gainshare A shall be calculated as follows:

A = Total of costs to the FSA without implementation of innovation/efficiency in the period between initiative commencement and the agreed end date

B = Total of costs to the FSA with implementation of innovation/efficiency in the period between initiative commencement and the agreed end date

C = Total of implementation costs payable in the period between initiative commencement and the agreed end date.

D = Total of any additional costs for FSA directly incurred in relation to the innovation/efficiency in the period between initiative commencement and the agreed end date.

Gain A = A-B-C-D

The Supplier shall be entitled to 50% of Gain A

### **Mechanism B:**

Gainshare B shall be calculated as follows:

A = Total of relevant Supplier costs without implementation of innovation/efficiency in the period between initiative commencement and the agreed end date.

B = Total of relevant Supplier costs with implementation of innovation/efficiency in the period between initiative commencement and the agreed end date

C = Total of implementation costs incurred by the Supplier in the period between initiative commencement and the agreed end date.

Gain B = A-B-C

The FSA shall be entitled to 50% of Gain B

If multiple gain shares are payable within the period each gainshare calculation shall be calculated incrementally such that Supplier costs and FSA charges used to calculate each gain reflect the incremental financial impact, taking account of the prior gain calculation.

# Schedule 3 (Charges)

## 1. Definitions

1.1 The following definitions shall apply to this Schedule 3 (Charges):

**"Adjustable Charges"** means:

- a) the Annual Costs;
- b) any Hourly Rate applicable to the Variable Costs;
- c) the Soft Cap applicable to the Pass-Through Costs. Regarding Direct Variable Costs – FSA Risk: where a Soft Cap exists and has been agreed between the FSA and the Supplier for these costs, "Soft Cap" means that the FSA shall have no obligation to fund additional costs in excess of the specific agreed amount, but that in cases where the Supplier forecasts that a particular cost may exceed the specific agreed amount the FSA agrees to enter in good faith into discussions with the Supplier to understand the impact of not paying for the additional cost in order to enable the FSA to decide whether the FSA wishes to fund/partially fund any such additional cost at its sole discretion ;

**"Backfill Rates"** means the hourly rates applicable to Supplier's provision of Field Veterinary Coordinators (FVC) and Veterinary Auditors (VA) in accordance with Part E of Annex 1 to this Schedule 3 (Charges), such rates as set out in Appendix 1 to Part E;

**"Cost Categories"** means, together:

- a) salary or anticipated wages;
- b) employer national insurance contributions;
- c) employer pension contributions;
- d) apprenticeship levies;

**"Soft Cap"** means 10% soft cap on each individual service line and 5% soft cap on the total cost of indirect pass through costs per Service Year;

## 2. The Charges

2.1 The Charges:

2.1.1 are calculated and payable as set out in Annex 1 to this Schedule 3 (Charges);

2.1.2 (and any component of the Charges) cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where listed at Annex 3 of this Schedule 3 (Charges).

- 2.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer in accordance with this Schedule.
- 2.3 All Charges are stated exclusive of VAT. The Parties agree that Supplier's provision of the Services as a Managed Service permits the Buyer to recover the VAT on the Charges.
- 2.4 From the Start Date, the Parties will monitor the Charges throughout the Contract Period and discuss the Charges (and monitoring of the same) at each Commercial Optimisation Review (as set out in further detail in Schedule 13 (Contract Management)).

### **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. Annual Charges Review Process**

- 4.1 Subject to Paragraphs 5 and 6 of this Schedule 3 (Charges) below, either Party may request that the Adjustable Charges are adjusted only:
  - 4.1.1 on the date of expiry of the first Service Year;
  - 4.1.2 on each following yearly anniversary of the date of expiry of the first Service Year,(each, a "**Review Date**") (such process being the "**Annual Charges Review Process**").
- 4.2 The Party requesting an adjustment shall give the other Party at least three (3) Months' notice in writing prior to a Review Date where it wants to request an adjustment. If the requesting Party does not give notice in time, then it will only be able to request an adjustment in accordance with this Paragraph 4 prior to the next Review Date.
- 4.3 In respect of any adjustment requested pursuant to this Paragraph 4 of Schedule 3 (Charges):
  - 4.3.1 such adjustment shall be discussed between the Parties at the next applicable Annual Review Meeting (as set out in further detail in Schedule 13 (Governance));
  - 4.3.2 the outcome of such adjustment shall be agreed between the Parties in accordance with the Variation Procedure. The Parties shall agree that either that no adjustment is required, or, if the Parties agree that an adjustment is required, shall agree an adjustment (increase or decrease) to the Adjustable Charges.

4.4 In circumstances where either Party requests an adjustment to the Adjustable Charges pursuant to this Paragraph 4 of Schedule 3 (Charges), the Supplier agrees that the Supplier's Impact Assessment (which the Supplier shall prepare in accordance with Clause 28.2 of the Core Terms) shall include (but shall not be limited to):

4.4.1 a list of the Adjustable Charges to be reviewed;

4.4.2 for the Adjustable Charges under review:

- (a) a breakdown of the profit and cost components that comprise the relevant part of the Adjustable Charges;
- (b) details of the movement in the different identified cost components of the relevant Adjustable Charges;
- (c) requesting Party's reasons for the proposed movement in the different identified cost components of the relevant Adjustable Charges;
- (d) in the case of a request by the Supplier, evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
- (e) in the case of a request by the Supplier, evidence that the Supplier's profit component of the relevant Adjustable Charge is no greater than that applying to the Adjustable Charge using the same pricing mechanism as at the Effective Date;
- (f) any evidence required to support a change to (if applicable) the Soft Cap and / or Hard Cap applicable to the Pass-Through Costs.

4.5 Subject to Paragraphs 5 and 6 below, of this Schedule 3 (Charges) below, the Parties agree and acknowledge that to the extent the Supplier requires an adjustment to the Adjustable Charges as a result of a change in its salary and / or visa costs incurred in its provision of the Services, such adjustment shall be requested in accordance with the Annual Charges Review Process as set out in this Paragraph 4 only.

4.6 Where the Parties agree an adjustment (if any) 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.

## **5 Changes to Provisional Staffing Information**

5.1 The Buyer acknowledges that:

5.1.1 as part of the tender process for this Contract, the Buyer provided the Supplier with the Former Supplier's provisional staffing information (as provided to the Buyer by the Former Supplier) (the "**Provisional Staffing Information**");

5.1.2 in its Tender Response, the Supplier indicated:



- (a) those employees of the Former Supplier to whom the Supplier expected the Employment Regulations would apply on the Relevant Transfer Date and whose employment would transfer to the Supplier (the "**Anticipated Transferring Former Supplier Employees**"); and
- (b) the anticipated costs to the Supplier or a Notified Sub-Contractor of employing the Anticipated Transferring Former Supplier Employees which fall into the Cost Categories (the "**Anticipated Transferring Former Supplier Employee Costs**");

together, the "**Anticipated TUPE Information**".

5.1.3 Promptly following the Start Date, the Supplier shall provide the following information to the Buyer:

- (a) as at the Start Date, those Anticipated Transferring Former Supplier Employees whose employment has transferred to the Supplier or a Notified Sub-Contractor in accordance with the Employment Regulations ("**Actual Transferring Former Supplier Employees**");
- (b) as at the Start Date, the actual costs to the Supplier or a Notified Sub-Contractor of employing each of the Actual Transferring Former Supplier Employees:
  - i. which fall into the Cost Categories; and
  - ii. provided that such actual costs arise directly from the terms and conditions of employment which applied to those Actual Transferring Former Supplier Employees immediately before the Relevant Transfer Date and which transferred to the Supplier or a Notified Sub-Contractor pursuant to the Employment Regulations, (the "**Actual Transferring Former Supplier Employee Costs**");

(c) details of:

- i. any employee or employees which the Supplier has hired to role(s) previously expected to be filled by an Anticipated Transferring Former Supplier Employee but in respect of which no such employee transferred to the Supplier or a Notified Sub-Contractor in accordance with the Employment Regulations for whatever reason (each, a "**Replacement Employee**"); and
- ii. the costs of employing each such Replacement Employee which fall into the Cost Categories (the "**Replacement Employee Costs**"),

together, the "**Actual TUPE Information**".

- 5.2 Within thirty (30) Working Days of the Start Date, either Party may request that the Adjustable Charges are varied (either by increase or decrease) to reflect any change to the Supplier's costs in providing the Services arising out of any difference between the Anticipated TUPE Information and the Actual TUPE Information. The process for reviewing that request and agreeing the terms of a variation (if any) shall be in accordance with this Paragraph 5 and the Variation Procedure.
- 5.3 Where either Party requests that the Adjustable Charges are varied in accordance with Paragraph 5.2 above:
- 5.3.1 within 14 Working Days of such request, the Supplier shall undertake a comparison exercise between the Anticipated TUPE Information and the Actual TUPE Information and provide the results of that comparison exercise to the Buyer;
- 5.3.2 the Supplier shall prepare an Impact Assessment in accordance with Clause 28.2 which shall include:
- (a) results of the comparison exercise referred to at Paragraph 5.3.1;
  - (b) the information listed at Paragraph 4.4.2(a) to (f) of this Schedule 3 (Charges);
- 5.3.3 the Parties shall agree either that no adjustment is required or, if the Parties agree that an adjustment is required, shall agree a corresponding adjustment (increase or decrease) to the Adjustable Charges to reflect the differences identified in the comparison exercise referred to at Paragraph 5.3.1 in accordance with the Variation Procedure. To the extent the Parties are unable to agree, the Buyer shall (in its sole discretion) make the final determination on such adjustment (if any), at all times acting reasonably.
- 5.4 The Parties agree that, where the Supplier is requesting an increase to the Adjustable Charges in accordance with this Paragraph 5, the Supplier shall be required to provide sufficient evidence to demonstrate to the Buyer's reasonable satisfaction that:
- 5.4.1 there has been an increase in the Supplier's costs in providing the Services arising out of a difference or differences between the Anticipated TUPE Information and the Actual TUPE Information;
- 5.4.2 the increase in the Supplier's costs referred to Paragraph 5.4.1 has had a corresponding impact on the Adjustable Charges;
- 5.4.3 the proposed increase to the Adjustable Charges is aligned to the current market rates applicable to provision of the Services.
- 5.5 The Parties agree that for the purposes of this Paragraph 5, in circumstances where the Supplier was the incumbent Former Supplier, the definitions of Anticipated Transferring Former Supplier Employees and Actual Transferring Former Supplier Employees shall be read as meaning those employees of the Former Supplier who would have been identified as Anticipated Transferring Former Supplier Employees or Actual Transferring Former Supplier Employees had there been a Relevant Transfer.

## **6. Events that allow Parties to change the Charges**

- 6.1 The Parties agree that the Charges may be adjusted (and Annex 1 will be updated accordingly) due to:
- 6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
  - 6.1.2 a benchmarking review in accordance with Schedule 12 (Benchmarking);
  - 6.1.3 a request from the Supplier, which it can make at any time, to decrease the Charges;
  - 6.1.4 indexation, where Annex 3 lists a particular Charge or any component is subject to Indexation (in which event Paragraph 7 of this Schedule 3 (Charges) below shall apply).
- 6.2 The Parties also agree that the Adjustable Charges may be adjusted (by increase or decrease) at any time following the Start Date, on request from either Party (and Annex 1 of this Schedule 3 (Charges) shall be updated accordingly), in the following circumstances:
- 6.2.1 where in respect of any Service Year, there is a difference of 10% (ten percent) or more as between:
    - (a) the hours for which the Buyer anticipated the Supplier would be required to provide Supplier Personnel in provision of the Services (as set out in the Tender Response); and
    - (b) the hours for which the Buyer actually requires the Supplier to provide Supplier Personnel in the provision of the Services,and that difference has a demonstrable impact on the Adjustable Charges;
  - 6.2.2 where there is a change to immigration policy and / or any Law which relates specifically to immigration in England and Wales, which is not a Specific Change in Law and which has a demonstrable effect on Supplier's provision of the Services and / or the Supplier's costs incurred in providing such Services;
  - 6.2.3 where the role of cOA and / or cOV is added to or removed from the Skilled Worker Visa: Immigration Salary List -  
<https://www.gov.uk/government/publications/skilled-worker-visa-shortage-occupations/skilled-worker-visa-shortage-occupations>;
- in each case, such adjustment (if any) to be agreed between the Parties in accordance with the Variation Procedure.
- 6.3 In circumstances where either Party requests an adjustment in the Charges pursuant to Paragraph 6.2 of this Schedule 3 (Charges) above, the Supplier agrees that the Supplier's Impact Assessment (which the Supplier shall be required to prepare in accordance with Clause 28.2 of the Core Terms) shall include (but shall not be limited to) the information listed at Paragraph 4.4.2(a) to (f) of this Schedule 3 (Charges).

## 7. When the Charges are linked to inflation

7.1 Those Charges (and components of Charges) listed at Annex 3 to this Schedule 3 (Charges) shall be adjusted in line with either the:

7.1.1 Consumer Price Index (**CPI**); or

7.1.2 Industry Output Index (**IOI**) – Professional, Scientific and Technical; or

7.1.3 the average of the CPI and the IO (the “**Index**”),

(such applicable rate of inflation as stated (in each case) at Annex 3 to this Schedule 3 (Charges)), pursuant to Paragraph 7.4 of this Schedule 3 (Charges). All other Charges, costs, expenses, fees and charges may 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.

7.2 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 of this Schedule 3 (Charges):

7.2.1 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.

7.3 Charges shall not be indexed during the first one (**1**) year following the Start Date (the “**Non-Indexation Period**”).

7.4 Where Annex 3 states a Charge (or a component of 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 applicable 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 applicable Index since the previous change.

7.5 Where the applicable Index:

7.5.1 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

7.5.2 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.

# Annex 1: Charges

## Part A: Annual Costs

### 1. Annual Costs

1.1 Subject to any adjustment agreed between the Parties pursuant to this Schedule 3 (Charges), the Parties agree that the cost items itemised in the table in this Part A (together, the **Annual Costs**) below shall be charged on a fixed basis per Service Year of the Contract.

1.2 For the purpose of the table below, the Parties agree that:

1.2.1 the Total Service Year One Amount stated below shall be payable in respect of the First Service Year; and

1.2.2 the total yearly amount stated below for each year thereafter shall be applicable to the corresponding following Service Year i.e. the Total Service Year Two Amount shall be payable in respect of second Service Year, the Total Service Year 3 Amount shall be payable in respect of third Service Year (and so on).

1.3 The Parties agree that the Annual Costs payable in respect of each Service Year shall be payable by the Buyer in twelve (12) equal Monthly instalments during the applicable Service Year (each a **Monthly Instalment**) and the Buyer shall pay each Monthly Instalment in accordance with and subject to Clause 4.

1.4 The Supplier shall invoice for one Monthly Instalment per Month of relevant Service Year, and in accordance with Clause 4 of the Core Terms.

Annual Costs					
Cost item	Total Service Year One Amount	Total Service Year Two Amount	Total Service Year Three Amount	Total Service Year Four Amount	Total Service Year Five Amount
Direct variable Costs - Supplier Risk					
Indirect Overhead Costs					
Depreciation					
Total Payable					
Monthly Instalment Payable					



## Part B: Variable Costs & Applicable Hourly Rate

### 1. Variable Costs

- 1.1 Unless otherwise stated in Schedule 2 (Specification) or this Schedule 3 (Charges), the Parties agree that the Services provided by the Supplier as described in Schedule 2 (Specification) shall be charged by reference to the actual time spent by Supplier Personnel in provision of those Services to the Buyer.
- 1.2 In order to calculate the charges payable for Supplier's provision of the Services in respect of each Month from the Start Date, the Buyer shall multiply the actual time spent by each individual Supplier Personnel in provision of the Services in the relevant Month by the relevant Hourly Rate applicable to that Supplier Personnel in relevant Service Year (the **Variable Costs**).
- 1.3 Subject to any adjustment agreed between the Parties in accordance with this Schedule 3 (Charges), the Hourly Rates applicable to each category of Supplier Personnel during each Service Year shall be those set out in the table below:

Supplier Personnel - Staff Grade	Hourly Rate Applicable				
	Service Year One	Service Year Two	Service Year Three	Service Year Four	Service Year Five
cOA					
cOV					

- 1.4 The Parties agree that the Variable Costs shall be invoiced and payable in accordance with the self-billing arrangements set out at Annex 2 to this Schedule 3 (Charges).
- 1.5 The Supplier agrees and acknowledges that premium rates shall not be applicable to Supplier's provision of the Services (including the Hourly Rates) under any circumstances, including where Services are provided outside of working hours or on Calendar Days other than Working Days.

## Part C: Pass-Through Costs

### 1. Pass-Through Costs

- 1.1 The Parties agree that the cost items itemised in the table in this Part C (together, the **Pass-Through Costs**) below shall be charged on a pass-through basis.
- 1.2 The Parties agree that any costs incurred by the Supplier from the Start Date:
- a) through the course of its provision of the Services in accordance with Schedule 2 (Specification); and
  - b) which are Pass-Through Costs
- shall be payable by the Buyer in arrears on Monthly basis.
- 1.3 On a Monthly basis, the Supplier shall provide the Buyer with:
- a) the total Pass-Through Costs it has incurred during the previous Month; and
  - b) evidence of those relevant Pass-Through Costs incurred,
- such information to be provided by the Supplier using the template claim form provided by the Buyer to the Supplier (the **Pass-Through Claim Form**).
- 1.4 In respect of each Pass-Through Claim Form submitted by the Supplier, to the extent that:
- a) the Buyer has provided the Supplier with details of relevant Pass-Through Costs incurred in accordance with Paragraph 1.3 of this Part C of Annex 1 to Schedule 3 (Charges) above; and
  - b) the Buyer is satisfied (in its sole discretion) that the relevant Pass-Through Costs have been properly incurred and stated by the Supplier in the applicable Pass-Through Claim Form,
- the Buyer shall (within thirty (30) Days of receipt of the relevant Pass-Through Claim Form) pay the Supplier the value of the relevant Pass-Through Costs stated in the relevant Pass-Through Claim Form.
- 1.5 The Parties agree that the Pass-Through Costs are charged on a "costs-incurred" basis and:
- a) any amount stated in the Tender Response in respect of such costs is indicative only; and
  - b) shall not be subject to adjustment in accordance with this Schedule 3 (Charges).

Cost item
Visa applications
Pre deployment costs
Training (Pre-Service) excl payroll cost.

Training (CPD)
Professional Subscriptions (incl. RCVS)
Laundry
Equipment
Emergency Slaughter fees – <b>Not Applicable</b>
Dairy Animal Herd Health Check fees

1.6 The Buyer shall be permitted to recover from the Supplier a percentage of the Pass-Through Costs paid by the Buyer in respect of laundry and single use PPE. The relevant percentage recoverable by the Buyer pursuant to this Paragraph 1.6 of Part C of Annex 1 to Schedule 3 (Charges) shall be based on the number of Supplier Personnel providing the Services in the applicable Lot to which the Pass-Through Charges relate that are contract staff, as a percentage of the total Supplier Personnel providing the Services in the applicable Lot to which the Pass-Through Charges relate.

1.7 The recoverable percentage referred to at Paragraph 1.6 of this Part C of Annex 1 to Schedule 3 (Charges) (and any changes to it) shall be agreed between the Parties (acting reasonably) during Operational Board Meetings, and the Supplier shall pay the Buyer the agreed recoverable percentage of relevant Pass-Through Costs to which the percentage relates:

- a) using the Buyer's contractor payment system; and
- b) on a periodic basis, and in accordance with the timelines, agreed between the Parties.

## 2. Caps on Pass-Through Costs

2.1 Subject to Paragraph 2.2 of this Part C of Annex 1 to Schedule 3 (Charges) below, the Parties agree that the Buyer shall not be obliged to pay any Pass-Through Costs incurred by the Supplier in a Service Year where Supplier's total Pass-Through Costs for the relevant Service Year exceed the Soft Cap for that Service Year.

2.2 Where the Supplier forecasts that its anticipated total Pass-Through Costs for a Service Year may exceed the Soft Cap as a result of Supplier's purchase of a particular cost item or item(s) during that Service Year, the Buyer agrees to enter into good faith discussions to understand the impact of the Buyer not reimbursing Supplier for such particular cost item or item(s) as a Pass-Through Cost. Following such discussions, the Buyer may (in its sole discretion) agree to reimburse the Supplier for the cost of such particular cost item or item(s), in whole or in part, as a Pass-Through Cost, in excess of applicable Soft Cap.

2.3 The Parties agree that the Buyer shall not be obliged to pay any Pass-Through Costs incurred by the Supplier in a Service Year where Supplier's total Pass-Through Costs for the relevant Service Year exceed the Hard Cap for that Service Year and Buyer shall not be obliged to enter into any discussions with the Supplier in relation to the same.



## Part D: Profit Allocation per Hour

### 1. Supplier Profit Allocation

- 1.1 In respect of each hour worked by Supplier Personnel in provision of the Services, and which has been properly incurred and charged to the Buyer as part of the Variable Costs in accordance with Part B of Annex 1 to this Schedule 3 (Charges) (each, a **Worked Hour**), the Buyer shall pay the Supplier an amount of profit per Worked Hour (the **Profit Allocation Per Hour**).
- 1.2 The Parties agree that the Profit Allocation Per Hour payable in respect of each Worked Hour:
  - a) shall be calculated by reference to the total anticipated Charges payable by the Buyer during the First Service Year (excluding Pass-Through Costs) as set out in the Tender Response (and converted into an amount per Worked Hour);
  - b) may vary throughout the Contract Period, in line with:
    - i. the rate of inflation indicated as applicable to Profit Allocation Per Hour at Annex 3 to this Schedule 3 (Charges);
    - ii. any variation to the total anticipated Charges payable by the Buyer during the Contract Period (excluding Pass-Through Costs).
- 1.3 Subject to Paragraph 1.2(b) of this Part D of Annex 1 to Schedule 3 (Charges), where the actual Worked Hours varies from the anticipated hours set out in the Tender Response, the Buyer shall pay the Profit Allocation Per Hour which will be calculated in line with Paragraph 1.2 (a) of this Part D of Annex 1 to Schedule 3 and will be payable on each hour actually worked.
- 1.4 The Parties agree that the Profit Allocation Per Hour shall be invoiced and payable in accordance the self-billing arrangements at Annex 2 to this Schedule 3 (Charges).

## Part E: Backfill Rates – FVC and VA

### 1. Backfill Rates

- 1.1 From the Start Date and from time to time during the Contract Period, the Buyer may require that, in its provision of the Services, the Supplier provides appropriately qualified Supplier Personnel to backfill FVC or VA roles (the "**Backfill Staff**").
- 1.2 In relation to each such request, the Parties shall agree the cost of Supplier's provision of Backfill Staff (in accordance with Paragraph 1.1 of this Part E to Annex 1 to Schedule 3 (Charges)) calculated by reference to the Backfill Rates as set out in the table included at Appendix 1 to this Part E to Annex 1 of Schedule 3 (Charges) (the "**Backfill Costs**").
- 1.3 Where the Buyer requests provision of Backfill Staff pursuant to this Part E, the Buyer shall raise a purchase order for the Backfill Costs agreed between the Parties in accordance with Paragraph 1.2 of this Part E of Annex 1 to Schedule 3 (Charges). Upon receipt of such purchase order, the Supplier shall promptly raise and provide to the Buyer an invoice in relation to such Backfill Costs, which shall be payable by the Buyer in accordance with Clause 4 of the Core Terms.
- 1.4 The Supplier agrees and acknowledges that:
  - a) premium rates shall not be applicable to Supplier's provision of Backfill Staff; and
  - b) the Backfill Rates are fixed for the duration of the Contract Period.

**Appendix 1: Backfill Rates for Field Veterinary Coordinator (FVC) or Veterinary Auditor (VA) - To be inserted 6 months after the Start Date.**

	Service Year 1 2025/2026		Service Year 2 2026/2027		Service Year 3 2027/2028		Service Year 4 2028/2029		Service Year 5 2029/2030	
Period required	Price per hour	Price for 37 hours	Price per hour	Price for 37 hours	Price per hour	Price for 37 hours	Price per hour	Price for 37 hours	Price per hour	Price for 37 hours
1 week (rolling basis)										
1 Month (140 hours)										
3 Months (456 hours) (13 weeks)										
6 Months (910 hours) (26 weeks)										
9 Months (1365 hours) (39 weeks)										
12 Months (1 calendar year/ 52 weeks)										

## **Annex 2: Self Billing Arrangements**

### **1. Self-Billing Process**

1.1 For the purpose of calculation of the Variable Costs each Supplier Personnel deployed in the provision of the Services shall be required to submit a daily timesheet to the Buyer's Time Recording System (in accordance with Schedule 2 (Specification)).

1.2 On a Monthly basis, the Buyer shall:

- a) raise and issue to the Supplier a self-billing invoice for:
  - i. the Variable Costs payable in respect of the timesheets submitted by the Buyer in the previous Month;
  - ii. the applicable Profit Allocation Per Hour, and
- b) complete the self-billing invoice showing the Supplier's name, address and VAT registration number, together with all the other details which constitute a full VAT invoice.

1.3 In respect of any self-billing invoice raised by the Buyer in accordance with Paragraph 1.2 of this Annex 2 to Schedule 3 (Charges), the Supplier shall accept and pay each such invoice in accordance with Clause 4 of the Core Terms.

1.4 The Buyer shall inform the Supplier if its self-billing responsibilities pursuant to this Annex 2 of Schedule 3 (Charges) will be outsourced to a third party.

1.5 The Supplier shall notify the Buyer immediately if:

- a) there is a change the Supplier's VAT registration number;
- b) the Supplier ceases to be VAT registered.

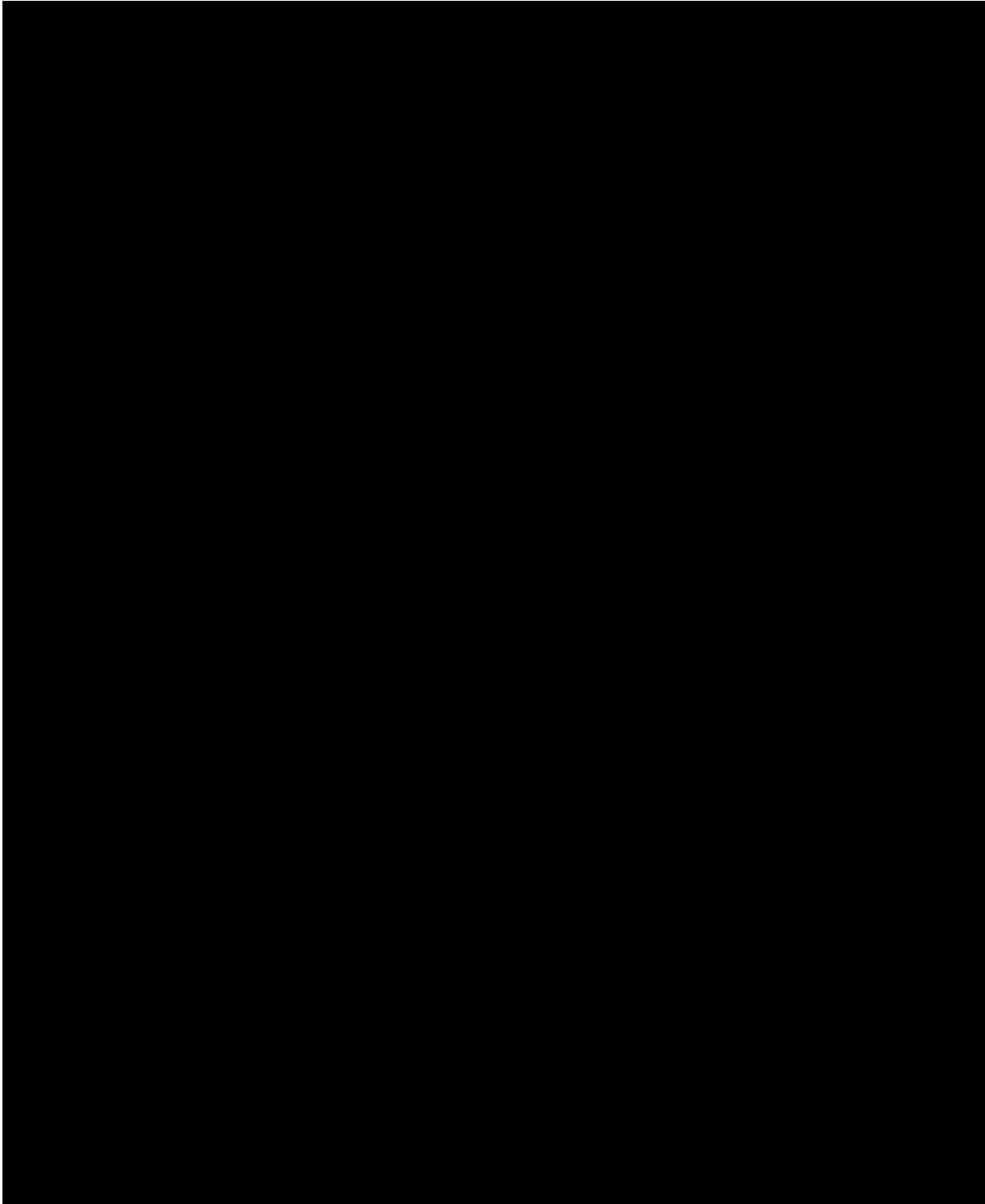
## Annex 3: Indexation

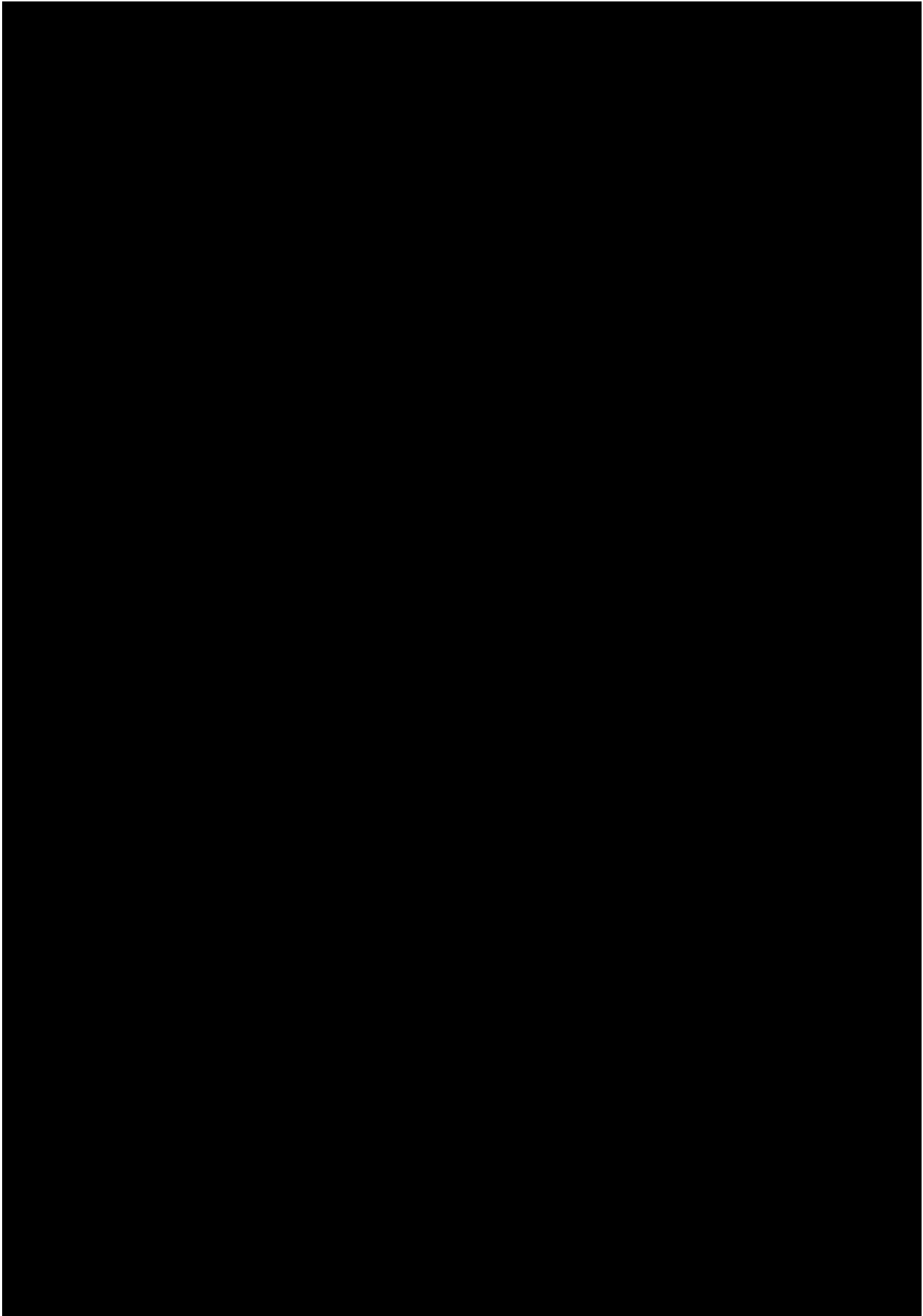
<b>Direct Pay Costs - amount per hour</b>	
Wages & Salaries OAs & OV's	Industry Output Index - Professional, Scientific and Technical
Employers National Insurance Contributions	Industry Output Index - Professional, Scientific and Technical
Employer pension contributions	Industry Output Index - Professional, Scientific and Technical
Apprenticeship levy	Industry Output Index - Professional, Scientific and Technical
Other direct pay costs (e.g. emergency slaughter; provide detail on Commentary tab)	Industry Output Index - Professional, Scientific and Technical
<b>Direct Variable Costs - FSA Risk - Pass Through with Soft Cap</b>	
Visa Applications & Renewals	Consumer Price Index (CPI)
Training (Pre-service) excl payroll cost.	Consumer Price Index (CPI)
Training (Continuing Professional Development)	Consumer Price Index (CPI)
Training (English Tuition)	Consumer Price Index (CPI)
Professional subscriptions (incl RCVS)	Industry Output Index - Professional, Scientific and Technical
Pre-deployment pay costs	Industry Output Index - Professional, Scientific and Technical
Laundry	Consumer Price Index (CPI)
Equipment	Consumer Price Index (CPI)
Dairy Herd Health Check	Industry Output Index - Professional, Scientific and Technical
Emergency Slaughter On Call Fee – <b>Not Applicable</b>	Industry Output Index - Professional, Scientific and Technical
<b>Direct Variable Costs - Supplier Risk</b>	
Contract lease vehicles	Consumer Price Index (CPI)
Class 1A NIC on Benefits (incl vehicles)	Consumer Price Index (CPI)

Car insurance	Consumer Price Index (CPI)
Mileage	Consumer Price Index (CPI)
Other travel & subsistence	Consumer Price Index (CPI)
Overnight accommodation	Consumer Price Index (CPI)
<b>Indirect Overhead Costs - Supplier Risk</b>	
Wages & Salaries - Corporate Office Staff	Industry Output Index - Professional, Scientific and Technical
Wages & Salaries Operational Management Team	Industry Output Index - Professional, Scientific and Technical
Employers National Insurance Contributions for Corporate & Management Staff	Industry Output Index - Professional, Scientific and Technical
Employer Pension Contributions for Corporate & Management Staff	Industry Output Index - Professional, Scientific and Technical
Apprenticeship Levy for Corporate & Management Staff	Industry Output Index - Professional, Scientific and Technical
Other Pay Costs for Corporate & Management Staff	Industry Output Index - Professional, Scientific and Technical
Class 1A NIC on Benefits (incl vehicles) for Corporate & Management Staff	Consumer Price Index (CPI)
Rent & rates	Consumer Price Index (CPI)
Insurance	Consumer Price Index (CPI)
Light and heat	Consumer Price Index (CPI)
Post, printing and stationery	Consumer Price Index (CPI)
IT and communications	Consumer Price Index (CPI)
Motor and travel incl insurance and mileage for Corporate and Management Staff	Consumer Price Index (CPI)
Legal & professional	Consumer Price Index (CPI)
Advertising and recruitment	Consumer Price Index (CPI)
Bank charges	Consumer Price Index (CPI)
Cleaning	Consumer Price Index (CPI)
<b>Profit Allocation Per Hour</b>	Average - CPI and IOI

## Schedule 4 (Tender Response)

**Resourcing 1.0** Describe how you will put into place effective workforce deployment mechanisms, optimal utilisation of staff, support, and management systems to ensure effective delivery of the full range of services required from contract day 1 and throughout the life of the contract.

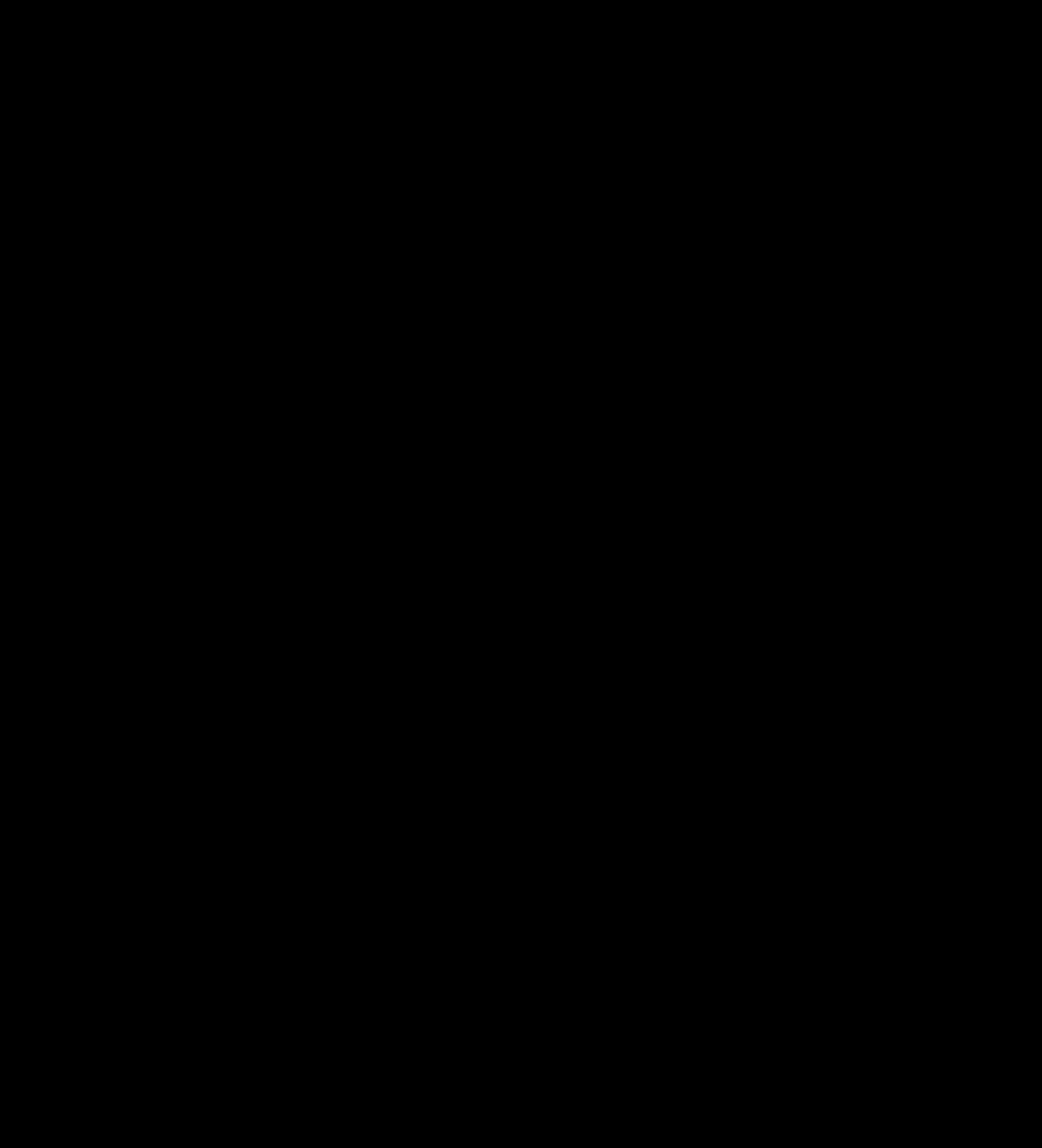













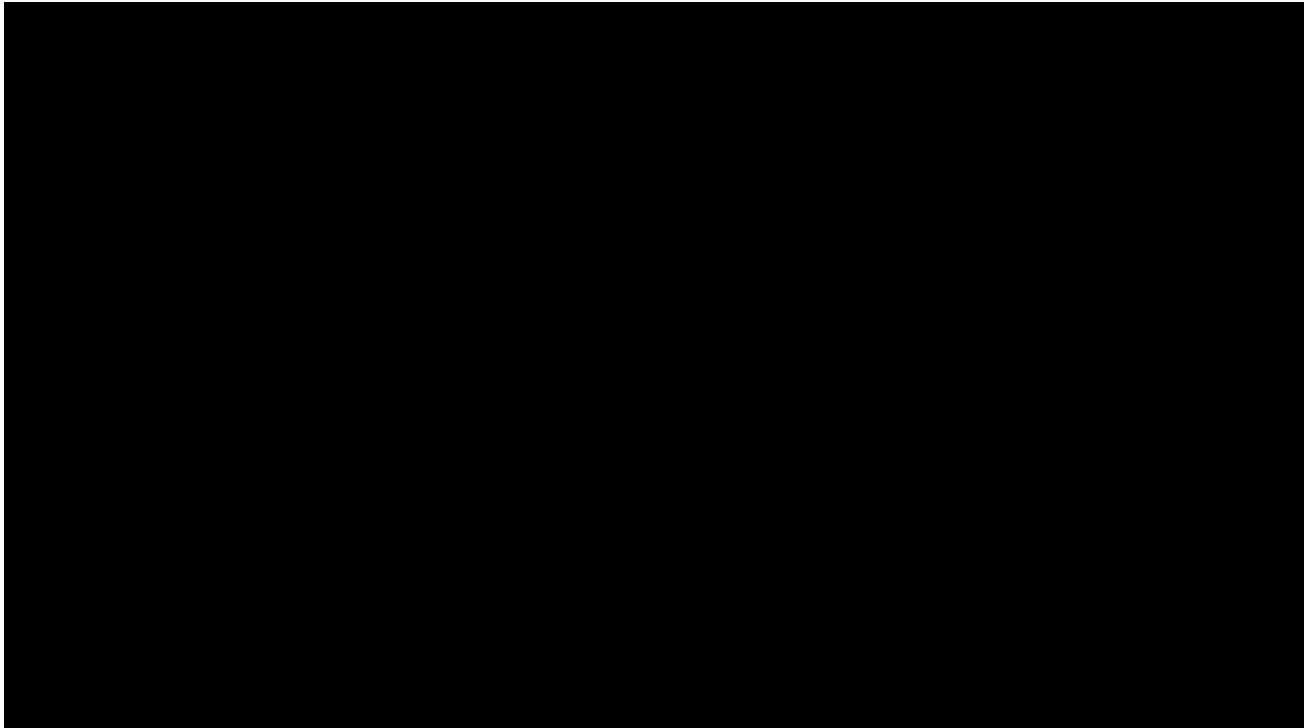
**Resourcing 1.0(a) How will you respond to changes in resource demand for example, surge response for FSA activities, short term backfill requirements, decreases in demand and provision for seasonal changes in demand from contract day 1 and throughout the life of the contract.**



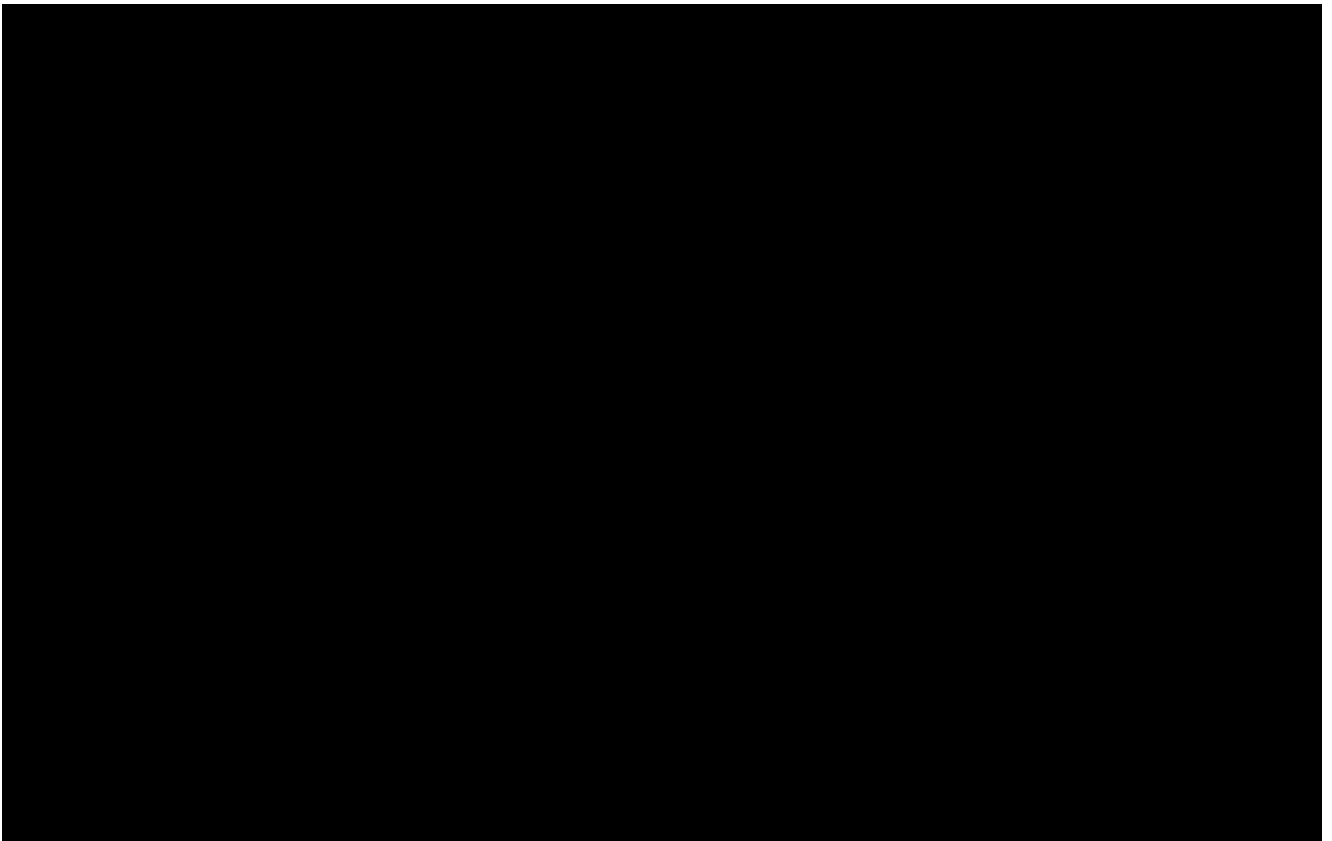








**Resourcing 1.0(b) Describe your recruitment and retention strategies to maintain the resources required to deliver the contract on Day 1 and throughout the life of the contract.**



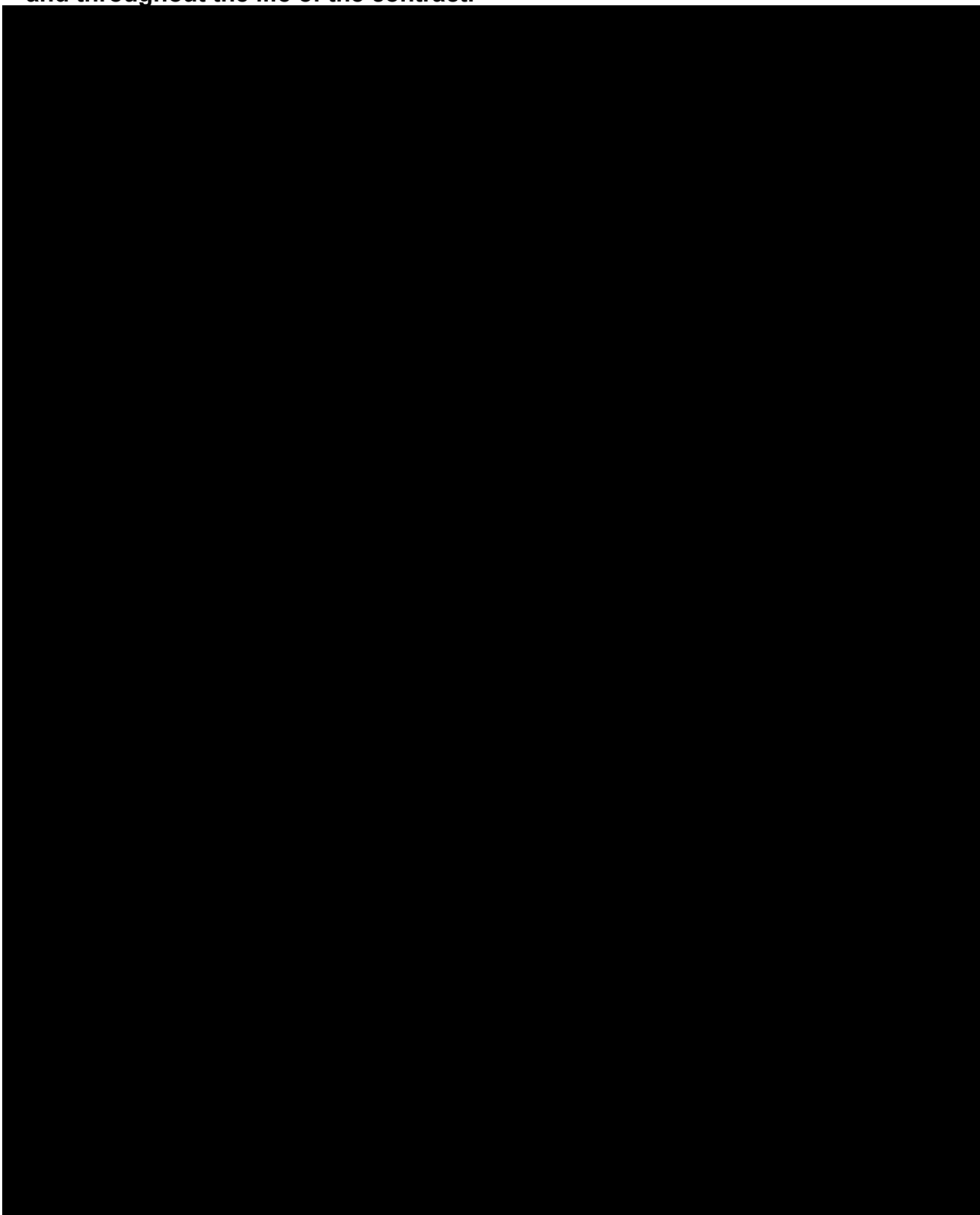








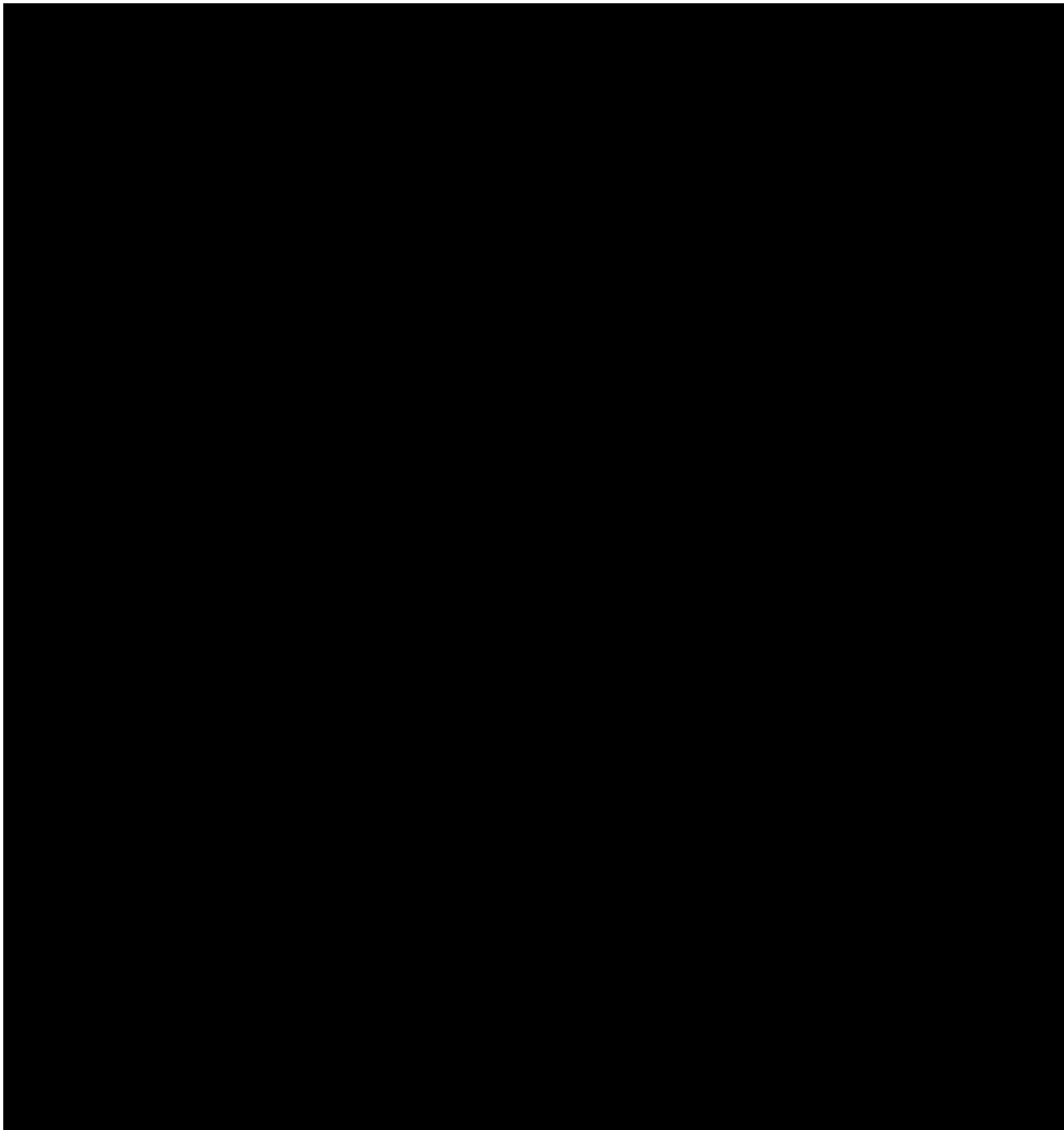
**People: Capability 1.1 How will you ensure that you have qualified, competent and suitably experienced staff (or mechanisms in place to support less experienced staff) to deliver services to match the varying risk profiles, complexity and operational requirements of different establishments on day 1 and throughout the life of the contract.**



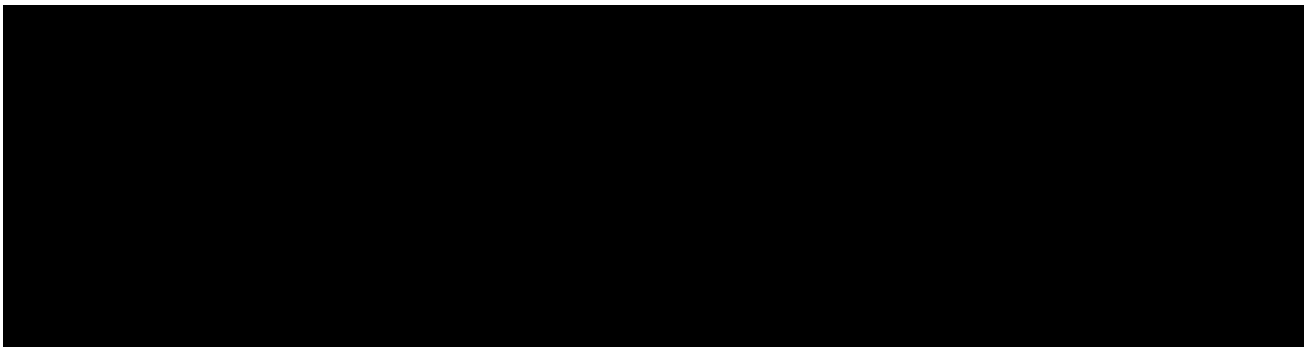








**Delivery of Official Controls: Guidance 1.2 Describe how you will deliver the fully managed service to the required standard in line with legislation and Manual of Official Controls (MOC).**



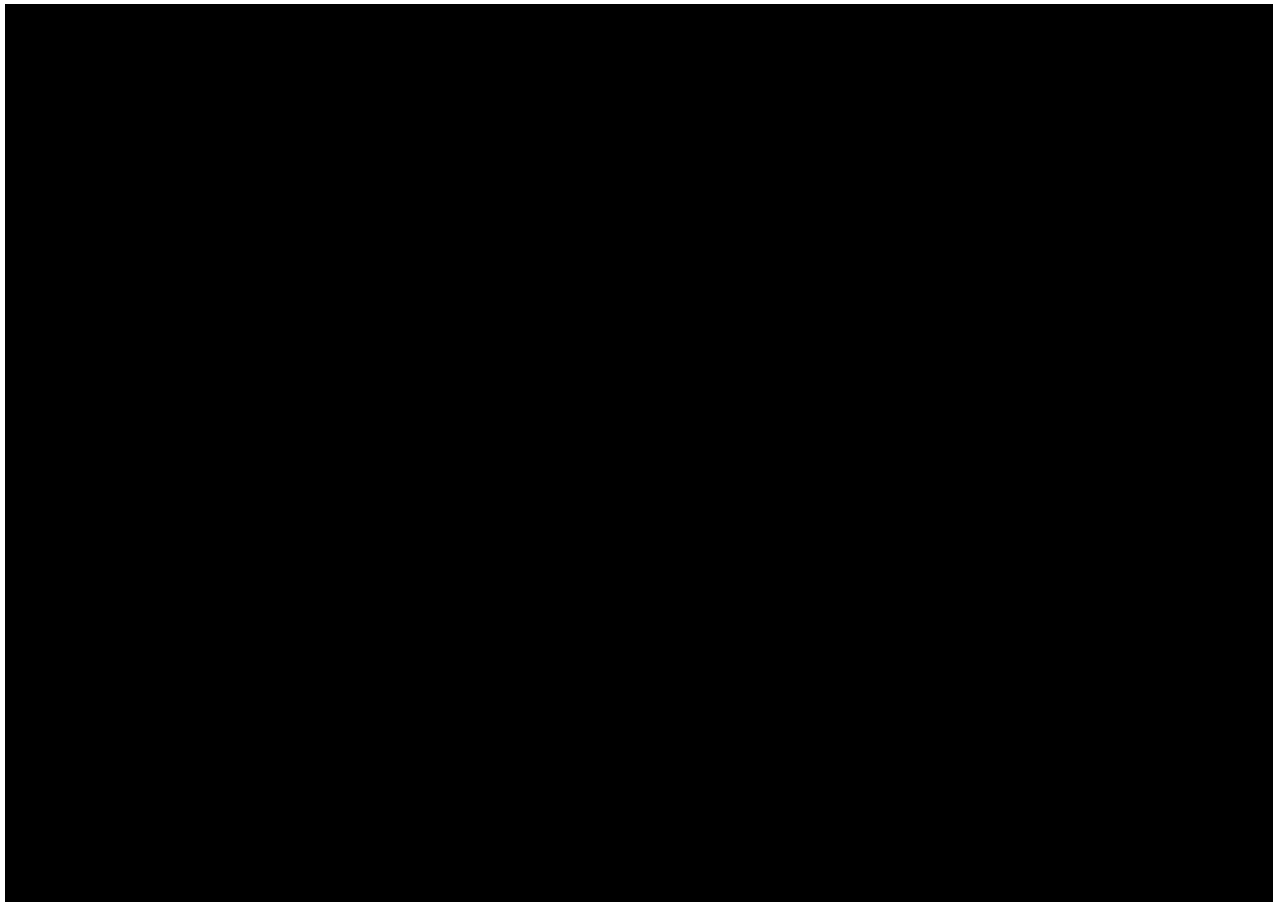




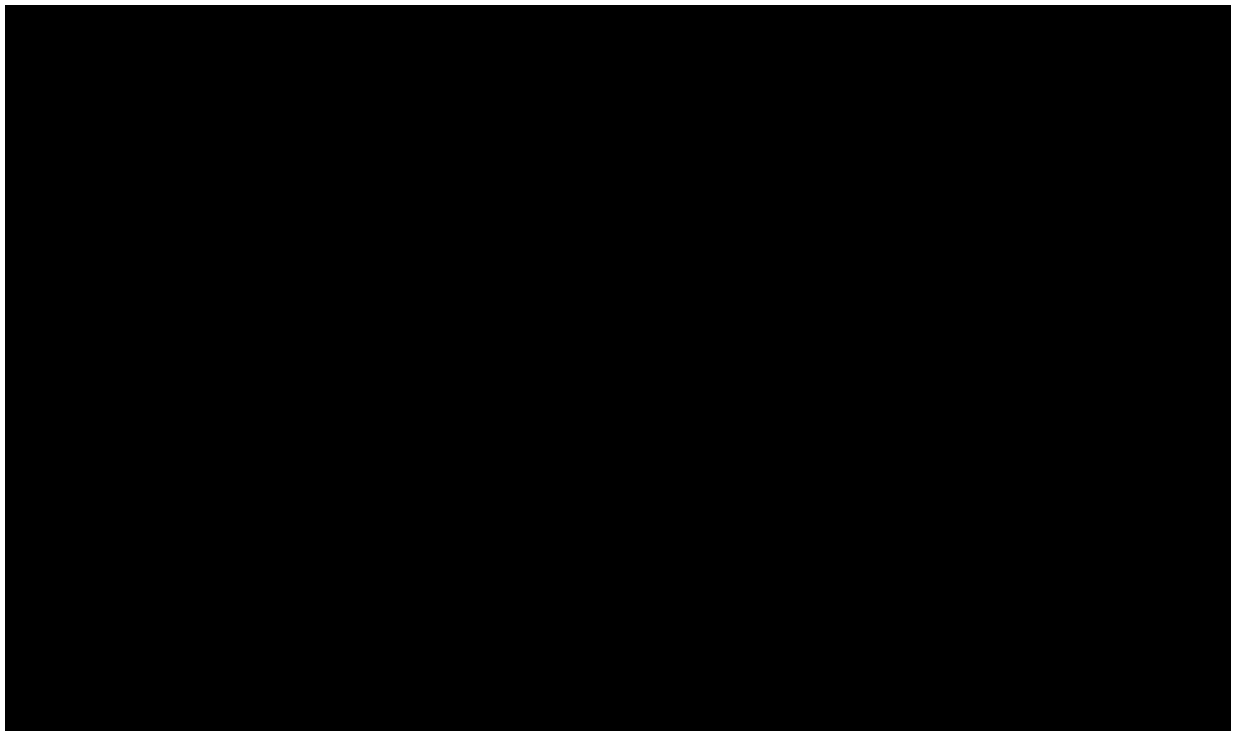









**Quality Assurance 1.3 Demonstrate how you plan to monitor the services to ensure that standards are being met, providing an example of an outline plan within your response and explaining how it will be delivered.**



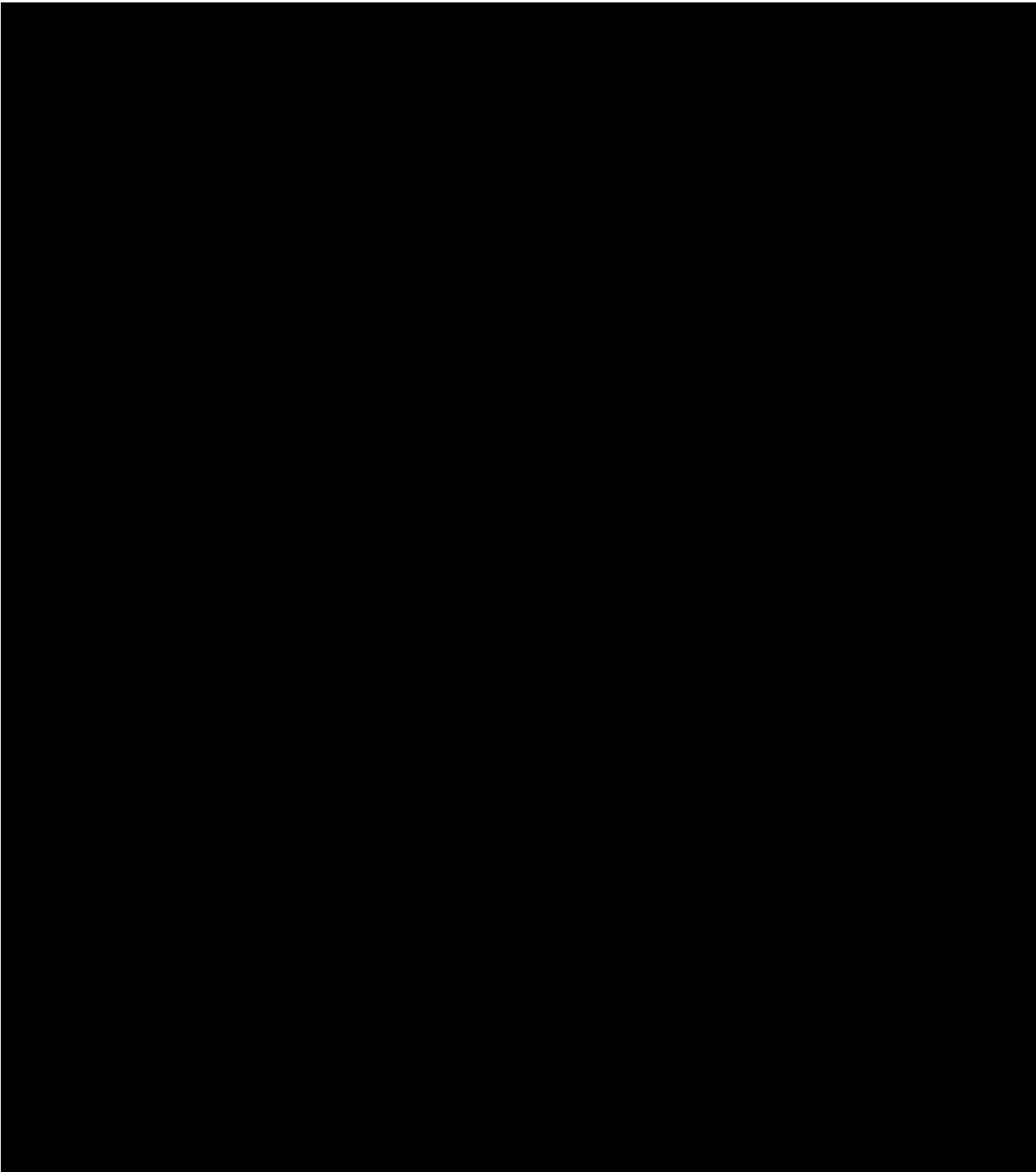




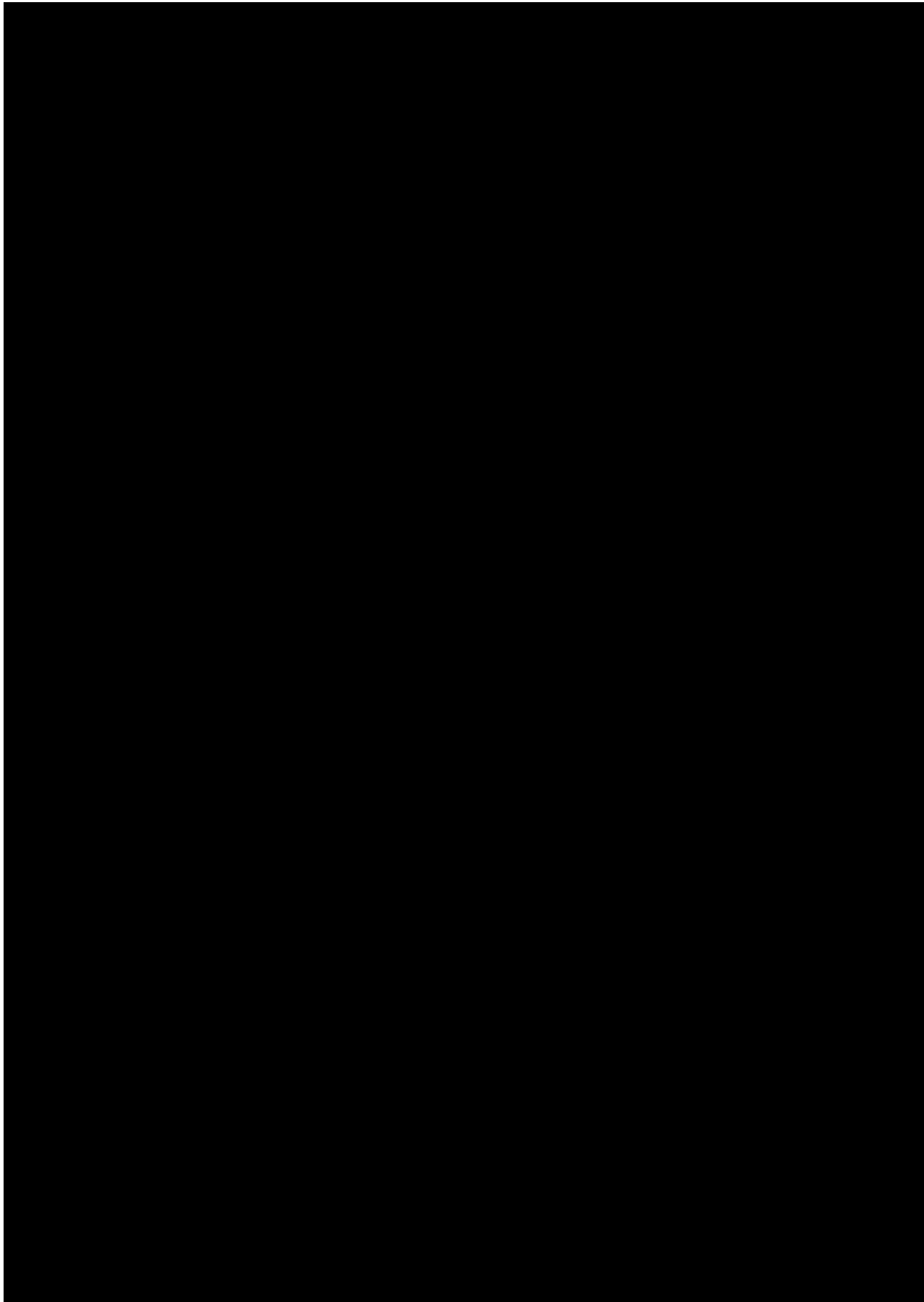


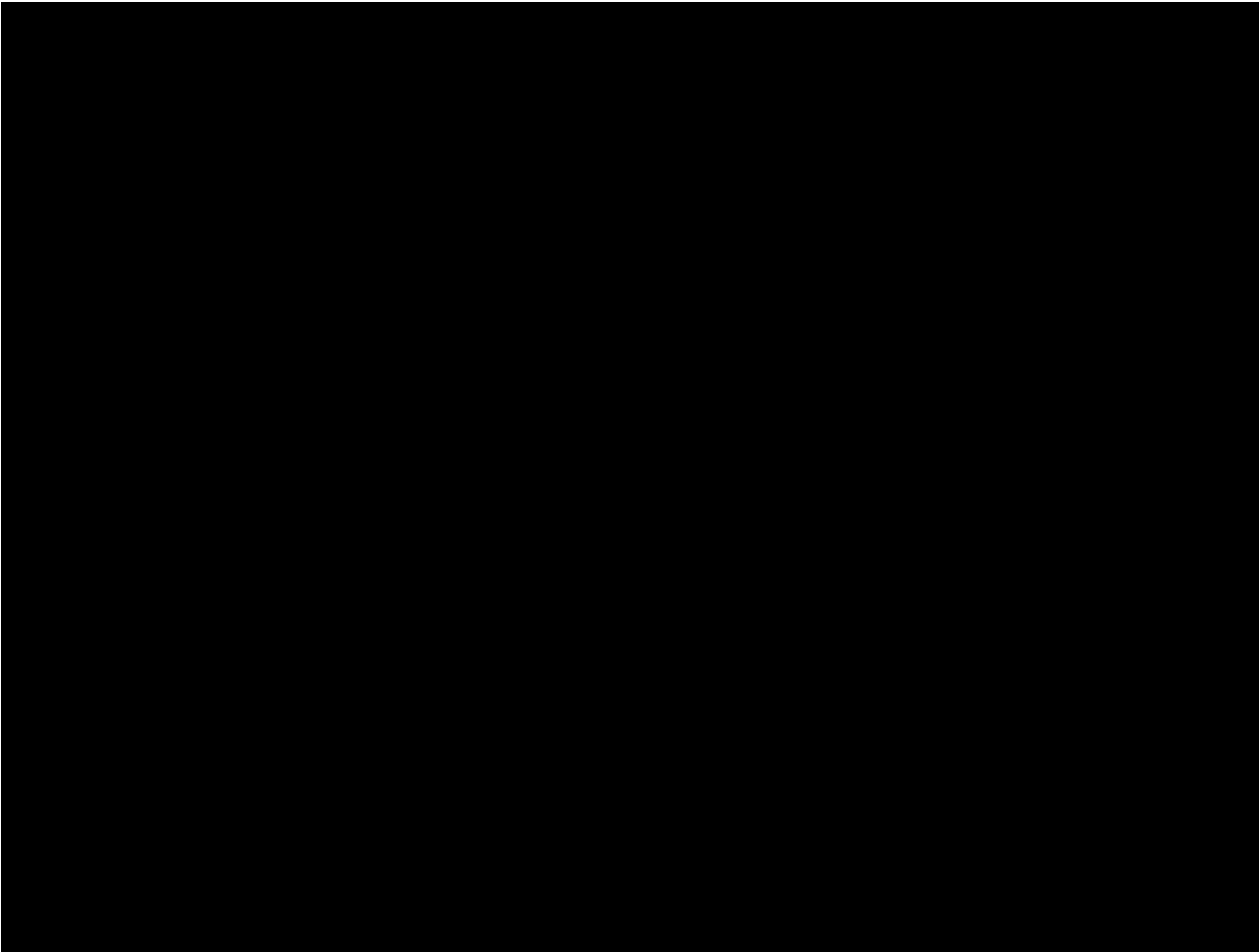


**Health and Safety 1.4 Describe how you will manage health and safety of your people in partnership with FSA, considering establishments of varying size and complexity.**

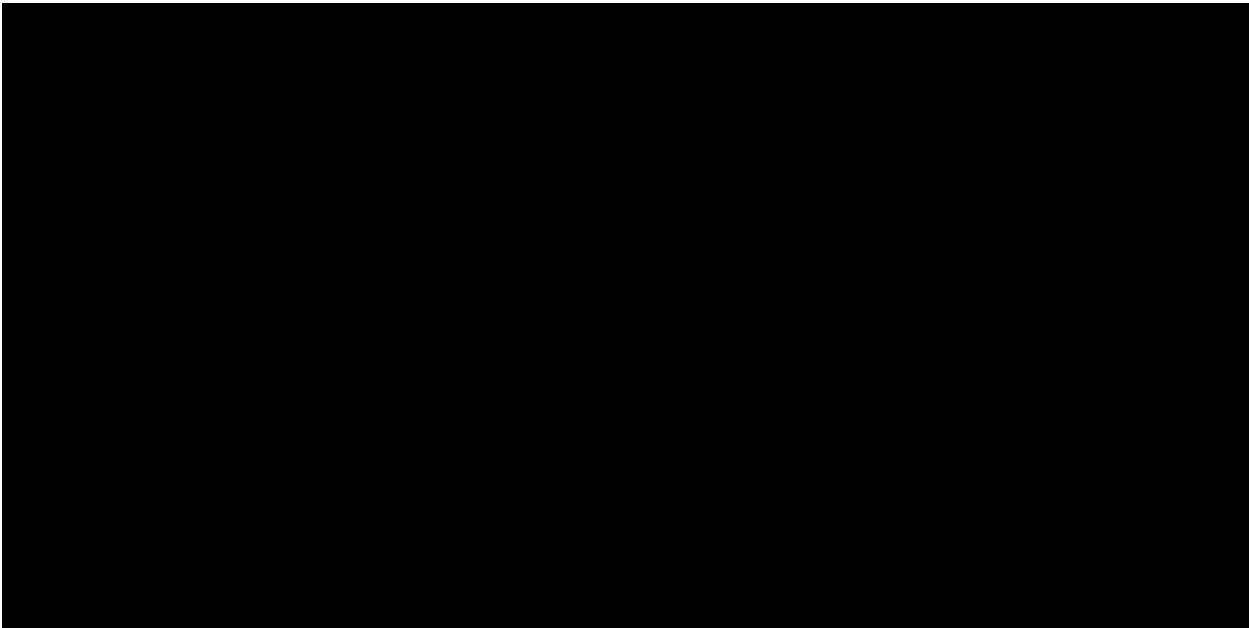








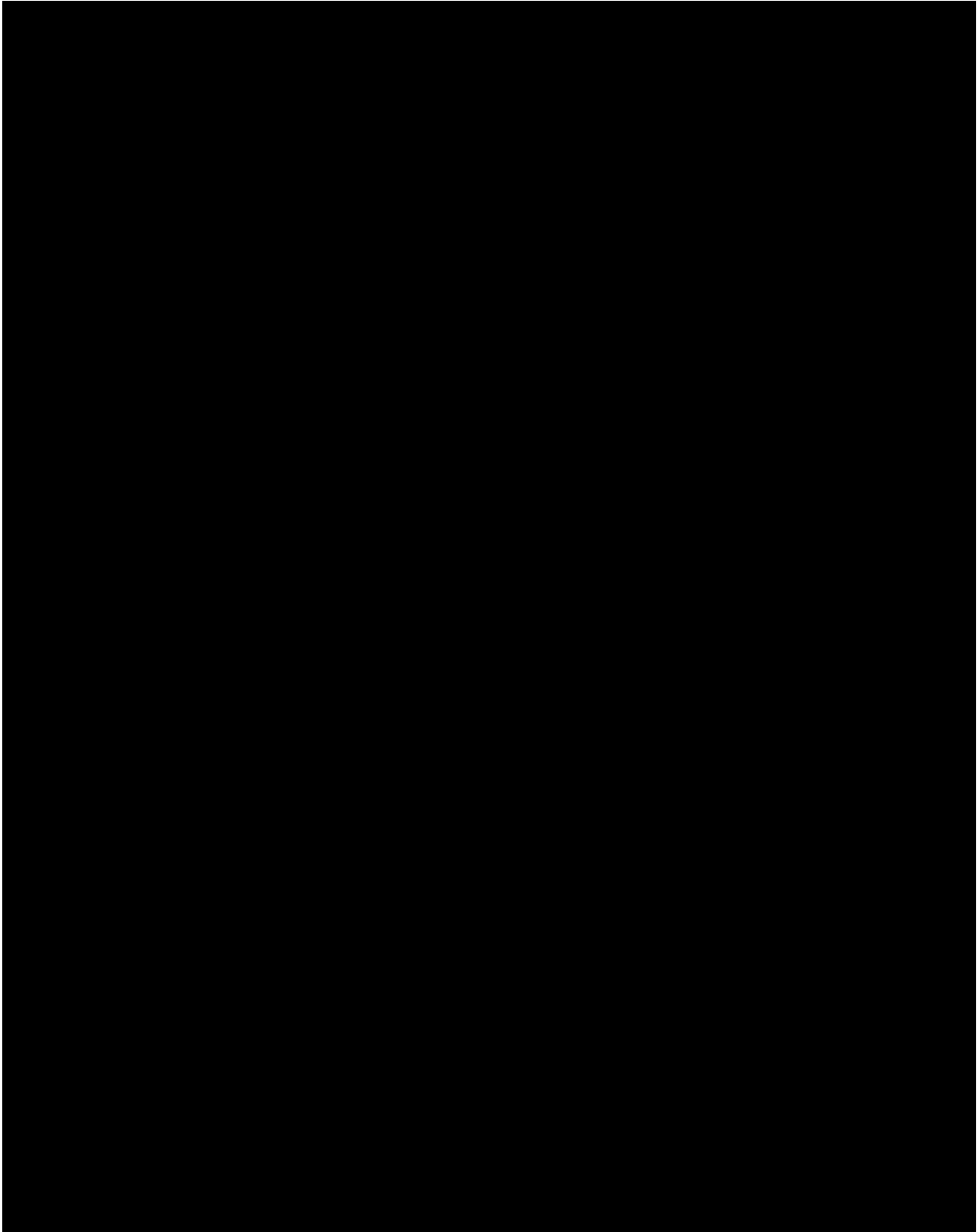
**Transition 1.5 How will you ensure continuity of service delivery through the transition period, including working with FSA and other suppliers and consideration of risk analysis and mitigations? Please include information on the visa transfer process in your response. Please upload a transition timeline in addition to your response.**

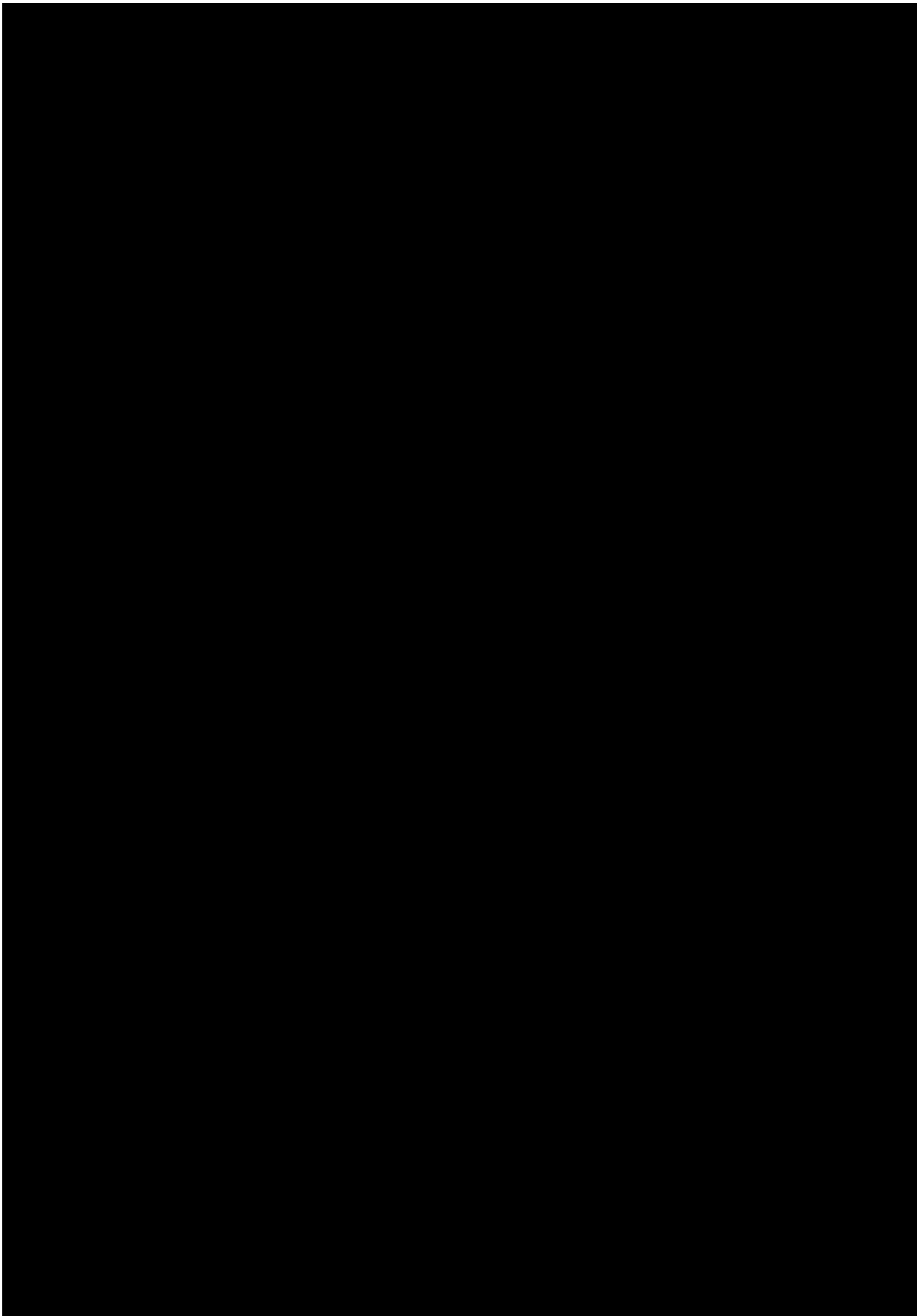


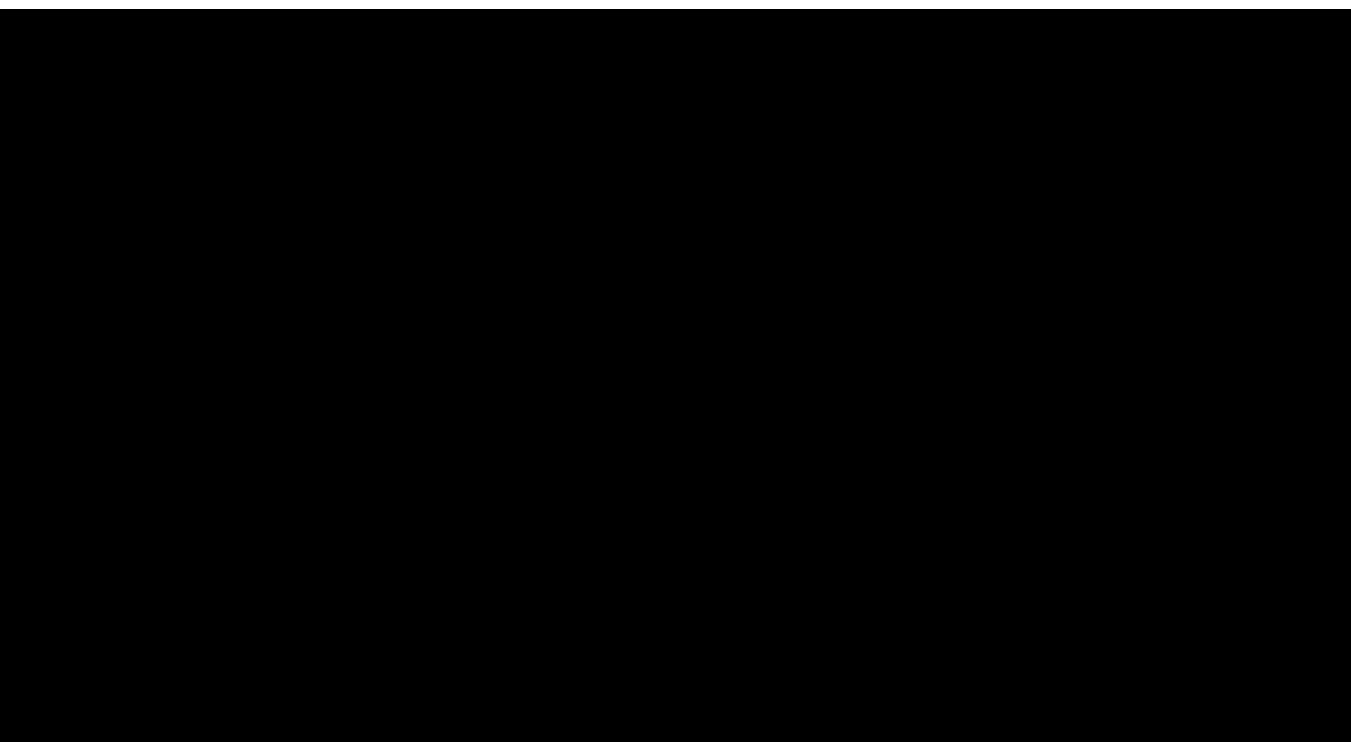




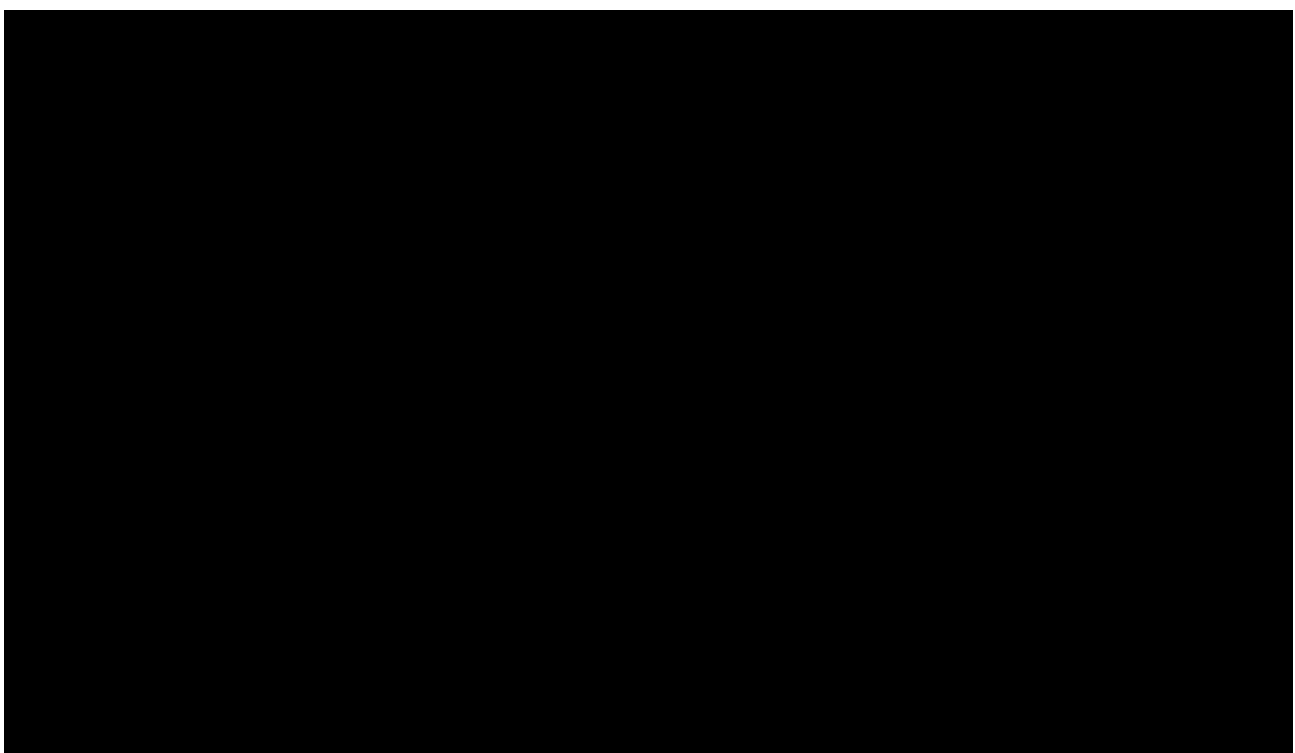
**Senior Technical Lead 1.6 Who will you appoint as your senior technical lead for delivery of the services. Please include details of qualifications, knowledge and experience and outline how you will ensure continuity if there is a personnel change or extended leave of absence.**







**Social Value - Theme 4 Equal Opportunity: Tackling Workforce Inequality**  
**1.7(b) Please answer the following question. How does your company culture promote an inclusive working environment and promotes retention and progression. Please provide evidence of policies and strategies in place. Please provide examples of how these strategies/policies have been successful and provide information on any improvements planned over the term of this contract.**









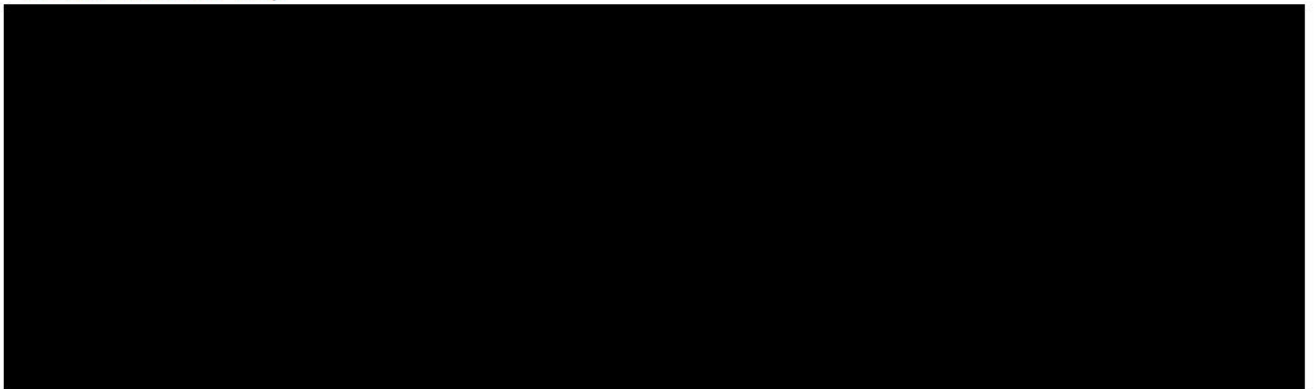


## Clarifications and Responses

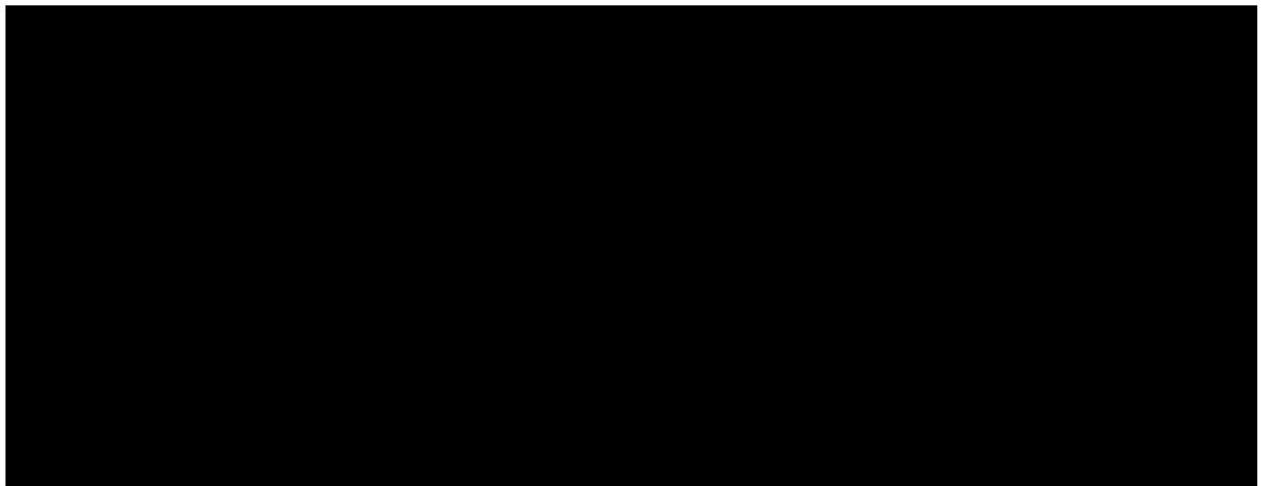
**Question 1:** Can you confirm that all cross trained vets hold an OV designation?  
(Resourcing)



**Question 2:** Who will be the single senior technical lead for each lot ? (Senior technical lead 1.6)



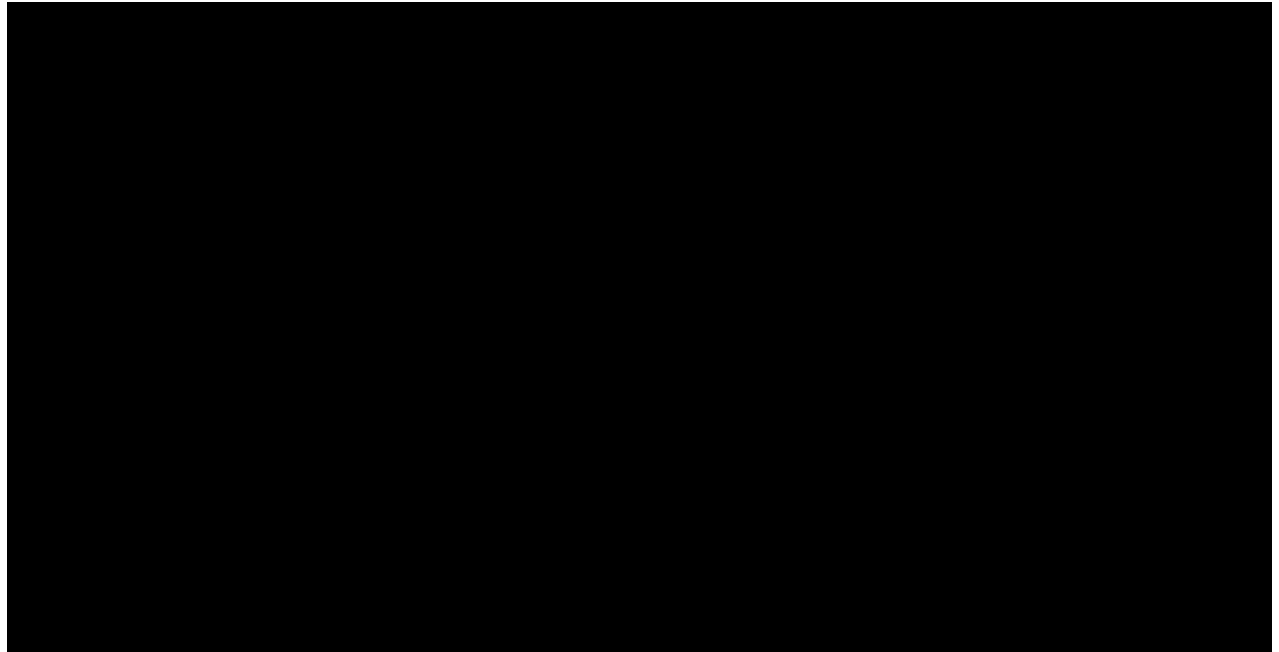
**Question 3:** In response to multiple questions in the technical section of the bid, the tenderer references [redacted] as part of ensuring sufficient OV resources are in place. Can we clarify this is correct? (All technical)



**Question 10:** Requirement Ref 1.7(b) Please provide a list of all applicable company policies that have been published and are available to your staff.



**Question 1.** Technical Evaluation - Section 1.5 - Can you clarify what "[REDACTED]" on your transition plan means.



# Schedule 5 (Confidentiality and Commercially Sensitive Information)

## Part A – 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	Items	Duration of Confidentiality
1	Effective Date	Supplier financial information – Direct Pay Costs, Direct Variable Costs, Indirect Overhead Costs, EBITDA, Depreciation, Profit.	Contract Period
2	Effective Date	Supplier Resource Information – (Name, SP Number, Role, Payroll, Start Date, Tenure, Hourly Rate, Contracted Weekly Hours, Annual Equivalent Salary, FTE, Contracted Hours per Year, Pension Enrolment, Employment Status, age, Nationality)	Contract Period
3	Effective Date	Supplier Management Controls such as induction, training, disciplinary procedures and performance management	Contract Period

## Part B – Template Confidentiality Undertaking

*The Supplier agrees that it has been informed that it may be assigned to work as a Supplier in providing certain services to the Food Standards Agency (the “**Authority**”) pursuant to FS101227 FSADOC - Delivery of Official Controls in Approved Establishments in England and Wales (the “**Contract**”).*

*The Supplier understands that Confidential Information (as defined in Schedule 1 (Definitions) of the Contract) in the possession of the Authority and which becomes known to the Supplier or comes into the Supplier's possession must be treated as confidential, and at all times in accordance with Clause 19 of the Contract.*

*The Supplier hereby gives a formal undertaking to the Authority, that:*

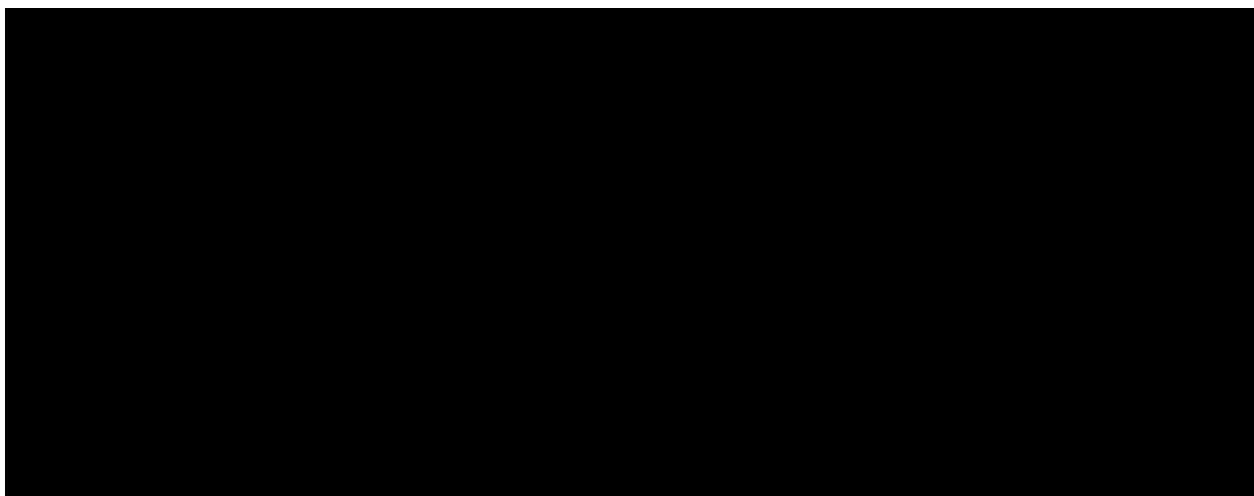
- the Supplier will not communicate any Confidential Information, or any other knowledge Supplier acquires in the course of provision of Deliverables to the Authority to anyone who is not authorised by the Authority to receive under the terms of the Contract;*
- the Supplier will not make use of any of Confidential Information or knowledge for any purpose which is not permitted by the terms of the Contract.*

*The Supplier acknowledges that this Confidentiality Undertaking applies to all Confidential Information which is not already a matter of public knowledge and that it applies to both written and oral information.*

*The Supplier acknowledges that Supplier's confidentiality obligations pursuant to the Contract shall survive termination or expiry of the Contract.*

*The Supplier recognises that, as per Clause 16 of the Contract, it is bound by the provisions of the Official Secrets Acts of 1911 and 1989 (the **Acts**). The Supplier is aware that under those Acts it is a criminal offence for any person employed by a government contractor to disclose any document or information in the circumstances set out in those Acts. The Supplier is aware that serious consequences may follow from any breach of those Acts.*

**Schedule 5B Signed by authorised representative of the Supplier:**



## 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 Start 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 6 (Transparency Reports).
- 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 6 (Transparency Reports).

## Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Charges	Total Cost	Total cost published; line item descriptions published (subject that Supplier shall ensure line item amounts are redacted due to commercial sensitivities).	At Start Date and where a Variation is agreed in accordance with the Variation Procedure
Key Subcontractors	List of Key Subcontractors	List format (as also set out in Award Form).	At Start Date and where a Variation is agreed in accordance with the Variation Procedure.
Performance management	<p>Supplier's performance against 3 most important Service Levels:-</p> <p>1) Deliverable / Service Provision</p> <p>2) Delivery of Meat Official Controls - Inspection</p> <p>3) Delivery of Meat Official Controls - Hygiene</p> <p>including description of Service Level, Service Level Thresholds and reported performance against Service Level for Quarter.</p>	<p>Service Levels will be published as a CSV file in line with Government guidelines. The Service Levels for the Governments most important contracts are published at the following site:</p> <p><a href="https://www.gov.uk/government/publications/key-performance-indicators-kpis-for-governments-most-important-contracts">https://www.gov.uk/government/publications/key-performance-indicators-kpis-for-governments-most-important-contracts</a></p>	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):

**"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;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) claims whether in tort, contract or statute or otherwise;
- (g) 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;

<b>"Former Supplier"</b>	a supplier supplying 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) and for the avoidance of doubt shall include E&J GB Limited and E&J Commercial Services Limited;
<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 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 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 Agreements and Related Issues"</i> 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;
<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;
<b>"Service Transfer Date"</b>	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
<b>"Staffing Information"</b>	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, the information required in Annex E2 (Table of Staffing Information) in that format together with employee liability information specified in regulation 11(2) and 11(3) and if applicable 11(4) of the Employment Regulations and such other information as the Buyer may reasonably require. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
<b>"Supplier's Final Supplier Staff List"</b>	a list provided by the Supplier of all Supplier Staff who will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Supplier's Provisional Supplier Staff List"</b>	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 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

**"Transferring Supplier Employees"** those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service 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 any associated employer (as defined in section 231 of the Employment Rights Act 1996) and each of its or their 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 associated employer or 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 A (Staff Transfer At Operational Services Commencement Date – Transferring Employees from the Buyer to the Supplier); N/A
- 3.2 Part B (Staff Transfer At Operational Services Commencement Date – Transfer From Former Supplier);
- 3.3 Part C (No Staff Transfer Expected On Operational Services Commencement Date);
- 3.4 Part D (*Pensions*): N/A
  - 3.4.1 - Annex (CSPS);
  - 3.4.2 - Annex (NHSPS);
  - 3.4.3 - Annex (LGPS);
  - 3.4.4 - Annex ()
- 3.5 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Contract, including:
  - 3.5.1 Annex E1 (List of Notified Subcontractors);
  - 3.5.2 Annex E2 (Staffing Information).

## **Part A: Staff Transfer at the Start Date**

### **Transferring Employees from the Buyer to the Supplier**

**Not used**

## **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 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 (and 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 (and 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 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, as applicable, any appropriate employee representative as defined in the Employment Regulations) arising from or as a result of:

- 2.1.1 any act or omission by the Former Supplier arising before, on or after the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Supplier arising on, before or after the Relevant Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
  - (b) any custom or practice with a trade union or staff association in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
- 2.1.3 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 Former Supplier to comply with any legal obligation to such trade union, body or person arising on or before the Relevant Transfer Date;
- 2.1.4 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 Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and 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 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 (and including) the Relevant Transfer Date;
- 2.1.5 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 (and including) the Relevant Transfer Date;
- 2.1.6 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 Subcontractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and
- 2.1.7 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 Buyer and/or 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 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 If any person who is not a Transferring Former Supplier Employee 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 subcontractor 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 the notification from the Supplier and/or Subcontractor;

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 their employment or alleged employment;

2.3.4 if after the end of 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 as appropriate may within five (5) Working Days give notice to terminate the employment or alleged employment of such person,

and subject to the Supplier's and/or any Subcontractor's compliance with Paragraphs 2.3.1 to 2.3.4 and in accordance with

all applicable proper employment procedures set out in Law, 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 employment referred to in Paragraph 2.3.4 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) 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 notification referred to in Paragraph 2.3.1 that is made by the Supplier and/or Subcontractor (as appropriate) later than 6 Months from the Relevant Transfer Date.**

**2.5 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or Subcontractor within the timescales set out in Paragraph 2.3.1, 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 comply with such obligations as may be imposed upon it under applicable Law.**

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

**3.1 Subject to Paragraph 3.2, the Supplier shall, and shall procure that any relevant Subcontractor shall, indemnify the Buyer, and the Former Supplier against any Employee Liabilities 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 from or as a result of:**

**3.1.1 any act or omission by the Supplier or any Subcontractor ;**

**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 on or 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 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 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; and
  - 3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.5 above.
- 3.2 The indemnities in Paragraph 3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier (as applicable) 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 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/or any Subcontractor, 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 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.

## **6. 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.

## **7. Pensions**

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

## **Part C: No Staff Transfer on the Start Date**

### **1. What happens if there is a staff transfer**

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services is not expected to be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of a Former Supplier claims, or it is determined in relation to any employee of a Former Supplier, that their contract of employment has been transferred from the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
  - 1.2.1 the Supplier shall, or shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, give notice in writing to the Former Supplier;
  - 1.2.2 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 considered appropriate to resolve the matter, within 15 Working Days of the notification from the Supplier or the Subcontractor, provided always that such steps are in compliance with applicable Law;
  - 1.2.3 if such offer of employment is accepted, the Supplier shall, or shall procure that any Subcontractor shall, immediately release the person from their employment or alleged employment; and
  - 1.2.4 if after the period referred to in Paragraph 1.2.2 has elapsed, no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Supplier and/or Subcontractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person;

and subject to the Supplier's and/or any Subcontractor's compliance with Paragraphs 1.2.1 to 1.2.4 and acting in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.5, the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

- 1.3 If any such person as is described in Paragraph 1.2 is neither re-employed by the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.2, such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that

the Subcontractor shall comply with such obligations as may be imposed upon it under Law.

- 1.4 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor, and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.5 The indemnities in Paragraph 1.2 shall not apply to any claim:
- 1.5.1 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
  - 1.5.2 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
  - 1.5.3 in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
  - 1.5.3 any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and

shall not apply where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or Relevant Subcontractor later than 6 Months from the Relevant Transfer Date.

- 1.6 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall, and shall procure that the relevant Subcontractor shall indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the relevant Subcontractor.

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

Where in this Part C 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 must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## **Part D: Pensions**

**Not used**

## **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, and agrees to procure that each Subcontractor 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 employment of the Supplier Staff (including pensions and 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;
- 1.5.10 and shall promptly notify, and procure that each Subcontractor 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 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;
- 1.6 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. During 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, and shall procure that any relevant Subcontractor 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 public sector pension schemes ; 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, and shall procure that each relevant Subcontractor 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 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 updated tax code as at the Service Transfer Date if the code has changed since it was previously provided;



- 1.7.5 updated details of any voluntary deductions from pay as at the Service Transfer Date if changes have occurred since the details were previously provided;
  - 1.7.6 a copy of the personnel file and all other records regarding the service of the Transferring Supplier Employee;
  - 1.7.7 all 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 updated bank/building society or other account details for payroll purposes if they have changed since they were previously provided.
- 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 within twenty (20) Working Days of a request from the Buyer it shall and shall procure that any relevant Subcontractor shall use reasonable endeavours to comply with any reasonable request to align and assign Supplier Staff to any future delivery model proposed by the Buyer 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, pay for accrued but untaken holiday, bonuses, commissions, payments of

PAYE, national insurance contributions and pension contributions 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 If any person 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 Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Supplier in writing;
  - 2.5.2 the Supplier may offer (or may procure that a Subcontractor 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 the notification by 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 has elapsed, no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged 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, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of 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) any contravention of the Equality Act 2010 (or predecessor/successor legislation); 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 notification referred to in Paragraph 2.5.1 that is made by the Replacement Supplier and/or Replacement Subcontractor to the Supplier later than six (6) Months from the Service Transfer Date.

2.8 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee.

2.9 The Supplier shall, and shall procure that each Subcontractor 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.

2.10 Subject to Paragraph 2.11, 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:

2.10.1 any act or omission 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.

2.10.2 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;

2.10.3 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;

2.10.4 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 or otherwise) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

2.10.5 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

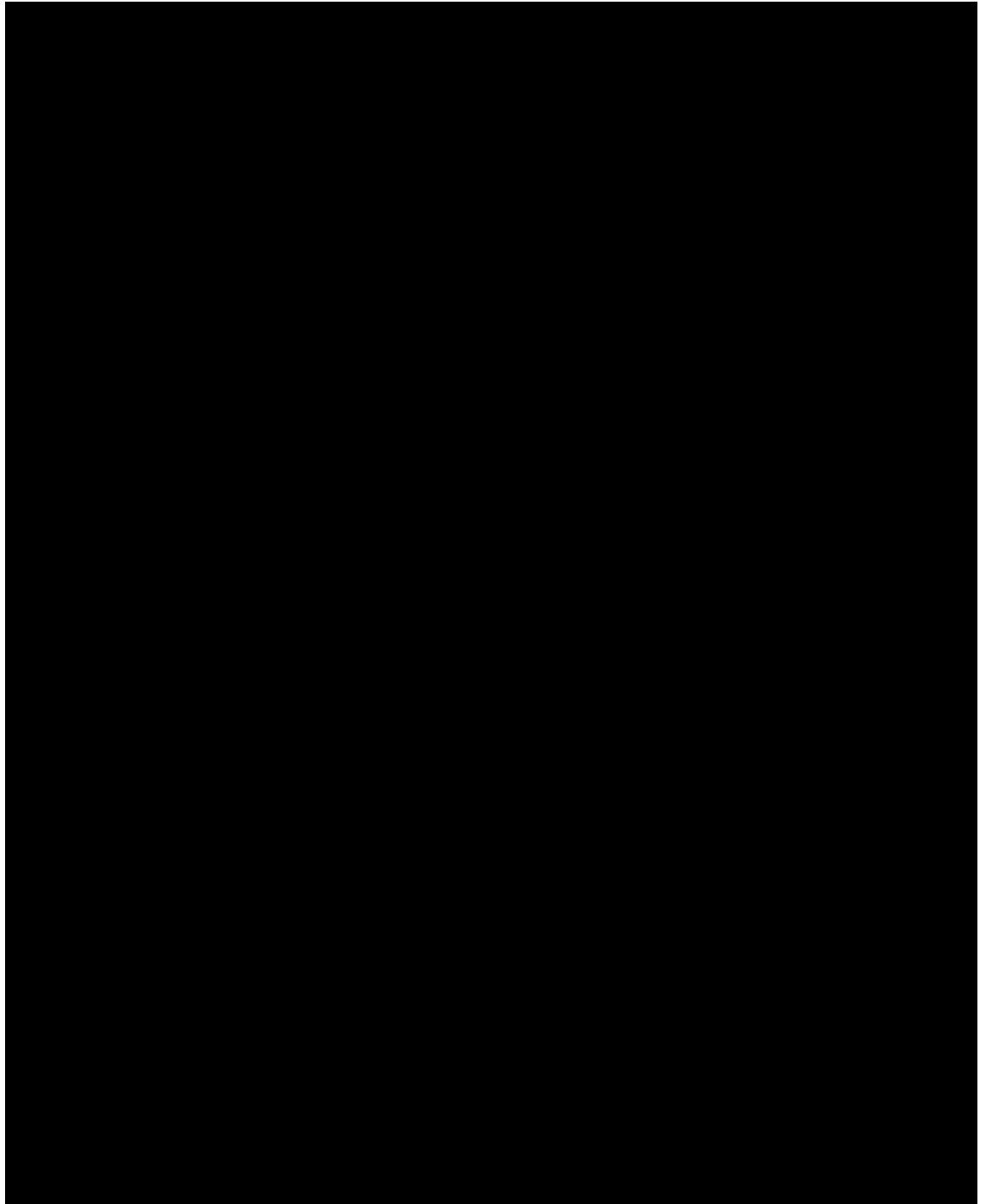
Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

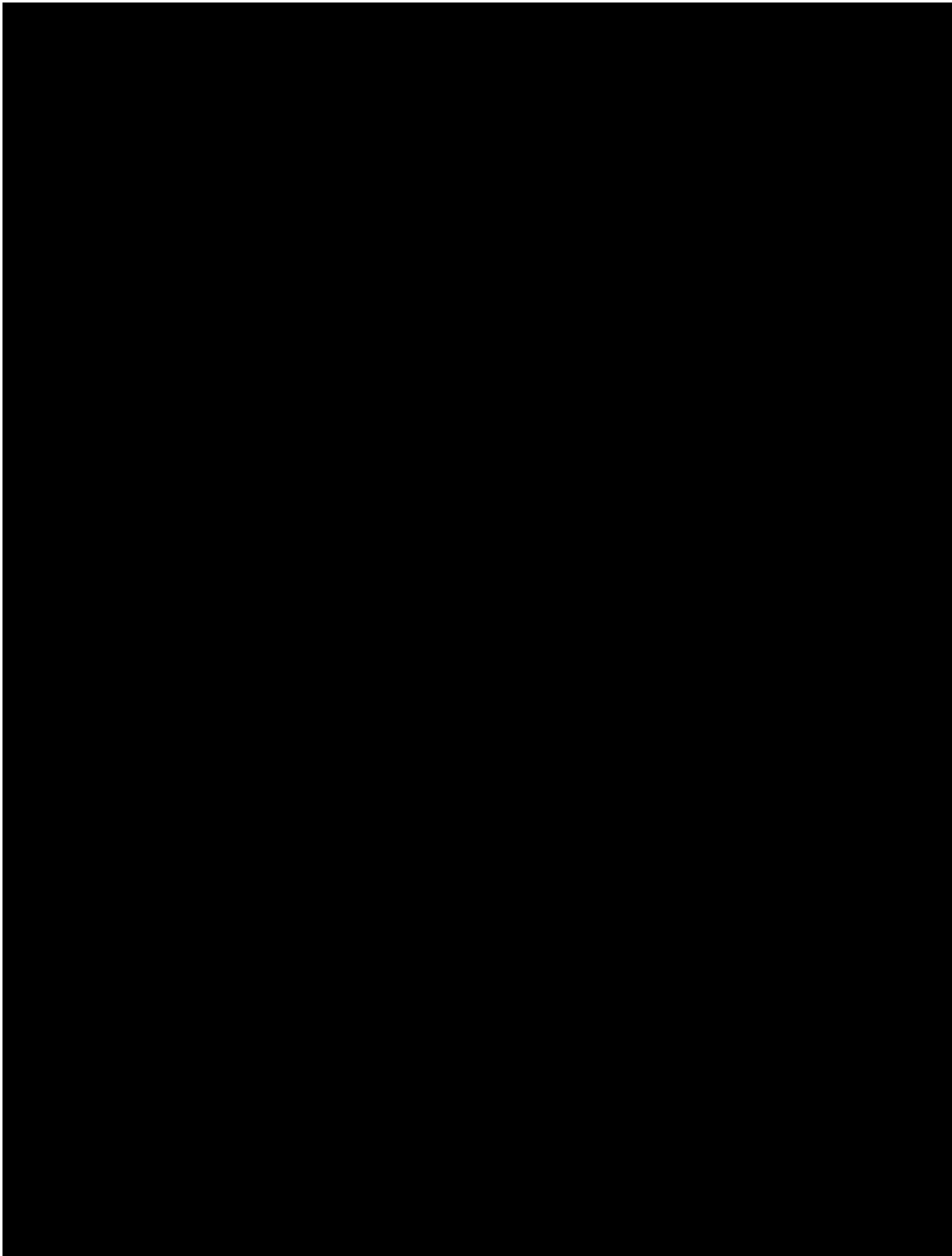
- 2.10.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final 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;
- 2.10.7 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
- 2.10.8 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.
- 2.11 The indemnity in Paragraph 2.10 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.

## Annex E1: List of Notified Subcontractors

### Key Subcontractor 1 – Poultry Health Services

- **Name (Registered Name):** Poultry Health Services (PHS), trading name of Westpoint Group Trading Limited
- **Registration Number:** 08833557
- **Role of Subcontractor:**







## Annex E2: Staffing Information

### EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor: [Insert name of Transferor]

Number of Employees in-scope to transfer: [     ]

#### **{Guidance notes**

- 1     *If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.***
- 2     *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.***
- 3     *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.]***

EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	DOB	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							
Emp No							

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

<b>Emp No</b>							
<b>ASSIGNMENT</b>	<b>CONTRACTUAL PAY AND BENEFITS</b>						
<b>% of working time dedicated to the provision of services under the contract</b>	<b>Salary (or hourly rate of pay)</b>	<b>Payment interval (weekly / fortnightly / monthly)</b>	<b>Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)</b>	<b>Pay review method</b>	<b>Frequency of pay reviews</b>	<b>Agreed pay increases</b>	<b>Next pay review date</b>
<b>CONTRACTUAL PAY AND BENEFITS</b>							

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

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. CSPS, 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						
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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						
	OTHER					
Details	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)

## Part A - Implementation Planning

### 1. Definitions

- 1.1 In this Schedule (both Part A and Part B), 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 (to the Buyer's satisfaction) 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>"Initial Delivery Period"</b>	means a period of three (3) Months beginning on the Start Date.

### 2. Agreeing and following the Implementation Plan

- 2.1 The Supplier shall provide to the Buyer a draft Implementation Plan no less than twenty (20) Days after the Effective Date, which shall include detail addressing those requirements listed at Annex A to this Schedule 8 (Implementation Plan) in full.
- 2.2 In addition to fulfilling the requirements set out in Annex A of this Schedule 8 (Implementation Plan), 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 (to the Buyer's satisfaction) 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 of this Schedule 8 (Implementation Plan), 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 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 Personnel have the necessary security clearance in place before the Start Date (including as required in accordance with Schedule 16 (Security) and Schedule 32 (Background Checks) respectively). The Supplier shall ensure that this is reflected in their Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Personnel and Sub-contractors do not access the Buyer's System, or any other IT systems of the Buyer, 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 Personnel and Sub-contractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Personnel and Sub-contractors 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 Personnel and Sub-contractors requiring access to the Buyer Premises and / or any Food Business Operator 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 Personnel or Sub-contractors 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. Implementation Plan**

- 6.1 The Implementation Period is the period from the Effective Date to the Start Date (the "**Implementation Period**").
- 6.2 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 (in respect of its provision of the Deliverables) shall formally be assumed on the Start Date as set out in Award Form.
- 6.3 In accordance with the Implementation Plan, the Supplier shall:
- 6.3.1 work cooperatively and in partnership with the Buyer and incumbent supplier, where applicable, to understand the scope of Deliverables to ensure a mutually beneficial handover of the Deliverables;
  - 6.3.2 work with the incumbent supplier and Buyer to assess the scope of the Deliverables and prepare a plan which demonstrates how they will mobilise provision of the Deliverables;
  - 6.3.3 liaise with the incumbent supplier to enable the full completion of the Implementation Period activities; and
  - 6.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 6.4 The Implementation Plan will include detail stating:
- 6.4.1 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
  - 6.4.2 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 Deliverables.

6.5 In addition, the Supplier shall:

6.5.1 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;

6.5.2 mobilise provision of all the Deliverables specified in the Specification within this Contract;

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

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

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.

6.5.4 manage and report progress against the Implementation Plan;

6.5.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;

6.5.6 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

6.5.7 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 A: Implementation Plan**

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









































## Part B – Initial Delivery Period

### 1. Initial Delivery Period

- 1.1 Without prejudice to the Supplier's other rights and remedies under this Contract (including pursuant to Schedule 10 (Service Levels)), the Parties agree that the Service Levels set out in Schedule 10 (Service Levels) shall apply to Supplier's provision of the Deliverables during the Initial Delivery Period, however, the Buyer shall not be entitled:
- a) to deduct any applicable Service Credits payable; and / or
  - b) invoke a Critical Service Level Failure,
- for any failure by the Supplier to meet the Service Level Performance Measure for any Service Level during that Initial Delivery Period only.
- 1.2 Notwithstanding Paragraph 1.1 of Part B of this Schedule 8 (Implementation Plan) above, the Parties agree that during the Initial Delivery Period:
- a) the Supplier's provision of the Deliverables shall be measured against the Service Level Performance Measures in accordance with Schedule 10 (Service Levels);
  - b) the Buyer shall share with the Supplier the Supplier Performance Monitoring Reports as required in accordance with Part B of Schedule 10 (Service Levels) (as applicable), to be shared with Supplier by Buyer at the Performance Review Meetings;
  - c) the Buyer's rights and remedies under Schedule 10 (Service Levels) shall otherwise apply (including, for the avoidance of doubt, Buyer's rights as set out at Paragraph 1.2.1 and 1.2.2 of Part A of Schedule 10 (Service Levels)).
- 1.3 Following expiry of the Initial Delivery Period and for the remaining Contract Period, the Parties agree that Schedule 10 (Service Levels) shall apply in its entirety.

# 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>"Action Plan"</b>	means an action plan to be prepared by the Supplier to address Service Level Failure(s) which shall be provided in substantially the form set out in Annex 1 to this Schedule 10 (Service Levels);
<b>"Contingency Zone"</b>	means the Supplier's staffing resources for a Lot have fallen by 25% of the total required staffing resources for the relevant Lot;
<b>"Critical Service Level Failure"</b>	where: <ul style="list-style-type: none"><li>a) Supplier's staffing resources have fallen into the Contingency Zone in respect of a Lot for three (3) consecutive Months; and/ or</li><li>b) where three (3) Major Impact scores have been awarded in relation to the same KPI for the same Lot for three (3) consecutive Months,</li></ul>
<b>"KPI"</b>	means the key performance indicators applicable to provision of the Deliverables under this Contract, as specified in Annex A to Part A of this Schedule 10 (Service Levels);
<b>"Lot Proforma"</b>	document which the Buyer shall prepare, and which shall record the performance of the Supplier as against Service Levels, and to detail any Service Credits which may be applicable;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of this Schedule 10 (Service Levels) as being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more KPIs;
<b>"Service Credit Cap"</b>	means five percent (5%) of the total Charges payable for a Contract Year;
<b>"Service Level Failure"</b>	means, in respect of a KPI, where Supplier's performance against that KPI in any given Month is deemed to have a Moderate Impact or Major Impact on a FBO Premises to which Supplier's performance relates;

<b>"Service Level Performance Measure"</b>	shall be as set out against the relevant KPI in the Annex to Part A of this Schedule 10 (Service Levels); 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 10 (Service Levels).
<b>Service Period</b>	means each Month of the Contract Period;

## 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 requirements for each Service Level as set out in Paragraph 2 of Annex A to this Schedule (**Service Level Requirements**).
- 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 10 (Service Levels) 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 Requirements.
- 2.3 The Buyer will share with the Supplier Performance Monitoring Reports detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule 10 (Service Levels).
- 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 Contract Year exceeded the Service Credit Cap; and/or
  - 2.4.2 the Service Level Failure:
    - (a) has arisen due to a Prohibited Act or wilful Default by the Supplier;
    - (b) results in the corruption or loss of any Government Data; and/or
    - (c) 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 Service Level Requirements 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 cause or causes a Service Failure to occur; 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 invoke the Step-In Process (pursuant to Clause 13 of the Core Terms) or terminate for Material Default and the consequences of termination in Clause 14.5.1 of the Core Terms shall apply).

## **2. Service Credits**

2.1 The Buyer shall use the Performance Monitoring Reports to calculate 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 Buyer shall recover the value of any the Service Credits manually from the Supplier in accordance with the Self-Billing Agreement.

# Annex A to Part A: Service Levels and Service Credits Table

## 1. Service Levels – Overview

1.1 The Parties agree that the Supplier's performance in its provision of the Deliverables (including, Delivery of Meat Official Controls) is measured at 3 levels:

1.1.1 FBO Premises level: to identify trends at a local level;

1.1.2 Lot level: to analyse delivery and trends at a Lot level (such Lot, in each case, corresponding to an Area, in which the Supplier is required to provide the Services);

1.1.3 Strategic level: to analyse Supplier performance against strategic obligations in the Contract obligations.

## 2. Service Level Requirements

### FBO Premises and Territory Level

2.1 The following Service Levels shall be applicable, and performance against these Service Levels (and each KPI as applicable) shall be measured, on a FBO Premises and Territory level basis:

#### 2.1.1 Service Level: Resourcing

a) **KPI:** Deliverable / Service provision – the availability and attendance of Supplier Personnel to deliver the Deliverables, including in accordance with agreed notice periods set out in Schedule 2 (Specification).

b) **KPI:** Stability of workforce – Delivery of Deliverables (including Services) against Schedule 4 (Tender).

#### 2.1.2 Service Level: Supplier Operational Reporting

a) **KPI:** Reporting to required standard within required timescales - assessment of Supplier performance to report to the required standard and within required timescales as set out in this Contract. Reporting requirements are set out in the Specification, this Schedule 10 (Service Levels) and Schedule 13 (Contract Management). Timesheet errors (arising from Supplier's non-compliance with time-recording obligations as set out in Schedule 2 (Specification)) and VEDM team feedback shall be assessed against this Service Level.

#### 2.1.3 Service Level: Delivery of Meat Official Controls and Activities

a) **KPI:** Inspection - Assessment of Supplier that the statutory inspections and activities required as part of Delivery of Meat Official Controls are carried out in compliance with Law and that Supplier takes appropriate action as required.

- b) **KPI:** Hygiene - Assessment of Supplier in having an appropriate impact on the FBO controls and ensuring verification and taking appropriate action as required.
- c) **KPI:** Guidance and instructions - Assessment of Supplier's provision of Delivery of Meat Official Controls in accordance with Law, MOC and any other guidance and specifications applicable and as set out in this Contract, including SLA and MOU requirements on behalf of Other Government Departments.

#### 2.1.4 Service Level: People

- a) **KPI:** Policies and procedures - alignment of provision of Deliverables (including Services) to Buyer's policies and procedures such as Health and Safety and HR policies.
- b) **KPI:** Capability – assessment of the Supplier to ensure that qualified and competent Supplier Personnel are provided to deliver requirements the Contract, including the individual capability to deliver the Deliverables (including the Services) to match the risk profile and operational requirements of a Food Business Operator Premises. Factors that increase the complexity of the Food Business Operator Premises are as set out at Paragraph 3.8 of Schedule 2 (Specification) The Buyer may require the Supplier to provide evidence of qualification and training of Supplier Personnel in accordance with the requirements set out in Schedule 2 (Specification).

#### 2.1.5 Service Level: Social Value

- a) **KPI:** **[Progression of Supplier Personnel]**

### Strategic Level

2.2 The Supplier's provision of the Deliverables (including the Services) shall also be measured at strategic level, as against the strategic objectives set out in the table below:

Strategic Performance Review		
<b>Delivery Certainty</b>	<b>Supplier Resilience</b>	<b>Affordability/Value For Money</b>
Delivery of Meat Official Controls	Service Provision	Cost vs Budget
Capability	Stability of Workforce	Pricing variations
	Social Value	
Benchmarking performance and value across suppliers		

2.3 The Parties agree that the following detail shall apply to the Service Levels listed in this Paragraph 2 of Annex A:



Service Levels					
Service Level Performance Criterion	Key Performance Indicator	Service Level Performance Measure	Service Level Threshold	Service Credit for each Service Period	Publishable KPI
Resourcing	Deliverables / Service Provision	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	Yes
Resourcing	Stability of Workforce	TBA	TBA	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	No
Supplier Operational Reporting	Reporting to the required standard within required timescales	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	No
Delivery of Meat Official Controls and Activities	Inspection	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	Yes
Delivery of Meat Official Controls and Activities	Hygiene	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	Yes

Service Levels					
Service Level Performance Criterion	Key Performance Indicator	Service Level Performance Measure	Service Level Threshold	Service Credit for each Service Period	Publishable KPI
<b>Delivery of Meat Official Controls and Activities</b>	Guidance and Instructions	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	No
<b>People</b>	Policies and Procedures	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	No
<b>People</b>	Capability	>97% is required standard.	Red <95% Amber 95 to 97% Green >97%	0.1% Service Credit accrues for each Moderate Impact caused  0.25% Service Credit accrues for each Major Impact caused	No
<b>Social Value</b>	Progression of Staff	TBA	TBA	0%	Yes

### 3. Measuring Service Level Performance – Publishing Requirements

- 3.1 The Supplier acknowledges that the Buyer is required by Government to publish performance of the Supplier against certain specific KPIs set out in this Schedule 10 (Service Levels), in line with Government policy – see [Key Performance Indicators \(KPIs\) for government's most important contracts \("KPI Policy"\)](#). Those specific KPIs against which Supplier is required to publish the Supplier's performance are indicated in the table at Paragraph 2 above.
- 3.2 For the purpose of Buyer's compliance with the KPI Policy and Paragraph 3.1 above, the Supplier's performance in relation to the Service Levels shall be measured against the Service Level Performance Thresholds set out in the table at Paragraph 2. The Service Level Performance Thresholds align to those cross-government thresholds set out in the KPI Policy. For the purpose of this Contract:

3.2.1 the Service Level Performance Thresholds are Red = <95%, Amber = 95 to 97%, Green >97%;

3.2.2 each 0.1% awarded as a Service Credit in respect of Supplier's performance against a KPI in any given Month, represents a 1% reduction in the Supplier's performance score against the relevant Service Level Performance Measure applicable to that KPI in the same Month. See worked example below:

*Where a 0.1% Service Credit is applied in relation to Supplier's performance in respect of a KPI in a particular Month, Supplier's performance in relation to that KPI would equal a score of 99% for that Month.*

*Where a 0.2% Service Credit is applied in relation to Supplier's performance in respect of a KPI in a particular Month, Supplier's performance in relation to that KPI would equal a score of 98% for that Month.*

3.3 The Buyer shall measure the Supplier's performance against the Service Level Performance Thresholds (which shall be aggregated to Lot level) on a Monthly basis and publish such performance on a Quarterly basis.

3.4 The Parties agree that applicability of Service Credits (or otherwise) in relation to Supplier's performance against a Service Level:

3.4.1 shall not be measured or calculated by reference to the Service Level Performance Threshold or Service Level Performance Measure;  
and

3.4.2 shall be calculated in accordance with Paragraphs 4 and 5 below.

#### **4. Measuring Service Level Performance – Service Credits**

4.1 For the purpose of calculating Service Credits due under this Schedule 10 (Service Levels), the Supplier's performance in respect of each Service Level shall be measured and recorded by the Buyer on a FBO Premises by FBO Premises basis, using robust and evidence-based information including root cause analysis.

4.2 The Supplier's performance in respect of each Service Level shall be deemed to deviate from the relevant Service Level Requirements for that Service Level where Supplier's performance against such Service Level causes a Minor Impact, Moderate Impact or Major Impact on a FBO Premises. Description of a Minor Impact, Moderate Impact and Major Impact (in each case) is set out the Impact Table below.

4.3 The Buyer's assessment as to whether the Supplier's performance against a Service Level has caused a Minor, Moderate or Major Impact on a FBO Premises shall consider impact of Supplier's performance on:

4.3.1 relevant Food Business Operator's business (to which Supplier's performance relates);

4.3.2 workload of the Buyer Personnel;

4.3.3 Buyer's local and corporate reputation;

4.3.4 public health assurance.



4.4 Where Supplier's performance against a Service Level is deemed to cause a Minor Impact, Moderate Impact or Major Impact on a FBO Premises, such impact shall be recorded on the Lot Proforma on a FBO Premises level basis.

4.5 The Buyer shall prepare a Lot Proforma in relation to each Minor Impact, Moderate Impact and / or Major Impact recorded in a given Month and share the relevant Lot Proforma(s) with the Supplier ahead of each Monthly Contract Performance Management Meeting (as applicable)). The Supplier shall ensure that each Lot Proforma is populated with corrective and preventative actions in relation to each Minor Impact, Moderate Impact and / or Major Impact to which the Lot Proforma relates, ahead of the relevant Contract Performance Management Meeting.

IMPACT TABLE		
Impact Level	Impact Description	Service Credit Applicable
Minor Impact	<ul style="list-style-type: none"> <li>Evidence of minimal or no impact on FBO processing and no additional costs as a result</li> <li>Evidence of minimal or no impact on FSA team workload</li> <li>Evidence of minimal or no impact on FSA local or corporate reputation</li> <li>Evidence of minimal or no risk public health</li> </ul>	None
Moderate Impact	<ul style="list-style-type: none"> <li>Evidence of delays/prevention of FBO processing resulting in additional cost and Moderate inconvenience.</li> <li>Evidence of moderate increase in FSA team workload as a result</li> <li>Evidence of moderate negative impact on FSA local or corporate reputation</li> <li>Evidence of moderate risk to public health</li> </ul>	0.1% of the total Charges invoiced for the Month for which the Moderate Impact relates
Major Impact	<ul style="list-style-type: none"> <li>Evidence of delays/ prevention of FBO from operating resulting in significant cost and inconvenience.</li> <li>Evidence of significant increase in FSA team workload as a result.</li> <li>Evidence of significant negative impact to FSA local or corporate reputation</li> <li>Evidence of significant risk to public health</li> </ul>	0.25% of total Charges invoiced for the Month to which the Major Impact relates

## 5. Calculating Service Credits

5.1 The Service Credits shall be applied on the following basis:

5.1.1 where Supplier's performance against a KPI has been deemed to have a Moderate Impact on a FBO Premises in any Month during the Contract Period, the Buyer shall be entitled to a Service Credit of 0.1% of the total Charges invoiced for the Month for which the Moderate Impact relates;

5.1.2 where Supplier's performance against a KPI has been deemed to have a Major Impact on a FBO Premises in any Month during the Contract Period, the Buyer shall be entitled to a Service Credit of

0.25% of total Charges invoiced for the Month to which the Major Impact relates.

5.2 The Buyer shall be entitled to apply Service Credits in relation to Supplier's performance against a KPI once per FBO Premises, per Month, during the Contract Period. For the avoidance of doubt, Supplier cannot be found to have caused a Moderate Impact and a Major Impact for its performance against a KPI in respect of a FBO Premises in the same Month.

5.3 Where a Minor Impact, Moderate Impact and / or Major Impact is identified as having occurred in a Month other than the Month in which the relevant Minor Impact, Moderate Impact and / or Major Impact occurred, that Minor Impact, Moderate Impact and / or Major Impact shall be deemed to have occurred in the Month in which it was identified (and any Service Credits owing as a result shall be applied accordingly).

## **6. Supplier's Obligations**

6.1 Notwithstanding Buyer's rights and remedies as set out in Paragraph 1 of Part A of this Annex 1, where Buyer informs Supplier of a Minor Impact, Moderate Impact or Major Impact in relation to any KPI, the Supplier shall work with the Buyer resolve the underlying cause of such failure and prevent re-occurrence.

6.2 The Supplier shall be required to produce an Action Plan in respect of every Minor Impact, Moderate Impact and Major Impact recorded within the Month that the relevant Minor Impact, Moderate Impact and / or Major Impact occurred. Where an impact reoccurs in relation to a Lot (and therefore corresponding Area) in two (2) consecutive Months during the Contract Period, within thirty (30) Days of the Contract Performance Management Meeting in which it is requested by the Buyer, the Supplier shall be required to prepare an overarching Action Plan to address relevant failure.

## Part B: Performance Monitoring

### 1. Performance Monitoring and Performance Review

- 1.1 From the Start Date, and in respect of any given Month in the Contract Period, the Parties shall adhere to the following contract management timeline ("**Contract Management Timeline**") in relation to monitoring of Supplier's performance against the Service Levels:
  - 1.1.1 Week 1 of each Month: by the 10<sup>th</sup> Calendar Day of each Month, the Supplier shall have completed management checks on any data provided to it in the Buyer's systems in relation to performance against Service Levels in the previous Month;
  - 1.1.2 Week 2 of each Month: by the 14<sup>th</sup> Calendar Day of each Month, the Supplier shall have completed self-reporting against the Service Levels in relation to its performance against the Service Levels in the previous Month, along with review and completion of the Buyer's contract management proforma;
  - 1.1.3 Week 3 of each Month: Area Management Team Meeting shall take place during which Supplier's performance against Service Levels in the previous Month is discussed and scored against relevant requirements applicable to Service Levels, and Supplier Action Plan from the previous Month is agreed.
  - 1.1.4 Week 4 of each Month: Contract Performance Management Meeting held to discuss Supplier's performance against Service Levels in the previous Month, review Action Plan(s) and to ratify performance scores and Service Credits.
- 1.2 Any proposed deviation from the Contract Management Timeline will be discussed and agreed between the Parties in advance at a National Contract / Supplier Meetings (details of which are set out in Schedule 13 (Contract Management)).
- 1.3 The Buyer shall provide the Supplier with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed as part of the Contract Management Timeline which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
  - 1.3.1 for each Service Level (including each KPI), the actual performance achieved over the Service Level for the relevant Service Period;
  - 1.3.2 a summary of all failures to achieve Service Levels (including each KPI) that occurred during that Service Period;
  - 1.3.3 details of any Critical Service Level Failures;
  - 1.3.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 1.3.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Level(s) (including KPI(s)) to which the Service Credits relate.

- 1.4 The Parties shall attend the Contract Performance Management Meetings to discuss the Performance Monitoring Reports on a Monthly basis. In addition to the requirements set out in Schedule 13 (Governance), the Contract Performance Management Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports and shall:
  - 1.4.1 take place as per the contract management timeline set out Paragraph 1 of Part B of this Schedule 10 (Service Levels) above;
  - 1.4.2 be attended by the Supplier Authorised Representative and the Buyer Authorised Representative; and
  - 1.4.3 be fully minuted by the Buyer and the minutes will be circulated by the Buyer to all attendees at the relevant meeting and also to the Supplier Authorised Representative and any other recipients agreed at the relevant meeting.
- 1.5 The minutes of the preceding Month's Contract Performance Management Meetings will be agreed and signed by both the Supplier Authorised Representative and the Buyer Authorised Representative at each meeting.
- 1.6 The Buyer shall provide to the Supplier such documentation as the Supplier may reasonably require in order to agree 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**

- 2.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables at a frequency to be determined ("**Satisfaction Surveys**"). 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 (which may reference feedback from Supplier on Food Business Operators and / or feedback from Food Business Operators on Supplier and / or Buyer).

## **3. Management Information**

- 3.1 The Parties agree that the management information which the Buyer may consider as part of the Supplier's overall performance management (including as part of any Satisfaction Surveys, Contract Performance Management Meetings or in accordance with any aspect of Schedule 13 (Contract Management)) shall include (but is not limited to):
  - 3.1.1 FSADOC Lot Proforma;
  - 3.1.2 Supplier Self Reporting Information;
  - 3.1.3 Timesheet Reports;
  - 3.1.4 Field Veterinary Coordinator Assurance Visit Reports;
  - 3.1.5 FSA FBO Audits where feedback on OV and MHI performance is provided;
  - 3.1.6 Welfare Assurance Team (WAT) visit reports where feedback on OV and MHI performance is provided;

3.1.7 Veterinary Enforcement Decision Team feedback;

3.1.8 in relation to Social Value Service Level:

- a) recruitment, retention and progression strategies;
- b) mitigations to minimise the impact of attrition and progression on workforce numbers,

and the Parties agree that this list is non-exhaustive.



# **ANNEX 1: ACTION PLAN TEMPLATE**

**Lot:**

**Action Plan Date:**

**KPI:**

**Impact Level:**

**Root Cause of Deviation:**

**Corrective action:**

**Preventative action:**

**Action Plan Signed Off by FSA:**

# 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 of this Schedule 11 (Continuous Improvement), 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 twelve (12) Months following the Start 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 of this Schedule 11 (Continuous Improvement):
- 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 of this Schedule 11 (Continuous Improvement).
- 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. Where such proposal is made, the Parties shall use the gainshare proposal at Annex 11 of Schedule 2 (Specification) as a basis for such discussions on gainshare (although Parties may agree an alternative gainshare proposal to the extent the proposal at Annex 11 is deemed inappropriate by the Parties). 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 12 (Benchmarking)

## 1. DEFINITIONS

1.1 In this Schedule, the following expressions shall have the following meanings:

<b>"Benchmark Review"</b>	a review of the Deliverables carried out in accordance with this Schedule 12 (Benchmarking) to determine whether those Deliverables represent Good Value;
<b>"Benchmarked Deliverables"</b>	any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule 12 (Benchmarking);
<b>"Comparable Rates"</b>	the Charges for Comparable Deliverables;
<b>"Comparable Deliverables"</b>	deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark;
<b>"Comparison Group"</b>	a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations;
<b>"Equivalent Data"</b>	data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;
<b>"Good Value"</b>	that the Benchmarked Rates are within the Upper Quartile; and
<b>"Upper Quartile"</b>	in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables.

## **2. WHEN YOU SHOULD USE THIS SCHEDULE**

- 2.1 The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
- 2.2 This Schedule 12 (Benchmarking) sets out to ensure the Contract represents value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraph 3 of this Schedule 12 (Benchmarking), in which case the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.
- 2.3 Amounts payable under this Schedule 12 (Benchmarking) shall not fall with the definition of a Cost.

## **3. BENCHMARKING**

### **3.1 How benchmarking works**

- 3.1.1 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
- 3.1.2 The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Start Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.3 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
- 3.1.4 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
- 3.1.5 Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) Days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.6 The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Buyer and the relevant portion shall be reimbursed by the Supplier.

## 3.2 Benchmarking Process

- 3.2.1 The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:
- a) a proposed cost and timetable for the Benchmark Review;
  - b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
  - c) a description of how the benchmarker will scope and identify the Comparison Group.
- 3.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
- 3.2.3 The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 of this Schedule 12 (Benchmarking) shall apply to any amended draft plan.
- 3.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.
- 3.2.5 Once it has received the Approval of the draft plan, the benchmarker shall:
- a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the benchmarker's professional judgment using:
    - (i) information from other service providers to the Buyer;
    - (ii) survey information;
    - (iii) information from "in-house" providers to the Buyer to the extent that the benchmarker considers that they are valid comparators;
    - (iv) market intelligence;
    - (v) the benchmarker's own data and experience;
    - (vi) relevant published information; and
    - (vii) pursuant to Paragraph 3.2.6 of this Schedule 12 (Benchmarking) below, information from other suppliers or purchasers on Comparable Rates;

- b) by applying the adjustment factors listed in Paragraph 3.2.7 of this Schedule 12 (Benchmarking) and from an analysis of the Comparable Rates, derive the Equivalent Data;
  - c) using the Equivalent Data, calculate the Upper Quartile; and
  - d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 3.2.6 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
- 3.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
- a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
  - b) exchange rates;
  - c) any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

### **Benchmarking Report**

- 3.3.1 For the purposes of this Schedule 12 (Benchmarking) **"Benchmarking Report"** shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule 12 (Benchmarking);
- 3.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
- c) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
  - d) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
  - e) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.

- 3.3.3. The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 28 of the Core Terms (Changing the contract).



# 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 Manager”</b>	the manager appointed for each Party respectively, in accordance with Paragraph 2.1 of this Schedule 13 (Contract Management), and as shall be identified in accordance with Schedule 29 (Key Supplier Staff);
<b>"Operational Board"</b>	the board established in accordance with Paragraph 4.1 of this Schedule 13 (Contract Management);
<b>“Open Book Contract Management”</b>	is the scrutiny of a Supplier's costs and margins through the reporting or accessing of Supplier's accounting data.

## 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 board specified as set out in Part 1 of Annex 1 to this Schedule 13 (Contract Management).
- 2.4 The Parties agree to attend those governance meetings as set out in Part 2 of Annex 1 to this Schedule 13 (Contract Management).

## 3. Role of the Supplier Contract Manager

- 3.1 The Supplier's 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 their 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 themselves; 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 regard 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 Board**

4.1 The Operational Board 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 Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex 1 to this Schedule 13 (Contract Management).

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 Board 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 Board meetings will be to review the Supplier's performance under this Contract. 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 project 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.

## **6. Open Book Contract Management**

6.1 The Supplier shall comply with its obligations in relation to open book accounting as set out at Clause 6.12 to 6.17 of the Core Terms.

6.2 The Supplier acknowledges that this Contract has been determined to be "Tier 4" for the purpose of the [CCS Open Book Contract Management Guidance](#), due to the sensitive nature of the Contract, and therefore, Open Book Contract Management shall apply to this Contract, and the tools used to manage this Contract in relation to Open Book Contract Management shall be as set out in (and deployed in accordance with) the [CCS Open Book Contract Management Guidance](#).

6.3 The Supplier acknowledges that the application model of Open Book Contract Management for Tier 4 contracts as set out in the [CCS Open Book Contract Management Guidance](#) is a "partner" approach (as described at Section 5 OBCM Tiers, Decision Tool, Page 14 and that such model shall be applied to Open Book Contract Management for this Contract.

6.4 The tools that will be used in Open Book Contract Management for this Contract (as further detailed in the CCS Open Book Contract Management Guidance) include:

6.4.1 Commercial Optimisation Reviews (details of which are set out at Annex 1 to this Schedule 13 (Contract Management)) – which shall support Buyer-Supplier collaboration. Commercial Optimisation Reviews shall be used (without limitation) to discuss costs associated with service delivery (and financial information in support of the same). Further detail as to purpose, attendees and frequency of Commercial Optimisation Reviews as required for this Contract are set out at Annex 1 of this Schedule 13 (Contract Management).

6.4.2 Control Protocols – which shall require the Supplier to detail the source of the information used to produce the financial information discussed in the Commercial Optimisation Reviews. This information will be set out in the narrative column of the Financial Workbook, an updated copy of which the Supplier shall provide to the Buyer on a Monthly basis, in the form set out at Annex 2 to this Schedule 13 (Contract Management).

6.4.3 Supply Cost Model – Should Cost Model

6.4.4 Performance Data – Performance against Service Levels

6.4.5 Invoice Charges

## Annex 1:

### Part 1 - Operational Board

The Parties agree to operate the Operational Board for the purpose and at the frequencies set out below, and ensure the relevant attendees (as applicable) are present for Operational Board (as required):

**Purpose:** The Parties agree that the purpose of the Operational Board shall be to review the performance of the Supplier in accordance with the Contract, including in respect of its financial and operational hours forecasting, and to identify emerging risks and discuss risk management undertaken by both Buyer and the Supplier in the context of the Contract. Meetings of the Operational Board shall also include assessment and data from Contract Performance Management Meetings, status from Commercial Optimisation Review Meetings and scoring of strategic KPIs. Escalation of disputes at Contract Performance Management Meetings will also be discussed at meetings of the Operational Board and outcome captured in the minutes of the meeting.

**Attendees:** Buyer directors, Buyer senior management and Supplier senior management (including Key Staff, if required) and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Quarterly throughout the Contract Period, incorporating the Annual Review (on a Contract Year basis).

### Part 2 - FSADOC Governance Meetings

As well as the Operational Board, the Parties shall be required to attend the following meetings during the Contract Period:

#### **"Annual Review"**

**Purpose:** Annual reviews will be conducted in two parts – (i) a retrospective, looking back at all aspects of delivery (performance and financial) of the Contract for the previous Contract Year; and (ii) a forward look to the next Contract Year to identify changes on the horizon, innovation opportunities and emerging risks. During this meeting the Parties will also:

- discuss any proposed adjustment to the Charges requested by either Party in accordance with Paragraph 4 of Schedule 3 (Charges) (which shall be agreed in line with the Variation Procedure);
- review strategic objectives of the Buyer and the relationship management between the Buyer and the Supplier.

**Attendees:** as per attendee requirements for the Operational Board.

**Frequency:** on an annual basis (one per Service Year, throughout the Contract Period).

### **"Operational Delivery Meetings"**

**Purpose:** To discuss operational and performance issues as well as emerging risks in a timely manner. Supplier to provide updates to Buyer on a FBO Premises by FBO Premises basis (in respect of relevant Lot).

**Attendees:** Buyer Field Management Group (FMG) and Supplier senior operational management team (including Key Staff, if required) and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Minimum fortnightly throughout the Contract Period.

### **"National Contract / Supplier Meetings"**

**Purpose:** To discuss contractual, performance and financial issues in a timely manner.

**Attendees:** Buyer national contract team and Supplier senior management team (including Key Staff, if required) and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Weekly throughout the Contract Period

### **"Area Management Team Meetings" with Supplier Performance Agenda Item**

**Purpose:** Detailed discussion of the performance of the Supplier for the previous Month with proposal on the performance scoring ahead of the Contract Performance Management Meeting for the relevant Month per [Lot] or aggregated Lots.

**Attendees:** Buyer local operational management team (Area Manager/Field Veterinary Coordinator) and Supplier operational management team, and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Monthly throughout the Contract Period

### **"Contract Performance Management Meetings"**

**Purpose:** high level discussion of Supplier performance, review of action plans to rectify issues, agreement of performance scoring and application of Service Credits – using data from Area Management Team Meetings (as applicable).

**Attendees:** FSA Field Management Group (Head of Operational Delivery/ Operations Manager/ Field Veterinary Lead, Supplier senior operational management team (including Key Staff, if required) and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Monthly throughout the Contract Period

### **"Commercial Optimisation Review" or ("Supplier Finance Meetings")**

**Purpose:** To review the Monthly financial and forecast position of the Supplier in the agreed row sets of the Financial Workbook. Data to be provided to Buyer a minimum of 2 Working Days before the relevant meeting date.

**Attendees:** Buyer senior finance management team, Buyer commercial team, Buyer national contract team, Supplier finance team (including Key Staff, if required), and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

**Frequency:** Monthly throughout the Contract Period

### **"Supplier Partnership Engagement Group Meeting"**

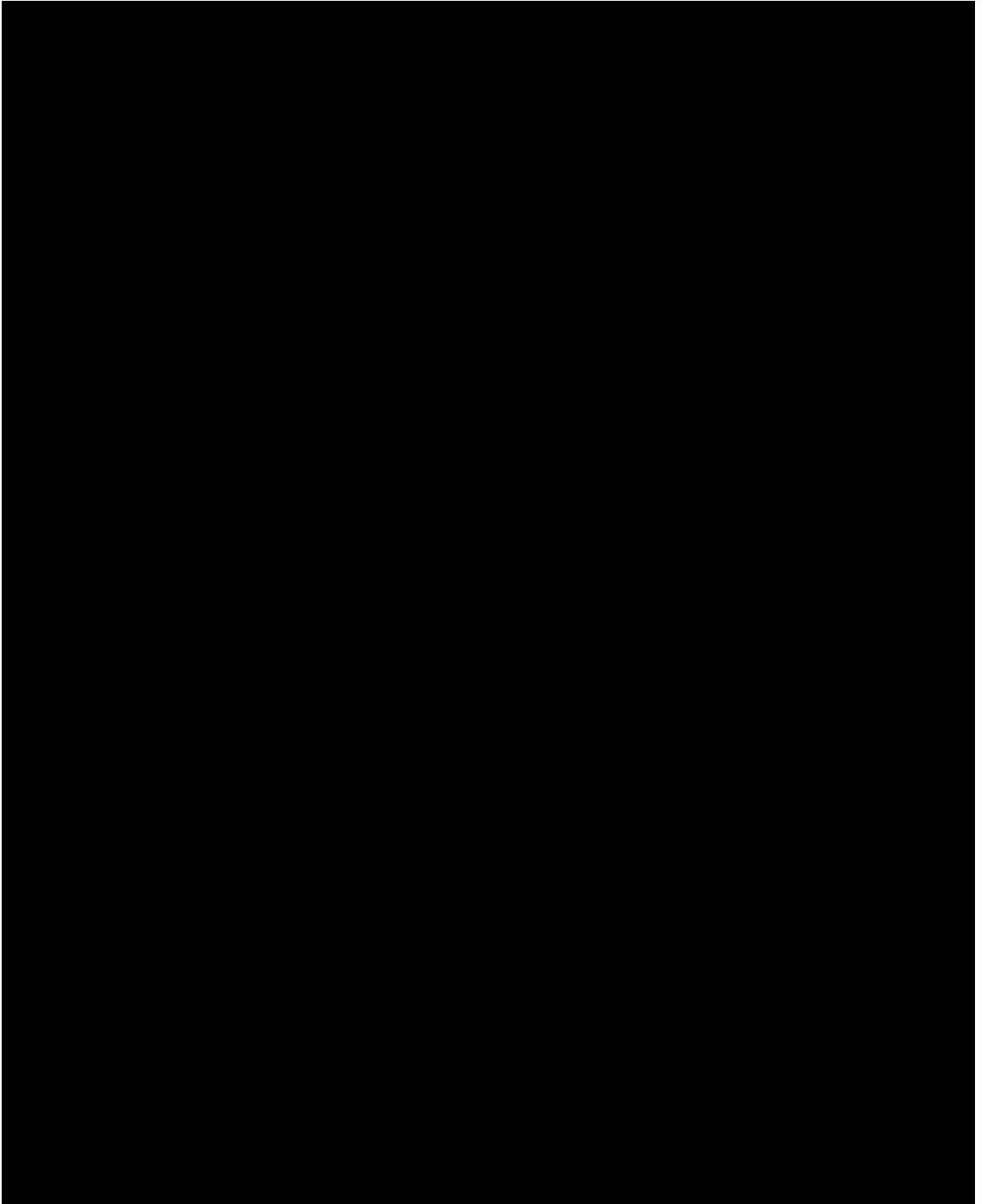
**Purpose:** national operational and technical issues; engagement and integration with Buyer senior management

**Attendees:** FSA Head of Field Operations, FSA Head of Operations Assurance and Excellence, FSA National Contract Team, representatives from all Suppliers including the senior technical leads (including Key Staff, if required).

**Frequency:** Quarterly throughout the Contract Period, and any additional persons whom the Buyer considers (in its sole discretion) shall be required.

## ANNEX 2:

### TEMPLATE FINANCIAL WORKBOOK

























## 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):

<b>"BCDR Plan"</b>	has the meaning given to it in Paragraph 2.1 of this Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Business Continuity Plan"</b>	has the meaning given to it in Paragraph 2.2.2 of this Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Disaster Recovery Plan"</b>	has the meaning given to it in Paragraph 2.2.3 of this Schedule 14 (Business Continuity and Disaster Recovery);
<b>"Related Supplier"</b>	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
<b>"Review Report"</b>	has the meaning given to it in Paragraph 6.3 of this Schedule 14 (Business Continuity and Disaster Recovery); and
<b>"Supplier's Proposals"</b>	has the meaning given to it in Paragraph 6.3 of this Schedule 14 (Business Continuity and Disaster Recovery),

### 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 14 (Business Continuity and Disaster Recovery); 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 of this Schedule 14 (Business Continuity and Disaster Recovery); 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 14 (Business Continuity and Disaster Recovery) 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 of this Schedule 14 (Business Continuity and Disaster Recovery) 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 of the Core Terms (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 14 (Business Continuity and Disaster Recovery).

## Schedule 16 (Security)

### 1. Buyer Options

#### 1.1 Risk assessment

The Buyer has assessed this Contract as	a standard consultancy agreement	<input type="checkbox"/>
	a higher-risk consultancy agreement	<input checked="" type="checkbox"/>

1.2 Where the Buyer has assessed this Contract as a higher-risk consultancy agreement, the Supplier must comply with all requirements in this Schedule 16 (Security).

### 2. Definitions

In this Schedule 16 (Security):

<b>“Anti-virus Software”</b>	means software that: <ul style="list-style-type: none"><li>a) protects the Supplier Information Management System from the possible introduction of Malicious Software;</li><li>b) scans for and identifies possible Malicious Software in the Supplier Information Management System;</li><li>c) if Malicious Software is detected in the Supplier Information Management System, so far as possible:<ul style="list-style-type: none"><li>i) prevents the harmful effects of the Malicious Software; and</li><li>ii) removes the Malicious Software from the Supplier Information Management System.</li></ul></li></ul>
<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 Services and / or Deliverables, the Buyer Premises, the Sites, the Supplier Information Management System and/or any information or data used by the Buyer, the Supplier or any Sub-contractor in connection with this Contract;</li><li>b) the loss (physical or otherwise) and/or unauthorised disclosure of any information or data, including copies of such information or data, used by the Buyer, the Supplier or any Sub-contractor in connection with this Contract; and/or</li></ul>



	c) any part of the Supplier Information Management System ceasing to be compliant with the Certification Requirements.
<b>“Buyer Data”</b>	<p>means any:</p> <ul style="list-style-type: none"> <li>a) data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media; or</li> <li>b) Personal Data for which the Buyer is a, or the, Data Controller,</li> </ul> <p>that is:</p> <ul style="list-style-type: none"> <li>i) supplied to the Supplier by or on behalf of the Buyer; or</li> <li>ii) that the Supplier generates, processes, stores or transmits under this Contract.</li> </ul>
<b>“Buyer Equipment”</b>	means any hardware, computer or telecoms devices, and equipment that forms part of the Buyer System.
<b>“Buyer System”</b>	means the information and communications technology system used by the Buyer to interface with the Supplier Information Management System or through which the Buyer receives the Services and / or Deliverables.
<b>“Certification Default”</b>	means the occurrence of one or more of the circumstances listed in Paragraph 6.3 of this Schedule 16 (Security).
<b>“Certification Rectification Plan”</b>	means the plan referred to in Paragraph 6.4(a) of this Schedule 16 (Security).
<b>“Certification Requirements”</b>	means the information security requirements set out in Paragraph 6 of this Schedule 16 (Security).
<b>“Cyber Essentials Plus”</b>	means the Cyber Essentials Plus certificate issued under the Cyber Essentials Scheme.
<b>“Cyber Essentials Scheme”</b>	means the Cyber Essentials scheme operated by the National Cyber Security Centre.
<b>“End-user Device”</b>	means any personal computers, laptops, tablets, terminals, smartphones or other portable electronic device used in the provision of the Services and / or Deliverables.
<b>“HMG Baseline Personnel Security Standard”</b>	<p>means the employment controls applied to any individual member of the Supplier Personnel that performs any activity relating to the provision or management of the Services and / or Deliverables, as set out in “HMG Baseline Personnel Standard”, Version 6.0, May 2018</p> <p><a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf</a>), as that document is updated from time to time.</p>

<b>“Malicious Software”</b>	means any software program or code intended to destroy, interfere with, corrupt, remove, transmit or cause undesired effects on program files, data or other information, executable code, applications, macros or configurations, 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>“NCSC Cloud Security Principles”</b>	means the National Cyber Security Centre’s document “Implementing the Cloud Security Principles” as updated or replaced from time to time and found at <a href="https://www.ncsc.gov.uk/collection/cloud-security/implementing-the-cloud-security-principles">https://www.ncsc.gov.uk/collection/cloud-security/implementing-the-cloud-security-principles</a> .
<b>“NCSC Device Guidance”</b>	means the National Cyber Security Centre’s document “Device Security Guidance”, as updated or replaced from time to time and found at <a href="https://www.ncsc.gov.uk/collection/device-security-guidance">https://www.ncsc.gov.uk/collection/device-security-guidance</a> .
<b>“Privileged User”</b>	means a user with system administration access to the Supplier Information Management System, or substantially similar access privileges.
<b>“Process”</b>	means any operation performed on data, whether or not by automated means, including collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of that data.
<b>“Prohibited Activity”</b>	means the storage, access or Processing of Buyer Data prohibited by a Prohibition Notice.
<b>“Prohibition Notice”</b>	means a notice issued under Paragraph 1.3 of Appendix 1 of this Schedule 16 (Security).
<b>“Relevant Certifications”</b>	means those certifications specified in Paragraph 6.1 of this Schedule 16 (Security).
<b>“Relevant Convictions”</b>	means any previous or pending prosecution, conviction or caution (excluding any spent conviction under the Rehabilitation of Offenders Act 1974) relating to offences involving dishonesty, terrorism, immigration, firearms, fraud, forgery, tax evasion, offences against people (including sexual offences), or any other offences relevant to Services and / or Deliverables as the Buyer may specify.
<b>“Security Management Plan”</b>	means the document prepared in accordance with the requirements of Paragraph 7.
<b>“Sites”</b>	means any premises: a) from or at which: i) the Services and / or Deliverables are (or are to be) provided; or ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services and / or Deliverables; or

	b) where: <ul style="list-style-type: none"> <li>i) any part of the Supplier Information Management System is situated; or</li> <li>ii) any physical interface with the Buyer System takes place.</li> </ul>
<b>“Supplier Information Management System”</b>	means: <ul style="list-style-type: none"> <li>a) those parts of the information and communications technology system and the Sites that the Supplier or its Sub-contractors will use to provide the Services and / or Deliverables; and</li> <li>b) the associated information assets and systems (including organisational structure, controls, policies, practices, procedures, processes and resources);</li> </ul>
<b>“Sub-contractor Personnel”</b>	means: <ul style="list-style-type: none"> <li>a) any individual engaged, directly or indirectly, or employed, by any Sub-contractor; and</li> <li>b) engaged in or likely to be engaged in: <ul style="list-style-type: none"> <li>i) the performance or management of the Services and / or Deliverables.</li> <li>ii) or the provision of facilities or services that are necessary for the provision of the Services and / or Deliverables.</li> </ul> </li> </ul>
<b>“Supplier Personnel”</b>	means any individual engaged, directly or indirectly, or employed by the Supplier or any Sub-contractor in the management or performance of the Supplier’s obligations under this Contract.
<b>“UKAS”</b>	means the United Kingdom Accreditation Service.

### 3. Introduction

This Schedule 16 (Security) sets out:

- a) the arrangements the Supplier must implement before, and comply with when, providing the Services and Deliverables and performing its other obligations under this Contract to ensure the security of the Buyer Data, the Services and Deliverables and the Supplier Information Management System.
- b) the assessment of this Contract as
  - (i) a higher-risk consultancy agreement,

in Paragraph 1 of this Schedule 16 (Security);

- c) the Buyer’s access to the Supplier Personnel and Supplier Information Management System, in Paragraph 5 of this Schedule 16 (Security);
- d) the Certification Requirements, in Paragraph 6 of this Schedule 16 (Security).

- e) the requirements for a Security Management Plan, in Paragraph 7 of this Schedule 16 (Security); and
- f) the security requirements with which the Supplier and Sub-contractors must comply in Appendix 1 of this Schedule 16 (Security).

#### **4. Principles of security**

4.1 The Supplier acknowledges that the Buyer places great emphasis on the confidentiality, integrity and availability of the Buyer Data and, consequently on the security of:

- (a) the Sites.
- (b) the Services and Deliverables; and
- (c) the Supplier's Information Management System.

4.2 The Supplier is responsible for:

- (a) the security, confidentiality, integrity and availability of the Buyer Data when that Buyer Data is under the control of the Supplier or any of its Sub-contractors; and
- (b) the security of the Supplier Information Management System.

4.3 The Supplier:

- a) comply with the security requirements in Appendix 1 of this Schedule 16 (Security); and
- b) ensure that each Sub-contractor that Processes Buyer Data complies with the security requirements in Appendix 1 of this Schedule 16 (Security).

4.4 Where the Supplier, a Sub-contractor or any of the Supplier Personnel is granted access to the Buyer System or to the Buyer Equipment, it must comply with and ensure that all such Sub-contractors and Supplier Personnel comply with, all rules, policies and guidance provided to it and as updated from time to time concerning the Buyer System or the Buyer Equipment.

4.5 The Supplier must comply with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>. The Supplier must document how it and any cloud service providers they use comply with these principles and provide this documentation upon request by the Buyer which will form part of the Security Management Plan.

#### **5. Access to Supplier Personnel and Supplier Information Management System**

5.1 The Buyer may require, and the Supplier must provide the Buyer and its authorised representatives with:

- a) access to the Supplier Personnel;
- b) access to the Supplier Information Management System to audit the Supplier and its Sub-contractors' compliance with this Contract; and

c) such other information and/or documentation that the Buyer or its authorised representatives may reasonably require,

to assist the Buyer to establish whether the arrangements which the Supplier and its Sub-contractors have implemented in order to ensure the security of the Buyer Data and the Supplier Information Management System are consistent with the representations in the Security Management Plan.

5.2 The Supplier must provide the access required by the Buyer in accordance with Paragraph 5.1 of this Schedule 16 (Security) within ten Working Days of receipt of such request, except in the case of a Breach of Security in which case the Supplier shall provide the Buyer with the access that it requires within 24 hours of receipt of such request.

## 6. Certification Requirements

6.1 The Supplier shall ensure that, unless otherwise agreed by the Buyer, it is certified as compliant with:

a) in the case of a higher-risk consultancy agreement:

i) Cyber Essentials Plus ("**Relevant Certifications**").

Unless otherwise agreed by the Buyer, the Supplier must provide the Buyer with a copy of the Relevant Certifications before the Start Date, as also stated in Schedule 19 Cyber Essentials Scheme

6.2 The Supplier must ensure that at the time it begins to provide the Services and / or Deliverables, the Relevant Certifications are:

a) currently in effect.

b) relate to the full scope of the Supplier Information System; and

c) are not subject to any condition that may impact the provision of the Services and / or Deliverables (as applicable).

6.3 The Supplier must notify the Buyer promptly, any in any event within three (3) Working Days of becoming aware that:

a) a Relevant Certification has been revoked or cancelled by the body that awarded it.

b) a Relevant Certification expired and has not been renewed by the Supplier.

c) a Relevant Certification no longer applies to the full scope of the Supplier Information Management System or

d) the body that awarded a Relevant Certification has made it subject to conditions, the compliance with which may impact the provision of the Services and / or Deliverables (each a "**Certification Default**").

6.4 Where the Supplier has notified the Buyer of a Certification Default under Paragraph 6.3 of this Schedule 16 (Security):

- a) the Supplier must, within ten (10) Working Days of the date in which the Supplier provided notice under Paragraph 6.3 of this Schedule 16 (Security) (or such other period as the Parties may agree) provide a draft plan (a “**Certification Rectification Plan**”) to the Supplier setting out:
  - i) full details of the Certification Default, including a root cause analysis.
  - ii) the actual and anticipated effects of the Certification Default.
  - iii) the steps the Supplier will take to remedy the Certification Default.
- b) the Buyer must notify the Supplier as soon as reasonably practicable whether it accepts or rejects the Certification Rectification Plan.
- c) if the Buyer rejects the Certification Rectification Plan, the Buyer must within five (5) Working Days of the date of the rejection submit a revised Certification Rectification Plan and Paragraph 6.4(b) of this Schedule 16 (Security) will apply to the re-submitted plan.
- d) the rejection by the Buyer of a revised Certification Rectification Plan is a material Default of this Contract.
- e) if the Buyer accepts the Certification Rectification Plan, the Supplier must start work immediately on the plan.

## 7. Security Management Plan

- 7.1 This Paragraph 7 applies because the Buyer has assessed that this Contract is a higher-risk consultancy agreement. The Supplier shall document in the Security Management Plan how the Supplier and its Sub-contractors shall comply with the requirements set out in this Schedule 16 (Security) and the Contract in order to ensure the security of the Buyer Data and the Supplier Information Management System. The supplier shall use the template provided as an Annex to this schedule to create the Security Management Plan.
- 7.2 The Supplier shall prepare and submit to the Buyer within 20 Working Days of the Effective Date, the Security Management Plan (See Annex 1 of this Schedule 16 (Security) for the template), which must be set out (and include the detail referred to) in the template format provided at Annex 1 and include:
- a) an assessment of the Supplier Information Management System against the requirements of this Schedule 16 (Security), including Appendix 1.
  - b) the process the Supplier will implement immediately after it becomes aware of a Breach of Security to restore normal operations as quickly as possible, minimising any adverse impact on the Buyer Data, the Buyer, the Services and / or Deliverables and/or users of the Services and / or Deliverables; and
  - c) the following information in respect of each Sub-contractor:
    - i) the Sub-contractor's:
      - A) legal name.

B) trading name (if any).

C) registration details (where the Sub-contractor is not an individual);

ii) the Sites used by the Sub-contractor.

iii) the Buyer Data Processed by the Sub-contractor.

iv) the Processing that the Sub-contractor will undertake in respect of the Buyer Data.

the measures the Sub-contractor has in place to comply with the requirements of this Schedule 16 (Security).

7.3 The Buyer shall review the Supplier's proposed Security Management Plan as soon as possible and must issue the Supplier with either:

- a) an information security approval statement, which shall confirm that the Supplier may use the Supplier Information Management System to Process Buyer Data; or
- b) a rejection notice, which shall set out the Buyer's reasons for rejecting the Security Management Plan.

7.4 If the Buyer rejects the Supplier's proposed Security Management Plan, the Supplier must prepare a revised Security Management Plan taking the Buyer's reasons into account, which the Supplier must submit to the Buyer for review within ten (10) Working Days of the date of the rejection, or such other period agreed with the Buyer.

### **Updating Security Management Plan**

7.5 The Supplier shall regularly review and update the Security Management Plan, and provide such to the Buyer, at least once each year and as required by this Paragraph.

### **Monitoring**

7.6 The Supplier shall notify the Buyer within two Working Days after becoming aware of:

- a) a significant change to the components or architecture of the Supplier Information Management System.
- b) a new risk to the components or architecture of the Supplier Information Management System.
- c) a vulnerability to the components or architecture of the Supplier Information Management System using an industry standard vulnerability scoring mechanism.
- d) a change in the threat profile.
- e) a significant change to any risk component.
- f) a significant change in the quantity of Personal Data held within the Service.
- g) a proposal to change any of the Sites from which any part of the Services and / or Deliverables are provided.

7.7 Within ten (10) Working Days of such notifying the Buyer or such other timescale as may be agreed with the Buyer, the Supplier shall make the necessary changes to the Security Management Plan and submit the updated Security Management Plan to the Buyer for review and approval.

## Appendix 1: Security requirements

### 1. Location

1.1 Unless otherwise agreed with the Buyer, the Supplier must, and must ensure that its Sub-contractors must, at all times, store, access or process Buyer Data either:

- a) in the United Kingdom.
- b) the European Economic Area; or
- c) in a facility operated by an entity where:
  - i) the entity has entered into a binding agreement with the Supplier or Sub-contractor (as applicable);
  - ii) that binding agreement includes obligations on the entity in relation to security management at least as onerous as those relating to Sub-contractors in this Schedule 16 (Security);
  - iii) the Supplier or Sub-contractor has taken reasonable steps to assure itself that
    - (a) the entity complies with the binding agreement;
    - (b) any system operated by the Supplier or Sub-contractor has in place appropriate technical and organisational measures to ensure that the Sub-contractor will store, access, manage and/or Process the Government Data as required by this Schedule 16 (Security); and
  - iv) the Supplier has provided the Buyer with such information as the Buyer requires concerning:
    - (a) the entity.
    - (b) the arrangements with the entity; and
    - (c) the entity's compliance with the binding agreement; and
  - v) the Buyer has not given the Supplier a Prohibition Notice under Paragraph 1.3 of this Appendix 1 to Schedule 16 (Security).

1.2 Where the Supplier cannot comply with one or more of the requirements of Paragraph 1.1 of this Appendix 1 to Schedule 16 (Security):

- a) it must provide the Buyer with such information as the Buyer requests concerning the security controls in places at the relevant location or locations; and
- b) the Buyer may grant approval to use that location or those locations, and that approval may include conditions; and
- c) if the Buyer does not grant permission to use that location or those locations, the Supplier must cease to store, access or process Buyer Data at that location or those locations within such period as the Buyer may specify.



- 1.3 The Buyer may by notice in writing at any time give notice to the Supplier that it and its Sub-contractors must not undertake or permit to be undertaken, the storage, access or Processing Buyer Data as specified in the notice (a **"Prohibited Activity"**).
- a) in any particular country or group of countries.
  - b) in or using facilities operated by any particular entity or group of entities; or
  - c) in or using any particular facility or group of facilities, whether operated by the Supplier, a Sub-contractor or a third-party entity (a **"Prohibition Notice"**).
- 1.4 Where the Supplier or Sub-contractor, on the date of the Prohibition Notice undertakes any Relevant Activities affected by the notice, the Supplier must, and must procure that Sub-contractors, cease to undertake that Prohibited Activity within forty (40) Working Days of the date of the Prohibition Notice.

## **2. Vetting, Training and Staff Access**

### **Vetting before performing or managing Services and / or Deliverables**

- 2.1 The Supplier must not engage Supplier Personnel, and must ensure that Sub-contractors do not engage Sub-contractor Personnel, in any activity relating to the performance and management of the Services and / or Deliverables unless:
- a) that individual has passed the security checks listed in Paragraph 2.2 of this Appendix 1 to Schedule 16 (Security) and Schedule 32 (Background Checks); or
  - b) the Buyer has given prior written permission for a named individual to perform a specific role.
- 2.2 For the purposes of Paragraph 2.1 of this Appendix 1 to Schedule 16 (Security), the security checks are:
- a) the checks required for the HMG Baseline Personnel Security Standard (BPSS) to verify:
    - (1) the individual's identity.
    - (2) the individual's nationality and immigration status so as to demonstrate that they have a right to work in the United Kingdom.
    - (3) the individual's previous employment history; and
    - (4) that the individual has no Relevant Convictions.
  - b) national security vetting clearance to the level specified by the Buyer for such individuals or such roles as the Buyer may specify; or
  - c) such other checks for the Supplier Personnel of Sub-contractors as the Buyer may specify,
  - d) the checks set out in Schedule 32 (Background Checks)

## **Annual training**

2.3 The Supplier must ensure, and ensure that Sub-contractors ensure, that all Supplier Personnel, complete and pass security training at least once every calendar year that covers:

- a) general training concerning security and data handling; and
- b) phishing, including the dangers from ransomware and other malware.

## **Staff access**

2.4 The Supplier must ensure, and ensure that Sub-contractors ensure, that individual Supplier Personnel can access only the Buyer Data necessary to allow individuals to perform their role and fulfil their responsibilities in the provision of the Services and / or Deliverables.

2.5 The Supplier must ensure, and ensure that Sub-contractors ensure, that where individual Supplier Personnel no longer require access to the Buyer Data or any part of the Buyer Data, their access to the Buyer Data or that part of the Buyer Data is revoked immediately when their requirement to access Buyer Data ceases.

2.6 Where requested by the Buyer, the Supplier must remove, and must ensure that Sub-contractors remove, an individual Supplier Personnel's access to the Buyer Data or part of that Buyer Data specified by the Buyer as soon as practicable and in any event within 24 hours of the request.

## **Exception for certain Sub-contractors**

2.7 Where the Supplier considers it cannot ensure that a Sub-contractors will undertake the relevant security checks on any Sub-contractor Personnel, it must:

- a) as soon as practicable, and in any event within twenty (20) Working Days of becoming aware of the issue, notify the Buyer.
- b) provide such information relating to the Sub-contractor, its vetting processes and the roles the affected Supplier Personnel will perform as the Buyer reasonably requires; and
- c) comply, at the Supplier's cost, with all directions the Buyer may provide concerning the vetting of the affected Sub-contractor Personnel and the management of the Sub-contractor.

## **3. Security Testing**

3.1 This Paragraph applies as the Buyer has assessed that this Contract is a higher-risk consultancy agreement.

**Note:** the definition of Supplier Information Management System includes those information and communications technology systems that Sub-contractors will use to assist or contribute to the Supplier providing the Services and / or Deliverables.

3.2 The Supplier must, at the Buyer's option, before providing the Services and / or Deliverables and when reasonably requested by the Buyer, either:

a) conduct security testing of the Supplier Information Management System by:

- (1) engaging a CHECK Service Provider or a CREST Service Provider.
- (2) designing and implementing the testing so as to minimise its impact on the Supplier Information Management System and the delivery of the Services and / or Deliverables; and
- (3) providing the Buyer with a full, unedited and unredacted copy of the testing report without delay and in any event within ten Working Days of its receipt by the Supplier; or

b) Provide details of any security testing undertaken by a CHECK Service Provider or a CREST Service Provider in respect of the Supplier Information Management System in the calendar year immediately preceding the Buyer's request or the Effective Date (as appropriate), including:

- (1) the parts of the Supplier Information Management System tested.
- (2) a full, unedited and unredacted copy of the testing report; and
- (3) the remediation plan prepared by the Supplier to address any vulnerabilities disclosed by the security testing; and
- (4) the Supplier's progress in implementing that remediation plan.

3.3 The Supplier must remediate any vulnerabilities classified as "medium" or above in the security testing:

a) before Processing Buyer data where the vulnerability is discovered before the Supplier begins to process Authority Data.

b) where the vulnerability is discovered when the Supplier has begun to Process Buyer Data:

- i) by the date agreed with the Buyer; or
- ii) where no such agreement is reached:

(a) within five Working Days of becoming aware of the vulnerability and its classification where the vulnerability is classified as critical.

(b) within one Month of becoming aware of the vulnerability and its classification where the vulnerability is classified as high; and

(c) within three Months of becoming aware of the vulnerability and its classification where the vulnerability is classified as medium.

#### **4. End-user Devices**

4.1 The Supplier must manage, and must ensure that all Sub-contractors manage, all End-user Devices on which Buyer Data is stored or processed in accordance the following requirements:

- a) the operating system and any applications that store, process or have access to Buyer Data must be in current support by the vendor, or the relevant community in the case of open source operating systems or applications.
- b) users must authenticate before gaining access.
- c) all Buyer Data must be encrypted using an encryption tool agreed to by the Buyer.
- d) the End-user Device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the End-user Device is inactive.
- e) the End-user Device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Buyer Data.
- f) the Supplier or Sub-contractor, as applicable, can, without physical access to the End-user Device, remove or make inaccessible all Buyer Data on the device and prevent any user or group of users from accessing the device.
- g) all End-user Devices are within in the scope of any current Cyber Essentials Plus certificate held by the Supplier,

4.2 The Supplier must comply, and ensure that all Sub-contractors comply, with the recommendations in NCSC Device Guidance as if those recommendations were incorporated as specific obligations under this Contract.

4.3 Where there any conflict between the requirements of this Schedule 16 (Security) and the requirements of the NCSC Device Guidance, the requirements of this Schedule 16 (Security) will take precedence.

## **5. Encryption**

5.1 Unless Paragraph 5.2 of this Appendix 1 to Schedule 16 (Security) applies, the Supplier must ensure, and must ensure that all Sub-contractors ensure, that Buyer Data is encrypted:

- a) when stored at any time when no operation is being performed on it; and
- b) when transmitted.

5.2 Where the Supplier, or a Sub-contractor, cannot encrypt Buyer Data as required by Paragraph 5.1 of this Appendix 1 to Schedule 16 (Security), the Supplier must:

- a) immediately inform the Buyer of the subset or subsets of Buyer Data it cannot encrypt and the circumstances in which and the reasons why it cannot do so.
- b) provide details of the protective measures the Supplier or Sub-contractor (as applicable) proposes to take to provide equivalent protection to the Buyer as encryption.
- c) provide the Buyer with such information relating to the Buyer Data concerned, the reasons why that Buyer Data cannot be encrypted and the proposed protective measures as the Buyer may require.

5.3 The Buyer, the Supplier and, where the Buyer requires, any relevant Sub-contractor shall meet to agree appropriate protective measures for the unencrypted Buyer Data.

5.4 This Paragraph applies where the Buyer has assessed that this Contract is a higher-risk consultancy agreement.

Where the Buyer and Supplier reach agreement, the Supplier must update the Security Management Plan to include:

- a) the subset or subsets of Buyer Data not encrypted and the circumstances in which that will occur.
- b) the protective measure that the Supplier and/or Sub-contractor will put in place in respect of the unencrypted Buyer Data.

## **6. Access Control**

6.1 The Supplier must, and must ensure that all Sub-contractors:

- a) identify and authenticate all persons who access the Supplier Information Management System and Sites before they do so.
- b) require multi-factor authentication for all user accounts that have access to Buyer Data or that are Privileged Users.
- c) allow access only to those parts of the Supplier Information Management System and Sites that those persons require.
- d) maintain records detailing each person's access to the Supplier Information Management System and Sites and make those records available to the Buyer on request.

6.2 The Supplier must ensure, and must ensure that all Sub-contractors ensure, that the user accounts for Privileged Users of the Supplier Information Management System:

- a) are accessible only from dedicated End-user Devices.
- b) are configured so that those accounts can only be used for system administration tasks.
- c) require passwords with high complexity that are changed regularly.
- d) automatically log the user out of the Supplier Information Management System after a period of time that is proportionate to the risk environment during which the account is inactive.

6.3 The Supplier must require, and must ensure that all Sub-contractors require, that Privileged Users use unique and substantially different passwords for their different accounts on the Supplier Information Management System.

6.4 The Supplier must, and must ensure that all Sub-contractors:

- a) configure any hardware that forms part of the Supplier Information Management System that is capable of requiring a password before it is accessed to require a password; and
- b) change the default password of that hardware to a password of high complexity that is substantially different from the password required to access similar hardware.

## **7. Malicious Software**

7.1 The Supplier shall install and maintain Anti-virus Software or procure that Anti-virus Software is installed and maintained on the Supplier Information Management System.

7.2 The Supplier shall ensure that such Anti-virus Software:

- a) is configured to perform automatic software and definition updates.
- b) performs regular scans of the Supplier Information Management System to check for and prevent the introduction of Malicious Software; and
- c) where Malicious Software has been introduced into the Supplier Information Management System, identifies, contains the spread of, and minimises the impact of Malicious Software.

7.3 If Malicious Software is found, the Parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, assist each other to mitigate any Losses and to restore the Services and / or Deliverables to their desired operating efficiency.

7.4 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 7.3 of this Appendix 1 to Schedule 16 (Security) shall be borne by the Parties as follows:

- a) by the Supplier where the Malicious Software originates from the Supplier Software, any third-party software licenced by the Supplier or the Buyer Data (whilst the Buyer Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
- b) by the Buyer, in any other circumstance.

## **8. Breach of Security**

8.1 If either Party becomes aware of a Breach of Security it shall notify the other as soon as reasonably practicable after becoming aware of the breach, and in any event within 24 hours.

8.2 The Supplier must, upon becoming aware of a Breach of Security or attempted Breach of Security immediately take those steps identified in the Security Management Plan (if applicable) and all other reasonably steps necessary to:

- a) minimise the extent of actual or potential harm caused by such Breach of Security.
- b) remedy such Breach of Security to the extent possible.

c) apply a tested mitigation against any such Breach of Security; and

d) prevent a further Breach of Security in the future which exploits the same root cause failure.

8.3 As soon as reasonably practicable and, in any event, within five Working Days, or such other period agreed with the Buyer, following the Breach of Security or attempted Breach of Security, provide to the Buyer full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Buyer.

8.4 The Supplier must take the steps required by Paragraph 8.2 of this Appendix 1 to Schedule 16 (Security) at its own cost and expense.

## **9. Sub-contractors**

The Supplier must assess the parts of the information and communications technology system and the Sites that its Sub-contractors will use to provide the Services and / or Deliverables against the NCSC Cloud Security Principles at their own cost and expense to demonstrate that the people, process, technical and physical controls have been delivered in an effective way. The Sub-contractor must document that assessment and make that documentation available to the Buyer at the Buyer's request.

## **10. Third-party Software**

The Supplier must not, and must ensure that Sub-contractors do not, use any software to Process Buyer Data where the licence terms of that software purport to grant the licensor rights to Process the Buyer Data greater than those rights strictly necessary for the use of the software.

## **11. Deletion of Buyer Data**

The Supplier must, and must ensure that all Sub-contractors, securely erase any or all Buyer Data held by the Supplier or Sub-contractor when requested to do so by the Buyer using a deletion method that ensures that even a determined expert using specialist techniques can recover only a small fraction of the data deleted.

## **Annex 1**

### **Security Management Plan Template**

Security Management Plan for Consultancy/Professional Services

Security Management Plan Template  
[Project/Service and Supplier Name]

Dated

20XX



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## APPENDICES

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## 1. Executive summary

*[This section should contain a brief summary of the business context of the system, the assurance work done, any offshoring considerations and any significant residual risks that need acceptance.]*

### 1.1 Change history

Version Number	Date of Change	Change made by	Nature and reason for change

### 1.2 References, links and dependencies

ID	Document Title	Reference	Date

### 1.3 Supplier personnel

Key Personnel Names	Title	Contact Details incl. Mobile Number and Email Address

## 2. System description

### 2.1 Background

*[A short description of the project/product/system. Describe its purpose, functionality, aim and scope.]*

### 2.2 Organisational Ownership/Structure

*[Who owns the system and operates the system and the organisational governance structure. This should include how any ongoing security management is integrated into the project governance e.g. how a Security Working Group reports to the project board.]*

## **2.3 Information assets and flows**

### **a) Logical data flow diagram**

*[This should include a simple high level logical diagram on one page. The diagram must include any third party suppliers and the data flows to/from them. ]*

### **b) Data assets**

*[Include a table of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc. Data processed by third party suppliers must be included here]*

## **2.4 System architecture**

*[A description of the physical system architecture, to include the system management. Please provide a diagram.]*

## **2.5 Users**

*[Please provide a table of the system users, this should include all users including HMG users as well as any service provider users and system managers. If relevant, security clearance level requirements should be included.]*

## **2.6 Locations**

*[Please provide a table of where the Buyer's data assets are stored, processed and any locations they are managed from. This must include the locations of any help desks or call centres if relevant. All third party suppliers and subcontractors must be included in this section. Any offshoring considerations should be detailed with the legal basis for the data transfer as set out in section 2.4.4. relating to data transfers schedule 20 ]*

## **2.7 Certifications**

*[Please include a table of any independent security certifications (e.g. ISO 27001:2013, Cyber Essentials Plus and Cyber Essentials) held as required by the contract. The table should include any relevant third party suppliers or subcontractors and must include the expiry date of the certification. Copies of the certificates should be included in 0.]*

## **2.8 Test and development systems**

*[Include information about any test, development and User Acceptance testing systems, their locations and whether they contain live system data.]*

### **3. Risk assessment**

#### **3.1 Accreditation/assurance scope**

*[This section should describe the scope of the Risk Assessment and should indicate the components of the architecture upon which reliance is placed but assurance will not be done eg a cloud hosting service or a SAAS product/tool. A logical diagram should be used along with a brief description of the components. This scope must be agreed by the Authority.]*

#### **3.2 Risk appetite**

*[A risk appetite should be provided by the Buyer and included here.]*

#### **3.3 Business impact assessment**

*[A description of the information assets and the impact of their loss or corruption (e.g. large amounts of Official Sensitive personal data the loss of which would be severely damaging to individuals, embarrassing to HMG, and make HMG liable to ICO investigations) in business terms should be included. This section should cover the impact on loss of confidentiality, integrity and availability of the assets and should be agreed with the Authority. The format of this assessment may be dependent on the risk assessment method chosen.]*

#### **3.4 Risk assessment**

*[The content of this section will depend on the risk assessment methodology chosen but should contain the output of the formal information risk assessment in a prioritised list using business language. Experts on the system and business process should have been involved in the risk assessment to ensure the formal risk methodology used has not missed out any risks. The example table below should be used as the format to identify the risks and document the controls used to mitigate those risks.]*

Ris k ID	Inherent risk	Inheren t risk level	Vulnerability	Controls	Resid ual risk level
R1	Internet attackers could hack the system.	Medium	The service systems are exposed to the internet via the web portal.	C1: Internet-facing firewalls C2: Internet-facing IP whitelist C3: System hardening C4: Protective monitoring C5: Application access control C16: Anti-virus for incoming files C54: Files deleted when processed C59: Removal of departmental identifier	Very low
R2	Remote attackers could intercept or disrupt information crossing the internet.	Medium	File sharing with organisations across the internet.	C9: TLS communications C10: PGP file-sharing	Very low
R3	Internal users could maliciously or accidentally alter bank details.	Medium-High	Users bank details can be altered as part of the normal business function.	C12. System administrators hold SC clearance. C13. All changes to user information are logged and audited. C14. Letters are automatically sent to users home addresses when bank details are altered. C15. Staff awareness training	Low

### 3.5 Controls

*[The controls listed above to mitigate the risks identified should be detailed. There should be a description of each control, further information and configuration details where relevant, and an assessment of the implementation status of, and assurance in, the control. A sample layout is included below.]*

ID	Control title	Control description	Further information and assurance status
C1	Internet-facing firewalls	Internet-facing firewalls are in place between the internet and the system', which restrict access from the internet to the required ports only.	Assured via ITHC firewall rule check
C2	Internet-facing IP whitelist	An IP whitelist is in place for all access from the internet.	Assured via ITHC
C15	Staff awareness training	All staff must undertake annual security awareness training and this process is audited and monitored by line managers.	Assured as part of Assured by providing records on request to the FSA security team showing names and dates of staff who have undertaken the annual Civil Service Security and Data Protection training which will be supplied by the FSA

### 3.6 Residual risks and actions

*[A summary of the residual risks which are likely to be above the risk appetite stated after all controls have been applied and verified should be listed with actions and timescales included.]*

## 4. In-service controls

*[This section should describe how the main security requirements as specified in the contract (security schedule) are met.]*

### 4.1 Protective monitoring

*[This section should describe how your protective monitoring arrangements identify anomalous behaviour and how this is then acted upon as well as how logging and auditing of user activity is done.]*

### 4.2 Malware prevention



*[This should describe how your anti-virus solution is implemented with respect to protecting Authority assets.]*

#### **4.3 End user devices**

*[This section should detail the security controls which are implemented on all fixed and removable end user devices used to process, store or manage Authority data.]*

#### **4.4 Encryption**

*[This section should detail the encryption measures you employ to protect Authority data both in transit and at rest.]*

#### **4.5 Vulnerability management**

*[This section should detail your process for identifying, classifying, prioritising, remediating, and mitigating" software vulnerabilities within your IT environment.]*

#### **4.6 Identity, verification and access controls**

*[This section should detail your password policy, your approach to ensuring that privileged accounts are accessible only from end-user devices dedicated to that use and by authenticated named users. This should include your use of multi-factor authentication for all accounts that have access to Buyer Data as well as privileged accounts.]*

#### **4.7 Data Deletion**

*[This section should include the agreed process for securely deleting Authority data when required.]*

### **5. Supply chain security and third party subcontractors/tools**

*[This section should detail the assurance process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to Buyer Data.]*

### **6. Security requirements on participating departments, customers and users**

*[Please detail any security requirements or codes of connection required by participating departments/agencies/third parties.]*

### **7. Personnel security**

*[Please provide details of your Personnel Security Vetting Policy for those staff who will have access to or come into contact with Buyer data or assets.]*

*Please provide details of how you will ensure that all staff accessing Buyer data are aware of the confidential nature of the data and comply with their legal and specific obligations under the Contract?]*

## **8. Business continuity**

*[Please provide an overview of your organisation's business continuity and disaster recovery plans in terms of the Buyer data under the Contract or attach a copy of your Business Continuity Plan.]*

## **9. Physical security**

*[Please provide details of the building where the service will operate from and describe the procedures and security in place to control access to premises and any areas holding Buyer assets. Detail measures such as construction of buildings used for handling Buyer assets, availability of lockable storage, procedures covering end of day/silent hours, key management, visitor controls.*

*Please also include details of any automated access controls, alarms and CCTV coverage. Please also provide details of the maintenance schedule of these security controls.> For the locations where Authority assets are held, please provide details of any procedures and security in place designed to control access to the site perimeter. Please detail the measures in place such as fencing, CCTV, guarding, and procedures and controls to handle staff and visitors requesting access to the site. Please also provide details of the maintenance schedule of your security controls.]*

## **10. Major hardware and software and end of support dates**

*[This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.]*

<b>Name</b>	<b>Version</b>	<b>End of mainstream Support/Extended Support</b>	<b>Notes/RAG Status</b>

## **11. Incident management process**

*[The suppliers' process, as agreed with the Authority/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Authority/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.]*



## 12. Required changes register.

*[The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.]*

Ref	Section	Change	Agreed With	Date agreed	Documentation update	Status
1						

Appendix 1: cyber essential plus certificates

*[Please include copies of the certificates here]*

## Appendix 2: Cloud security principles assessment

[Please add your controls in the attached table.]

Principle	Goals of the Principle	Controls
<b>Principle 1 – Data in transit protection</b> "User data transiting networks should be adequately protected against tampering and eavesdropping."	<ul style="list-style-type: none"> <li>• Data in transit is protected between end user device(s) and the service</li> <li>• Data in transit is protected internally within the service</li> <li>• Data in transit is protected between the service and other services (eg where APIs are exposed)</li> </ul>	
<b>Principle 2 – Asset protection and resilience</b> "User data, and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure."	Cloud service consumers should seek to understand: <ul style="list-style-type: none"> <li>• In which countries their data will be stored, processed and managed. They should also consider how this affects compliance with relevant legislation e.g. Data Protection Act (DPA), GDPR etc.</li> <li>• Whether the legal jurisdiction(s) within which the service provider operates are acceptable to them</li> </ul>	
<b>Principle 3 – Separation between users</b> "A malicious or compromised user of the service should not be able to affect the	Cloud service consumers should seek to: <ul style="list-style-type: none"> <li>• Understand the types of user they share the service or platform with</li> </ul>	

Principle	Goals of the Principle	Controls
service or data of another."	<ul style="list-style-type: none"> <li>• Have confidence that the service provides sufficient separation of their data and service from other users of the service</li> <li>• Have confidence that management of their service is kept separate from other users (covered separately as part of Principle 9)</li> </ul>	

Principle	Goals of the Principle	Controls
<p><b>Principle 4 – Governance framework</b></p> <p>"The service provider should have a security governance framework which coordinates and directs its management of the service and information within it. Any technical controls deployed outside of this framework will be fundamentally undermined."</p>	<p>Cloud service consumers should ensure that:</p> <ul style="list-style-type: none"> <li>• A clearly identified, and named, board representative (or a person with the direct delegated authority) is responsible for the security of the cloud service. This is typically someone with the title 'Chief Security Officer', 'Chief Information Officer' or 'Chief Technical Officer'</li> <li>• A documented framework exists for security governance, with policies governing key aspects of information security relevant to the service</li> <li>• Security and information security are part of the service provider's financial and operational risk reporting mechanisms, ensuring that the board would be kept informed of security and information risk</li> <li>• Processes to identify and ensure compliance with applicable legal and regulatory requirements have been established</li> </ul>	



Principle	Goals of the Principle	Controls
<p><b>Principle 5 – Operational security</b></p> <p>"The service needs to be operated and managed securely in order to impede, detect or prevent attacks. Good operational security should not require complex, bureaucratic, time consuming or expensive processes."</p>	<p>Cloud service consumers should be confident that:</p> <ul style="list-style-type: none"> <li>• The status, location and configuration of service components (both hardware and software) are tracked throughout their lifetime</li> <li>• Changes to the service are assessed for potential security impact. Then managed and tracked through to completion</li> </ul>	
<p><b>Principle 6 – Personnel security</b></p> <p>"Where service provider personnel have access to your data and systems you need a high degree of confidence in their trustworthiness. Thorough screening, supported by adequate training, reduces the likelihood of accidental or malicious compromise by service provider personnel."</p>	<p>Cloud service consumers should be confident that:</p> <ul style="list-style-type: none"> <li>• The level of security screening conducted on service provider staff with access to the consumers information, or with ability to affect the service, is appropriate</li> <li>• The minimum number of people necessary have access to the consumers information or could affect the service</li> </ul>	
<p><b>Principle 7 – Secure development</b></p> <p>"Services should be designed and developed to identify and mitigate threats to their security."</p>	<p>Cloud service consumers should be confident that:</p> <ul style="list-style-type: none"> <li>• New and evolving threats are reviewed, and the service</li> </ul>	

Principle	Goals of the Principle	Controls
<p>Those which aren't, may be vulnerable to security issues which could compromise your data, cause loss of service or enable other malicious activity."</p>	<p>improved in line with them</p> <ul style="list-style-type: none"> <li>• Development is carried out in line with industry good practice regarding secure design, coding, testing and deployment</li> <li>• Configuration management processes are in place to ensure the integrity of the solution through development, testing and deployment</li> </ul>	
<p><b>Principle 8 – Supply chain security</b></p> <p>"The service provider should ensure that its supply chain satisfactorily supports all of the security principles which the service claims to implement."</p>	<p>Cloud service consumers should seek to understand and accept:</p> <ul style="list-style-type: none"> <li>• How their information is shared with, or accessible to, third party suppliers and their supply chains</li> <li>• How the service provider's procurement processes place security requirements on third party suppliers</li> <li>• How the service provider manages security risks from third party suppliers</li> <li>• How the service provider manages the conformance of their suppliers with security requirements</li> <li>• How the service provider verifies that hardware and software used in the service is</li> </ul>	

Principle	Goals of the Principle	Controls
	genuine and has not been tampered with	
<b>Principle 9 – Secure user management</b> "Your provider should make the tools available for you to securely manage your use of their service. Management interfaces and procedures are a vital part of the security barrier, preventing unauthorised access and alteration of your resources, applications and data."	Cloud service consumers should: <ul style="list-style-type: none"> <li>• Be aware of all of the mechanisms by which the service provider would accept management or support requests from you (telephone, web portal, email etc.)</li> <li>• Ensure that only authorised individuals from their organisation can use those mechanisms to affect their use of the service (Principle 10 can help consumers consider the strength of user identification and authentication in each of these mechanisms)</li> </ul>	
<b>Principle 10 – Identity and authentication</b> "All access to service interfaces should be constrained to authenticated and authorised individuals."	Cloud service consumers should: <ul style="list-style-type: none"> <li>• Have confidence that identity and authentication controls ensure users are authorised to access specific interfaces</li> </ul>	
<b>Principle 11 – External interface protection</b> "All external or less trusted interfaces of the service should be	Cloud service consumers should: <ul style="list-style-type: none"> <li>• Understand what physical and logical interfaces their information is available</li> </ul>	



Principle	Goals of the Principle	Controls
identified and appropriately defended."	from, and how access to their data is controlled <ul style="list-style-type: none"> <li>• Have sufficient confidence that the service identifies and authenticates users to an appropriate level over those interfaces (see Principle 10)</li> </ul>	
<b>Principle 12 – Secure service administration</b> "Systems used for administration of a cloud service will have highly privileged access to that service. Their compromise would have significant impact, including the means to bypass security controls and steal or manipulate large volumes of data."	Cloud service consumers should: <ul style="list-style-type: none"> <li>• Understand which service administration model is being used by the service provider to manage the service</li> <li>• Be content with any risks the service administration model in use brings to the consumers data or use of the service</li> </ul>	
<b>Principle 13 – Audit information for users</b> "You should be provided with the audit records needed to monitor access to your service and the data held within it. The type of audit information available to you will have a direct impact on your ability to detect and respond to	Cloud service consumers should: <ul style="list-style-type: none"> <li>• Be aware of the audit information that will be provided, how and when it will be made available, the format of the data, and the retention period associated with it</li> <li>• Be confident that the audit information available will meet their needs for investigating misuse or incidents</li> </ul>	

Principle	Goals of the Principle	Controls
inappropriate or malicious activity within reasonable timescales."		
<p><b>Principle 14 – Secure use of the service</b></p> <p>"The security of cloud services and the data held within them can be undermined if you use the service poorly. Consequently, you will have certain responsibilities when using the service in order for your data to be adequately protected."</p>	<p>Cloud service consumers should:</p> <ul style="list-style-type: none"> <li>• Understand any service configuration options available to them and the security implications of their choices</li> <li>• Understand the security requirements of their use of the service</li> <li>• Educate their staff using and managing the service in how to do so safely and securely</li> </ul>	

Appendix 3: Protecting bulk data assessment if required by the authority/customer.

*[A spreadsheet may be attached]*

## Appendix 4: Latest ITHC report and vulnerability correction plan

# Schedule 18 (Supply Chain Visibility)

## 1. Definitions

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

<b>"Contracts Finder"</b>		the Government's publishing portal for public sector procurement opportunities;
<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 sized enterprises:
<b>"Supply Chain Information Report Template"</b>		the document at Annex <b>Error! Reference source not found.</b> of this Schedule 18;
<b>"Unconnected contract"</b>	<b>Sub-</b>	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017; and
<b>"Unconnected contractor"</b>	<b>Sub-</b>	any third party with whom the Supplier enters into an Unconnected Sub-contract.

## 2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period.
- 2.1.2 within 90 Days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor.
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period.
- 2.1.4 provide reports on the information at Paragraph 2.1.3 of this Schedule 18 (Supply Chain Visibility) to the Buyer in the format and frequency as reasonably specified by the Buyer; and

- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 (Supply Chain Visibility) shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligations on the Supplier set out at Paragraph 2.1 of this Schedule 18 (Supply Chain Visibility) shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1 of this Schedule 18 (Supply Chain Visibility) , the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

### **3. Visibility of Supply Chain Spend**

- 3.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “**SME Management Information Reports**”) to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:
- 3.1.1 the total contract revenue received directly on this Contract;
- 3.1.2 the total value of sub-contracted revenues under this Contract (including revenues for non-SMEs/non-VCSEs); and
- 3.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1.1 – 3.1.3 of this Schedule 18 (Supply Chain Visibility) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) Days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

### **4. Visibility of Payment Practice**

- 4.1 If this Contract has at the Effective Date an anticipated contract value in excess of £5 million per annum (excluding VAT) averaged over this Contract Period and without prejudice to Clause 4.6, Clause 8.2.1(b) and 8.2.2(b), the Supplier shall:
- a) pay any sums which are due from it to any Sub-contractor or Unconnected

Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:

- 1) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or
  - 2) the date that falls sixty (60) Days after the Day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and
- b) include within the Supply Chain Information Report a summary of its compliance with this Paragraph 4.4, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.

4.2 If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) Calendar Days of receipt, the Supplier shall provide to the Buyer within 15 Working Days of submission of the latest Supply Chain Information Report an action plan (the “**Improvement Action Plan**”) for improvement. The Improvement Action Plan shall include, but not be limited to, the following:

- (1) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) Days of receipt;
- (2) actions to address each of the causes set out in Sub-Paragraph (1); and
- (3) mechanism for and commitment to regular reporting on progress to the Supplier’s board.

4.3 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Improvement Action Plan shall include details of the steps the Supplier will take to address this.

4.4 The Supplier shall comply with the Improvement Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Tender Response (to the extent it is not already included).

4.5 If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors within sixty (60) Days after the Day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).





## Annex 1 - Supply Chain Information Report template

	Contract Year 1 2025-26			
	FSA Revenue for Supplier for this Lot		Non FSA Revenue for Supplier as a whole	
	£	%	£	%
Estimated total contract revenue (£) to be received in this Contract Year				
Total value of Sub-contracted revenues (£) in this Contract Year				
Total value of Sub-contracted revenues to SMEs (£) in this Contract Year				
Total value of Sub-contracted revenues to VCSEs (£) in this Contract Year	N/A	N/A	N/A	N/A

# 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 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 The Supplier shall:

2.1.1 prior to the Start Date, provide a valid **Cyber Essentials Plus Certificate** to the Buyer; and

2.1.2 from the Start Date and for the Contract Period, comply with the provisions set out in this Schedule 19 (Cyber Essentials Scheme).

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 Plus Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1 of this Schedule 19 (Cyber Essentials Scheme).

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 Certificate on each anniversary of the first Cyber Essentials Plus Scheme certificate obtained by the Supplier under Paragraph 2.1 of this Schedule 19 (Cyber Essentials Scheme).
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable) of this Schedule 19 (Cyber Essentials Scheme), the Buyer reserves the right to terminate this Contract for Material Default and the consequences of termination in Clause 14.5.1 of the Core Terms 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 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 19 (Cyber Essentials Scheme) 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 of this Schedule 20 (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 of this Schedule 20 (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 (Processing Data), Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information) of the Core Terms.

ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor.

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,

- c) as well as any additional measures determined by the Controller being implemented by the importing party.
- d) the Data Subject has enforceable rights and effective legal remedies.
- e) 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

2.4.5 the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.

2.5 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.

2.5.1 Subject to Paragraph 2.6 of this Schedule 20 (Processing Data), the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:

2.5.2 receives a Data Subject Access Request (or purported Data Subject Access Request);  
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.

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 (Processing Data) 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 (Processing Data) (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 (Processing Data). 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.

2.11 Before allowing any Sub-processor to Process any Personal Data related to this Contract, the Processor must:

2.11.1 notify the Controller in writing of the intended Sub-processor and Processing.

2.11.2 obtain the written consent of the Controller.

2.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Schedule 20 (Processing Data) such that they apply to the Sub-processor; and

2.11.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

2.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

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 of this Schedule 20 (Processing Data) 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 (Processing Data) 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.



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 of this Schedule 20 (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.

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.

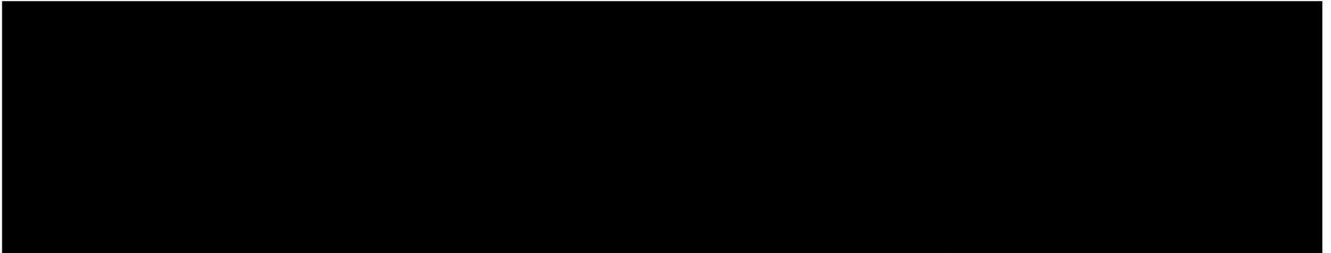
4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (Processing Personal Data).

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 (Processing 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 (Processing Data).

## 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.



- 1.3 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 of this Schedule 20 (Processing Data) and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor where Personal Data is necessarily processed in the performance of tasks exercised in performance of statutory obligations, duties, and functions vested in the Buyer as a competent authority.</p> <p><b>The Parties are Joint Controllers</b></p> <p>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of Personal Data relating the Food Business Operator Premises name and address processed initially by the Supplier as a sole controller in the delivery of services directly for the Food Business Operator related to export of products of animal origin, and further processed on behalf of the Buyer in performance of the terms of this Contract.</p> <p><b>The Parties are Independent Controllers</b></p> <p>The Parties acknowledge that both are Independent Controllers for the purposes of the Data Protection Legislation in respect of Personal Data of all information pertaining to their own staff.</p>

Description	Details
	The Parties acknowledge that this information will be exchanged under the terms of this Contract, and both Parties will be Independent Controllers of the Personal Data exchanged.
Subject matter of the Processing	Data processed in the delivery of the Services overall on behalf of the Buyer.
Duration of the Processing	The Contract Period.
Nature and purposes of the Processing	<p>The main objective of the Buyer in carrying out its functions is to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way in which it is produced or supplied) and otherwise to protect the interests of consumers in relation to food.</p> <p>Therefore, the primary purpose of processing by the Supplier as Processor will be the performance of statutory duties, functions, and obligations of the Buyer under the Food Standards Act 1999. Specifically, performance of tasks delegated to it in accordance with Article 28 of Assimilated Regulation (EU) 2017/625, and other specified legislation and regulations.</p> <p>The nature of this Processing may include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.</p> <p>The purposes may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>- Monitoring</li> <li>- Investigation</li> <li>- Enforcement</li> <li>- Audit and reporting</li> <li>- Administration</li> <li>- Operations</li> </ul> <p>Where Processing of Personal Data by the Supplier as the Processor is specified by the Buyer as necessary and proportionate under the terms of this Contract, the lawful basis for processing will be Article 6(e) – <i>“processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.”</i></p>



Description	Details
	<p>Where Processing of Personal Data by the Supplier as the Processor is specified by the Buyer as necessary and proportionate under the terms of this Contract for the purpose of investigation which may lead to prosecution of an individual, this is processed by the Supplier as Processor of the Buyer in accordance with Article 9(g) – “<i>processing is necessary for reasons of substantial public interest</i>”.</p> <p>The Buyer is a designated competent authority for the purposes of the Data Protection Legislation. Any Personal Data processed by the Supplier for law enforcement purposes must be undertaken as Processor and performed in accordance with the obligations set forth by Part 3 of the Data Protection Act 2018.</p>
Type of Personal Data being Processed	<p>Food Business Operator Premises name, address and telephone number</p> <p>Staff Name</p> <p>Email Address</p> <p>Telephone Number</p> <p>Food Business Operator Premises audit report</p> <p>Food Business Operator Premises approval documentation</p> <p>Food Business Operator Premises enforcement programme</p> <p>Formal enforcement notices and letters</p> <p>Evidence documents, photographs and videos</p> <p>Temporary Certificate of Competence applications</p> <p>Welfare referral documents and evidence</p>
Categories of Data Subject	<p>Staff data, Food Business Operator Premises data, producer data and haulier data.</p>
Plan for return and destruction of the data once the Processing is complete	<p>All records which require retention within the terms of this Contract shall be maintained securely at all times.</p> <p>Master copies of digital data records are backed up daily, held in secure backup storage in Azure. All those given access to the data storage must be authorised by virtue of a unique user logon issued only to relevant employees.</p>

Description	Details
UNLESS requirement under law to preserve that type of data	<p>Field staff laptops are password protected in order to prevent unauthorised access. Field staff are advised to ensure that their laptops are retained securely at all times.</p> <p>All FSA operational records that are generated at plant level in hard copy form must be securely retained in the locked filing cabinet provided in each FSA office. They should not be removed from the establishment at which they were generated. FSA operational records are to be kept for a minimum of six years unless otherwise advised. At such time the FSA operational records should be passed to the local FSA manager (ITL) responsible who will arrange for secure destruction in line with government data security requirements.</p> <p>All paper records are to be filed within the office premises to which only certain authorised employees will have access. All visitors must sign in and out at Reception.</p> <p>Any paper records that are considered not to be required for frequent retrieval may be archived. Both parties have an arrangement with a secure archive facility that will store such records until required. All records must be carefully catalogued and indexed prior to archive so as to allow easy retrieval.</p> <p>At such time as any records have reached the minimum retention periods defined, arrangements will be made to destroy such records by an appropriately secure means i.e. shredding that is undertaken by a company approved supplier.</p> <p>When the Contract expires the Supplier will be required to promptly delete all Personal Data records that it holds in relation to the Contract and confirm in writing to Supplier when this has been completed.</p>
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway	<p>Food Business Operator Premises that are approved by FSA in England and Wales <a href="#">[link to published list]</a></p> <p>Supplier head office <b>HallMark Official Controls Ltd, Unit 3, Damery Works, Berkeley, GL13 9JR</b></p> <p>All Processing of Personal Data by the Supplier as Processor under this Contract must be undertaken within the terms outlined by Paragraph 2.4.4 of this Schedule 20 (Processing Data), and at Schedule 16 (Security), Appendix 1 – Security Requirements.</p>



Description	Details
<p>Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event</p>	<ol style="list-style-type: none"> <li><b>1. STORAGE LIMITATION</b> <ol style="list-style-type: none"> <li>1.1. Data should not be kept longer than is necessary to carry out the specified purposes. This means that Data should be destroyed or erased from our systems when it is no longer required, and in accordance with our Data Retention Policy.</li> </ol> </li> <li><b>2. SECURITY, INTEGRITY AND CONFIDENTIALITY</b> <ol style="list-style-type: none"> <li>2.1. We will ensure that appropriate technical and organisational security measures are taken against unlawful or unauthorised processing of Data, and against the accidental loss of, or damage to, Data. Data Subjects may apply to the courts for compensation if they have suffered damage from such a loss.</li> <li>2.2. We will put in place procedural and technological safeguards appropriate to our size, scope and business, our available resources and the amount of Data we hold, to maintain the security of all Data from the point of collection to the point of destruction.</li> <li>2.3. We will consider and use, where appropriate, the safeguards of encryption, anonymisation and pseudonymisation (replacing identifying information with artificial information so that the Data Subject cannot be identified without the use of additional information which is kept separately and secure).</li> <li>2.4. We will regularly evaluate and test the effectiveness of these safeguards. Employees have a responsibility to comply with any safeguards we put in place.</li> <li>2.5. Maintaining data security means guaranteeing the confidentiality, integrity and availability of the Data, defined as follows:               <ol style="list-style-type: none"> <li>(a) Confidentiality means that only people who are authorised to use the Data can access it.</li> <li>(b) Integrity means that Data should be accurate and suitable for the purpose for which it is processed.</li> <li>(c) Availability means that authorised users should be able to access the Data if they need it for authorised purposes.</li> </ol> </li> <li>2.6. Failure to follow rules on data security may be dealt with via the Disciplinary Procedure.</li> </ol> </li> </ol>



Description	Details
	<p><b>3. TRANSFER LIMITATION</b></p> <p>3.1. We will not transfer Data to any recipients outside the European Economic Area (EEA)</p> <p><b>4. DATA SUBJECT'S RIGHTS AND REQUESTS</b></p> <p>4.1. Data must be processed in line with Data Subjects' rights. Data Subjects have the following rights which apply in certain circumstances:</p> <ul style="list-style-type: none"> <li>(a) The right to be informed about processing of Data</li> <li>(b) The right of access to their own Data</li> <li>(c) The right for any inaccuracies to be corrected (rectification)</li> <li>(d) The right to have information deleted (erasure)</li> <li>(e) The right to restrict the processing of Data</li> <li>(f) The right to portability</li> <li>(g) The right to object to the inclusion of Data</li> <li>(h) The right to regulate any automated decision-making and profiling of Data</li> <li>(i) The right to withdraw consent when the only legal basis for processing Data is consent</li> <li>(j) The right to be notified of a Data Breach which is likely to result in high risk to their rights and freedoms</li> <li>(k) The right to make a complaint to the Information Commissioner's Office or other supervisory authority.</li> </ul> <p>4.2. A formal request from a Data Subject for details of Data that we hold about them must be made in writing (Data Subject Access Request). Any member of staff who receives such a written request should forward it to their manager immediately. Please see the Subject Access Request Policy for full details.</p> <p><b>5. AUTOMATED PROCESSING (INCLUDING PROFILING) AND AUTOMATED DECISION-MAKING (ADM)</b></p> <p>5.1. Specific further rules to protect Data Subjects apply to any Automated Processing (including Profiling) and ADM related to that person's Data.</p>

Description	Details
	<p>5.2. We may during the course of an employee's employment, or at the assessment stage of a recruitment activity request that an individual provide their explicit consent to carry out a Psychometric Test so that we can assess an employee's suitability for a role or increase awareness and knowledge of personal attributes that will best suit particularly roles or teams. See our privacy statement for further information.</p> <p><b>6. BREACH NOTIFICATION</b></p> <p>6.1. Where a Data Breach is likely to result in a risk to the rights and freedoms of the individual(s) concerned, we will report it to the Information Commissioner's Office within 72 hours of us becoming aware of it, and it may be reported in more than one instalment.</p> <p>6.2. Individuals will be informed directly if the breach is likely to result in a high risk to their rights and freedoms.</p> <p>6.3. If the breach is sufficient to warrant notification to the public, we will do so without undue delay.</p> <p>6.4. If you know or suspect that a Data Breach has occurred, do not attempt to investigate the matter yourself but contact your manager or the Data Privacy Officer immediately. You should preserve all evidence relating to the potential Data Breach. Please see the Data Breach policy for full details.</p> <p><b>7. TRAINING</b></p> <p>7.1. New employees must read and understand this policy as part of their induction. All employees receive training covering basic information about confidentiality, data protection and the actions to take upon identifying a potential Data Breach. All employees are trained to protect individuals' Data to which they have access, to ensure data security and to understand the consequences to themselves and us of any potential breaches of the provisions of this policy.</p> <p><b>8. RECORDS</b></p> <p>8.1. We will keep full and accurate records of all our data processing activities.</p> <p><b>9. MONITORING AND REVIEW OF THE POLICY</b></p> <p>We will continue to review the effectiveness of this policy to ensure it is achieving its stated objectives.</p>

## **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 4.2 - 4.12 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 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 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 of this Schedule 20 (Processing Data), 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 12 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).
- 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 1.4a) 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 1.4c) 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.
- 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 that Party would not be permitted to do so.

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 of this Schedule 20 (Processing Data), 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 of this Schedule 20 (Processing Data) 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 of this Schedule 20 (Processing Data) 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).

<b>Contract Details</b>		
This variation is between:	<b>Food Standards Agency ("the Buyer")</b> And <b>HallMark Official Controls Ltd ("the Supplier")</b>	
Contract name:	<b>Provision of the Delivery of Official Controls in Approved Establishments in England and Wales ("this Contract")</b>	
Contract reference number:	<b>[insert contract reference number]</b>	
<b>Details of Proposed Variation</b>		
Variation initiated by:	<b>[delete as applicable: Buyer/Supplier]</b>	
Variation number:	<b>[insert variation number]</b>	
Date variation is raised:	<b>[insert date]</b>	
Proposed variation		
Reason for the variation:	<b>[insert reason]</b>	
An Impact Assessment shall be provided within:	<b>[insert number]</b> days	
<b>Impact of Variation</b>		
Likely impact of the proposed variation:	<b>[Supplier to insert assessment of impact]</b>	
<b>Outcome of Variation</b>		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[Buyer to insert original Clauses or Paragraphs to be varied and the changed clause]</b></li> </ul>	
Financial variation:	Original Contract Value:	£ <b>[insert amount]</b>
	Additional cost due to variation:	£ <b>[insert amount]</b>
	New Contract value:	£ <b>[insert amount]</b>

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.
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 22 (Insurance Requirements) 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 22 (Insurance Requirements) 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 Part C of the Annex to this Schedule 22 (Insurance Requirements) 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 22 (Insurance Requirements).

#### **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 22 (Insurance Requirements).
- 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 22 (Insurance Requirements), promptly notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule 22 (Insurance Requirements).

#### **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 £1,000,000 GBP (one million pounds) 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 £5,000,000 GBP (five million pounds) in respect of a single event or a related series of events and in the aggregate (to the extent insured by the relevant policy).

#### **4. Territorial Limits**

**England and Wales**

#### **5. Period of insurance**

From the Effective Date of this Contract for the Contract Period 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 **£5,000** 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 Limit of Indemnity £5 million	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.
Public/ Products Liability Insurance Limit of Indemnity £5 million	Where the Buyer requirement includes a potential breach by the Supplier arising out of or in connection with the Deliverables.
Employers Liability Insurance Limit of Indemnity £5 million	Is a legal requirement for businesses with employees to cover the cost of employee claims for illness or injury caused by their work due to their employer's negligence.

## **Schedule 23 (Guarantee)**

## 1. Definitions

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

<b>"Guarantee"</b>	a deed of guarantee in favour of a Buyer in the form set out in the Annex to this Schedule; and
<b>"Guarantor"</b>	the person acceptable to a Buyer to give a Guarantee.

## 2. Guarantee

- 2.1 Where a Buyer has notified the Supplier that the award of this Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of this Contract, as a condition for the award of this Contract, the Supplier shall deliver to the Buyer:
  - 2.1.1 an executed Guarantee from a Guarantor; and
  - 2.1.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
- 2.2 Notwithstanding Paragraph 2.1 of this Schedule 23 (Guarantee) above, where award of this Contract is not conditional upon receipt of a valid Guarantee, if, at any time from the Effective Date, the Buyer considers (in its reasonable opinion) that a Guarantee is required, the Supplier shall promptly deliver to the Buyer:
  - 2.2.1 an executed Guarantee from a Guarantor; and
  - 2.2.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
- 2.3 Where a Buyer has procured a Guarantee from the Supplier under Paragraph 2.1 or 2.2 of this Schedule 23 (Guarantee) above, the Buyer may terminate this Contract for Material Default where:
  - 2.3.1 the Guarantor withdraws the Guarantee for any reason whatsoever;
  - 2.3.2 the Guarantor is in breach or anticipatory breach of the Guarantee;
  - 2.3.3 an Insolvency Event occurs in respect of the Guarantor;
  - 2.3.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever; or
  - 2.3.5 the Supplier fails to provide the documentation required by Paragraph 2.1 or 2.2 of this Schedule 23 (Guarantee) (as applicable) by the date so specified by the Buyer;
  - 2.3.6 and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Buyer,

and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

## **Annex 1 – Form of Guarantee**



**- AND -**

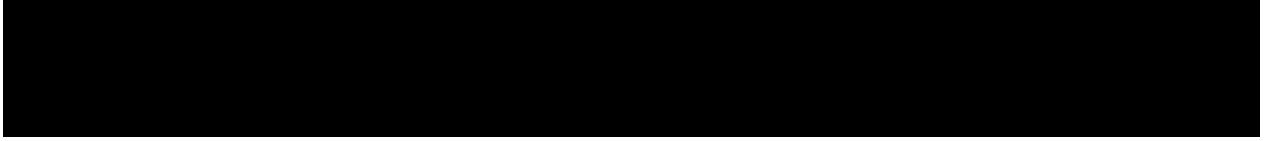
**FOOD STANDARDS AGENCY**

**DEED OF GUARANTEE**

## DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the 16<sup>th</sup> day of December 2024

PROVIDED BY:



WHEREAS:

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

### 1. DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:

<b>"Beneficiary(s)"</b>	means all the Buyer(s) under a Contract <b>Food Standards Agency</b> and "Beneficiaries" shall be construed accordingly;
<b>"Goods"</b>	has the meaning given to it in this Contract;
<b>"Guaranteed Agreement"</b>	means the contract with Contract Reference <b>C325798</b> for the Goods and/or Services dated on or about the date hereof made between the Beneficiary and the Supplier;
<b>"Guaranteed Obligations"</b>	means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Supplier to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;
<b>"Services"</b>	has the meaning given to it in this Contract;
<b>"Supplier"</b>	means HallMark Official Controls Ltd

- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

## **2. GUARANTEE AND INDEMNITY**

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.
- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.
- 2.3 If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:
  - 2.3.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed

Agreement had been entered into directly by the Guarantor and the Beneficiary; and

2.3.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.

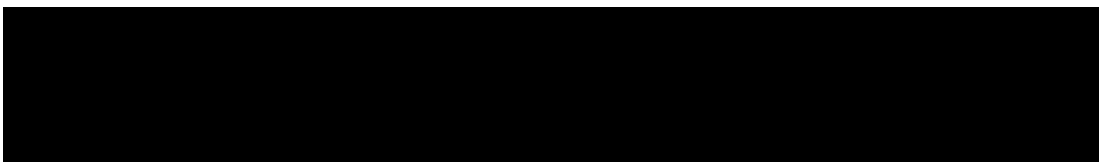
2.4 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 0 to 0 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

### **3. OBLIGATION TO ENTER INTO A NEW CONTRACT**

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

### **4. DEMANDS AND NOTICES**

4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:



or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in

accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

4.2.1 if delivered by hand, at the time of delivery; or

4.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or

4.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.

4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.

4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

## **5. BENEFICIARY'S PROTECTIONS**

5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.

5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:

5.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;

5.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;

5.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in



respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and

- 5.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 5.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the Default by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other Default in respect of the same Guaranteed Obligation.
- 5.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
- 5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
- 5.8 The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.

## **6. GUARANTOR INTENT**

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

## **7. RIGHTS OF SUBROGATION**

7.1 The Guarantor shall, at any time when there is any Default in the performance of any of the Guaranteed Obligations by the Supplier and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

7.1.1 of subrogation and indemnity;

7.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Supplier's obligations; and

7.1.3 to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Supplier and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

## **8. DEFERRAL OF RIGHTS**

8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:

8.1.1 exercise any rights it may have to be indemnified by the Supplier;

8.1.2 claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement;

8.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;

8.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or

8.1.5 claim any set-off or counterclaim against the Supplier;

8.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so

received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

## **9. REPRESENTATIONS AND WARRANTIES**

9.1 The Guarantor hereby represents and warrants to the Beneficiary that:

9.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;

9.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;

9.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including entry into and performance of a contract pursuant to Clause 0, have been duly authorised by all necessary corporate action and do not contravene or conflict with:

- A) the Guarantor's memorandum and articles of association or other equivalent constitutional documents;
- B) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
- C) the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;

9.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and

9.1.5 this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

## **10. PAYMENTS AND SET-OFF**

10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the

full amount which it would have received if the payment had been made without the deduction or withholding.

10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

## **11. GUARANTOR'S ACKNOWLEDGEMENT**

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

## **12. ASSIGNMENT**

12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.

12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

## **13. SEVERANCE**

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

## **14. THIRD PARTY RIGHTS**

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## **15. SURVIVAL**

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

## 16. GOVERNING LAW

- 16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
- 16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 16.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
- 16.5 [The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

## 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 of this Schedule 24 (Financial Difficulties);
<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 of this Schedule 24 (Financial Difficulties);
<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 of this Schedule 24 (Financial Difficulties); 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 of this Schedule 24 (Financial Difficulties);
<b>"Primary Metric"</b>	means the following Financial Indicator (as set out at Part C of Annex 2): Cash Flow Reserve or Equivalent;
<b>"Monitored Supplier"</b>	those entities specified in Part B of Annex 3 of this Schedule 24 (Financial Difficulties); and
<b>"Rating Agencies"</b>	the rating agencies listed in Part A of Annex 1 of this Schedule 24 (Financial Difficulties).

## **2. When this Schedule applies**

- 2.1 The Parties shall comply with the provisions of this Schedule 24 (Financial Difficulties) 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 24 (Financial Difficulties) 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 of this Schedule 24 (Financial Difficulties);.
- 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 8 of this Schedule 24 (Financial Difficulties) 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. NOT USED**

## **5. Financial Indicators**

- 5.1 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) Calendar Days after the accounting reference date
- 5.2 Subject to the calculation methodology set out at Annex 4 of this Schedule 24 (Financial Difficulties), 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)

5.3 Each report submitted by the Supplier pursuant to Paragraph 5.1 of this Schedule 24 (Financial Difficulties), shall:

5.3.1 be a single report with separate sections for each of the FDE Group entities;

5.3.2 contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;

5.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;

5.3.4 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.

5.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 of this Schedule 24 (Financial Difficulties), 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:

5.4.1 a report submitted by the Supplier pursuant to Paragraph 5.1 of this Schedule 24 (Financial Difficulties) shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for both of the Financial Indicators set out in Part C of Annex 2 of this Schedule 24 (Financial Difficulties);

5.4.2 a report submitted by the Supplier pursuant to Paragraph 5.1 of this Schedule 24 (Financial Difficulties) does not comply with the requirements set out in Paragraph 5.3 of this Schedule 24 (Financial Difficulties); or

5.4.3 the Supplier does not deliver a report pursuant to Paragraph 5.3 of this Schedule 24 (Financial Difficulties) in accordance with the applicable monitoring and reporting frequency.

## **6. What happens if there is a financial distress event**

6.1 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.



6.2 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 Buyer shall have the rights and remedies as set out in Paragraphs 6.4 to 6.6 of this Schedule 24 (Financial Difficulties).

6.3 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 6.4 of this Schedule 24 (Financial Difficulties) without first giving the Supplier ten (10) Working Days to:

6.3.1 rectify such late or non-payment; or

6.3.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.

6.4 The Supplier shall (and shall procure that each Additional FDE Group Member shall):

6.4.1 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

6.4.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 6.4.1 of this Schedule 24 (Financial Difficulties),) 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.

6.5 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:

6.5.1 Approved;

6.5.2 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

6.5.3 finally rejected by the Buyer.

6.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:

6.6.1 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;

6.6.2 provide a written report of the results of each review and assessment carried out under Paragraph 6.6.1 of this Schedule 24 (Financial Difficulties) to the Buyer.

6.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 6.6.1 of this Schedule 24 (Financial Difficulties), submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 6.5 of this Schedule 24 (Financial Difficulties) shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and

6.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

6.7 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 6.6 of this Schedule 24 (Financial Difficulties).

## **7. When the Buyer can terminate for financial distress**

7.1 The Buyer shall be entitled to terminate this Contract for Material Default if:

7.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 6.1 of this Schedule 24 (Financial Difficulties).

7.1.2 the Supplier fails to comply with any part of Paragraph 6.4 of this Schedule 24 (Financial Difficulties).

7.1.3 subject to Paragraph 7.2 of this Schedule 24 (Financial Difficulties), the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.5.3 of this Schedule 24 (Financial Difficulties);

7.1.4 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 6.5.2 of this Schedule 24 (Financial Difficulties);

7.1.5 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 6.5.2 of this Schedule 24 (Financial Difficulties); and/or

7.1.6 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 6.6.4 of this Schedule 24 (Financial Difficulties),

and the consequences of termination in Clause 14.5.1 of the Core Terms shall apply.

7.2 A Material Default may only occur under Paragraph 7.1.3 of this Schedule 24 (Financial Difficulties) 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.

## **8. 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 6 of this Schedule 24 (Financial Difficulties), if, following the occurrence of a Financial Distress Event, the Supplier evidence to the Buyer's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:

8.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 6.4 to 6.6 of this Schedule 24 (Financial Difficulties); and

8.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 6.4.2 (c) of this Schedule 24 (Financial Difficulties).

## **ANNEX 1: RATING AGENCIES**

### **Part A: Rating Agencies**

Dun and Bradstreet

## ANNEX 2: CREDIT RATINGS FINANCIAL INDICATORS

### Part A: Credit Rating

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier – <b>HallMark Official Controls Ltd</b> – Using SST Holding for first service year	Low - Moderate	Moderate
Guarantor – <b>Vorenta Ltd</b>	Not Applicable	Not Applicable
[Key Subcontractor] – <b>Poultry Health Services</b>	Not Applicable	Not Applicable
[Monitored Supplier] – <b>Not Applicable</b>	Not Applicable	Not Applicable

### Part B: NOT USED

### Part C: Financial Indicators

Financial Indicator	Calculation Methodology	Financial Target Threshold:	Monitoring and Reporting Frequency
<b>1</b> <b>Operating Margin</b>	<i>[Operating Margin = Operating Profit / Revenue]</i>	>0%	Tested and reported on a yearly basis (during Contract Period) in December for the previous tax year
<b>2</b> <b>Acid Ratio</b>	<i>[Acid Ratio = (Current Assets – Inventories) / Current Liabilities]</i>	> 1.0	Tested and reported on a yearly basis (during Contract Period) in December for the previous tax year
<b>3</b> <b>Cash Flow Reserve or Equivalent</b>	<i>[Cash flow reserve Amount agreed by Buyer and Supplier]</i>		Tested and reported on a Monthly basis (during the Contract Period) as part of regular open book accounting practices and finance review meetings (in accordance with the requirements of Schedule

Financial Indicator	Calculation Methodology	Financial Target Threshold:	Monitoring and Reporting Frequency
			13 (Contract Management))

### **ANNEX 3 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED SUPPLIERS**

#### **Part A: Additional FDE Group Members**

[Vorenta Ltd - Guarantor]

[Poultry Health Services – Key Sub-Contractor]; and

[Monitored Suppliers] – **Not Applicable**

#### **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)

## Schedule 25 (Rectification Plan)

Request for <b>[Revised]</b> Rectification Plan			
Details of the Notifiable Default:	<b>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</b>		
Deadline for receiving the <b>[Revised]</b> Rectification Plan:	<b>[add date (minimum 10 days from request)]</b>		
Signed by Buyer:		Date:	
Supplier <b>[Revised]</b> Rectification Plan			
Cause of the Notifiable Default	<b>[add cause]</b>		
Anticipated impact assessment:	<b>[add impact]</b>		
Actual effect of Notifiable Default:	<b>[add effect]</b>		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	
	<b>[...]</b>	<b>[date]</b>	
Timescale for complete Rectification of Notifiable Default	<b>[X]</b> Working Days		
Steps taken to prevent recurrence of Notifiable Default	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	

	[...]	[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)

## 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 Personnel or Sub-contractor Personnel 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; a statement under section 54 of the Modern Slavery Act would be sufficient for the required 'annual slavery and human trafficking report.

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 (Sustainability) 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 of the Core Terms it shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Buyer 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 (Sustainability) 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 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.

4.4 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 of this Schedule 26 (Sustainability) above within thirty (30) Calendar Days of such request, provided that such requests are limited to [two (2)] per requirement per Contract Year.

### Part B

#### 1. Equality, Diversity and Inclusion – Further Requirements

- 1.1 In delivering the Deliverables, the Supplier will comply with the Buyer's equality, diversity and inclusion requirements, to be provided to the Supplier by the Buyer.
- 1.2 The Supplier shall ensure that it fulfils its obligations under this Contract in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.

#### 2. NOT USED

#### 3. NOT USED

#### 4. Further Reporting Requirements

- 4.1 The Supplier shall complete the reports in Table A of this Part B in relation to its provision of the Deliverables under this Contract and provide these to the Buyer on the date and frequency outlined in Table A of this Part B.

**Table A**

<b>Sustainability Report Name</b>	<b>Content of Report</b>	<b>Frequency of Report</b>
<b>Sustainability - General including waste generated and recycled and greenhouse gasses emissions</b>	As proportionate and relevant to this Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Deliverables of climate change, including mitigation, adaptation and continuity plans employed by the Supplier in response to those risks with a commitment to achieve net carbon zero by 2050.	On the anniversary of the Effective Date

## 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 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 Supplier Roles) to this Schedule lists the key Supplier 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 Supplier Roles

Key Supplier Role	Key Staff	Contact Details
Managing Director	Patrick Steel	Patrick.steel@vorenta.com
Operations Director	Diego Spreckelsen	Diego.spreckelsen@vorenta.com
Commercial Director	Leigh Grant	Leigh.grant@vorenta.com
Finance Director	Penny Thorne	Penny.thorne@vorenta.com
Head of HR	Eyvonne Atkins	Eyvonne.atkins@vorenta.com
Senior Technical Lead - Red	Luis Castromil	Luis.castromil@hallmarkvcs.com
Senior Technical Lead - Poultry	Sara Perez	Sara.perez@poultryhealthservices.com



## 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 or a Key Subcontractor in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule 30 (Exit Management);
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule 30 (Exit Management) ;
<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 or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor 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;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule 30 (Exit Management);
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule 30 (Exit Management); and
<b>"Virtual Library"</b>	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 30 (Exit Management).

## **2. Supplier must always be prepared for contract exit**

- 2.1 The Supplier shall within ninety (90) Calendar Days of the Start 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 ninety (90) Calendar Days of the Start 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 Personnel 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 of the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule 30 (Exit Management) 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 of this Schedule 30 (Exit Management), 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 of this Schedule 30 (Exit Management) (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 of this Schedule 30 (Exit Management), the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule 30 (Exit Management) 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 of this Schedule 30 (Exit Management), 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 of this Schedule 30 (Exit Management) 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 and / or Food Business Operator Premises and / or Sites;

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 of this Schedule 30 (Exit Management) 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 of this Schedule 30 (Exit Management) 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 30 (Exit Management).

**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 Calendar 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 1.1.11 of this Schedule 30 (Exit Management) 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 of this Schedule 30 (Exit Management), 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 of this Schedule 30 (Exit Management) 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 30 (Exit Management)

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 32 (Background Checks)

## 1. When you should use this Schedule

This Schedule should be used where Supplier Personnel must be vetted before working on Contract.

## 2. Definitions

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule 32 (Background Checks).

## 3. Relevant Convictions

3.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.2 Notwithstanding Paragraph 3.1 of this Schedule 32 (Background Checks) for each member of Supplier Personnel who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

3.2.1 carry out a check with the records held by the Department for Education (DfE);

3.2.2 conduct thorough questioning regarding any Relevant Convictions; and

3.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## 4. Baseline Personnel Security Standard

4.1 The Supplier must ensure that all Supplier Personnel employed or engaged in any part of the provision of the Deliverables have passed the [Baseline Personnel Security Standard](https://www.gov.uk/government/publications/united-kingdom-security-vetting-clearance-levels/national-security-vetting-clearance-levels) (BPSS) (see <https://www.gov.uk/government/publications/united-kingdom-security-vetting-clearance-levels/national-security-vetting-clearance-levels>), including in accordance with the verification requirements set out at Paragraph 2.2, Appendix 1 of Schedule 16 (Security). Where requested by the Buyer, the Supplier shall promptly provide to the Buyer all such evidence as may be required by the Buyer of the Supplier's compliance with this paragraph 4.1 (and Paragraph 2.2, Appendix 1 of Schedule 16 (Security)).

## **Annex 1 – Relevant Convictions**

Relevant convictions in relation to the delivery of services under this contract include but are not limited to :

- Fraud
- Animal Cruelty
- Assault (with or without a weapon)

and any other conviction that the supplier deems to be relevant to delivering these services.

**Supplier has confirmed none of their staff involved in delivering these contracts have any of the relevant convictions listed above.**

**The Supplier will be conducting checks with all incoming staff, and no one will be recruited to work within Hallmark Official Controls if their conviction check advises of any of the listed convictions.**

# 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 of this Schedule 36 (Intellectual Property Rights), 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 (including in respect of any marketing material or information used for advertising or promotional purposes), 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 36 (Intellectual Property Rights) 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 of this Schedule 36 (Intellectual Property Rights), 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 in Paragraphs 2.3.2.2( c) or 4.1.2.2 and 4.1.2.3 of this Schedule 36 (Intellectual Property Rights), the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs 2 and 4 of this Schedule 36 (Intellectual Property Rights),

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**

2.1 The Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 2.3 of this Schedule 36 (Intellectual Property Rights) in respect of each Deliverable where:

2.1.1 the Supplier Existing IPR is embedded in the Deliverable;

2.1.2 the Supplier Existing IPR is necessary for the Buyer to use the Deliverable for its intended purpose; or

2.1.3 the Deliverable is a customisation or adaptation of Supplier Existing IPR.

2.2 The categories of Supplier Existing IPR described in Paragraph 2.1 of this Schedule 36 (Intellectual Property Rights) are mutually exclusive.

2.3 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:

2.3.1 in the case of Supplier Existing IPR embedded in a Deliverable:

2.3.1.1 has no restriction on the identity of any transferee or sub-licensee;

2.3.1.2 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 2.4 of this Schedule 36 (Intellectual Property Rights); and

2.3.1.3 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;

2.3.2 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:

2.3.2.1 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 2.4 of this Schedule 36 (Intellectual Property Rights);

2.3.2.2 is transferrable to only:

a) a Crown Body;

b) anybody (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 to this Schedule 36 (Intellectual Property Rights); or

2 enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 of the Core Terms (What you must keep confidential);

2.3.2.3 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 to this Schedule 36 (Intellectual Property Rights); or

b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 of the Core Terms (What you must keep confidential); and

2.3.2.4 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.

2.4 For the purposes of Paragraph 2.3 of this Schedule 36 (Intellectual Property Rights), the relevant purposes are:

2.4.1 to allow the Buyer or any End User to receive and use the Deliverables;

2.4.2 to allow the Buyer to commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items; and

2.4.3 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**

3.1 The Buyer grants the Supplier a licence to the New IPR and Buyer Existing IPR that:

3.1.1 is non-exclusive, royalty-free and non-transferable;

3.1.2 is sub-licensable to any Sub-contractor where:

3.1.2.1 the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 of the Core Terms (What you must keep confidential); and

3.1.2.2 the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;

3.1.3 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

3.1.4 terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.

3.2 When the licence granted under Paragraph 3.1 of this Schedule 36 (Intellectual Property Rights) terminates, the Supplier must and must ensure that each Sub-contractor granted a sub-licence under Paragraph 3.1.2:

3.2.1 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);

3.2.2 either:

3.2.2.1 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

3.2.2.2 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

3.2.3 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**

4.1 The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless:

4.1.1 Approval is granted by the Buyer; and

4.1.2 one of the following conditions is met:

4.1.2.1 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 4.2 of this Schedule 36 (Intellectual Property Rights);

4.1.2.2 if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 4.1.2.1 of this Schedule 36 (Intellectual Property Rights), 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

4.1.2.3 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.

4.2 The Third Party IPR licence referred to in Paragraph 4.1 of this Schedule 36 (Intellectual Property Rights) is the licence set out in Paragraph 2.3 as if:

4.2.1 the term Third Party IPR were substituted for the term Supplier Existing IPR; and

4.2.2 the term third party were substituted for the term Supplier,  
in each place they occur.

### Annex 1: NEW IPR

Name of New IPR	Details

# Schedule 37 (Corporate Resolution Planning)

## 1. Definitions

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

<b>"Accounting Reference Date"</b>	means in each year the date to which the Supplier prepares its annual audited financial statements;
<b>"Annual Revenue"</b>	<p>means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology:</p> <p>(a) figures for accounting periods of other than twelve (12) Months should be scaled pro rata to produce a proforma figure for a twelve (12) Month period; and</p> <p>(b) where the Supplier, the Supplier Group and/or their joint ventures and Associates report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the Accounting Reference Date;</p>
<b>"Assurance"</b>	means written confirmation from a Relevant Buyer to the Supplier that the CRP Information is approved by the Relevant Buyer;
<b>"Cabinet Office Markets and Suppliers Team"</b>	means the UK Government's team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
<b>"Corporate Change Event"</b>	<p>means:</p> <p>(a) any change of Control of the Supplier or a Parent Undertaking of the Supplier.</p>

- (a) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Services.
- (b) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Services.
- (c) a Class 1 Transaction taking place in relation to the shares of the Supplier or any Parent Undertaking of the Supplier whose shares are listed on the main market of the London Stock Exchange plc.
- (d) an event that could reasonably be regarded as being equivalent to a Class 1 Transaction taking place in respect of the Supplier or any Parent Undertaking of the Supplier.
- (e) payment of dividends by the Supplier or the ultimate Parent Undertaking of the Supplier Group exceeding twenty five percent (25%) of the Net Asset Value of the Supplier or the ultimate Parent Undertaking of the Supplier Group respectively in any twelve (12) Month period.
- (f) an order is made or an effective resolution is passed for the winding up of any member of the Supplier Group.
- (g) any member of the Supplier Group stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the Supplier Group ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement being

made with creditors of any member of the Supplier Group.

- (h) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the Supplier Group; and/or
- (i) any process or events with an effect analogous to those in Paragraphs (d) to (f) inclusive above occurring to a member of the Supplier Group in a jurisdiction outside England and Wales;

**"Corporate Change Event Grace Period"**

means a grace period agreed to by the Relevant Buyer for providing CRP Information and/or updates to Service Continuity Plan after a Corporate Change Event

**"Corporate Resolvability Assessment (Structural Review)"**

means part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraph 3 and Annex 2 of this Schedule 37 (Corporate Resolution Planning);

**"Critical National Infrastructure"**

means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:

- (a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or
- (b) significant impact on the national security, national defence, or the functioning of the UK;

<b>"Critical Service Contract"</b>	means the overall status of the Services provided under this Contract as determined by the Buyer and specified in Paragraph 2 of this Schedule 37 (Corporate Resolution Planning);
<b>"CRP Information"</b>	means the corporate resolution planning information, together, the: <ul style="list-style-type: none"> <li>(a) Exposure Information (Contracts List);</li> <li>(b) Corporate Resolvability Assessment (Structural Review); and</li> <li>(c) Financial Information and Commentary</li> </ul>
<b>"Exposure Information (Contracts List)"</b>	means part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraph 3 and Annex <b>Error! Reference source not found.</b> of this Schedule 37 (Corporate Resolution Planning);
<b>"Financial Information and Commentary"</b>	means part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraph 3 and Annex 3 of this Schedule 37 (Corporate Resolution Planning);
<b>"Public Sector Dependant Supplier"</b>	means a supplier where that supplier, or that supplier's group has Annual Revenue of £50 million or more of which over fifty percent (50%) is generated from UK Public Sector Business;
<b>"Relevant Buyer" or "Relevant Buyers"</b>	means the Buyer and the Cabinet Office Markets and Suppliers Team or, where the Supplier is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;
<b>"Strategic Suppliers"</b>	means those suppliers to government listed at <a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a> ;
<b>"UK Public Sector Business"</b>	means any goods, service or works provision to UK public sector bodies, including Crown Bodies and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies,



local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations;

**"Valid"**

in respect of an Assurance, has the meaning given to it in Paragraph 3.7 of this Schedule 37 (Corporate Resolution Planning);

## **CORPORATE RESOLUTION PLANNING**

### **2. Service Status and Supplier Status**

2.1 This Contract is a Critical Service Contract.

2.2 The Supplier shall notify the Buyer and the Cabinet Office Markets and Suppliers Team, in writing within five (5) Working Days of the Effective Date and throughout the Term within one hundred and twenty (120) days after each Accounting Reference Date as to whether or not it is a Public Sector Dependent Supplier. The contact email address for the Markets and Suppliers Team is [resolution.planning@cabinetoffice.gov.uk](mailto:resolution.planning@cabinetoffice.gov.uk).

### **3. Provision of Corporate Resolution Planning (CRP) Information**

3.1 Paragraphs 3 to 5 of this Schedule 37 (Corporate Resolution Planning) shall apply if this Contract has been specified as a Critical Service Contract under Paragraph 2.1 of this Schedule 37 (Corporate Resolution Planning) or the Supplier is or becomes a Public Sector Dependent Supplier.

3.1 Subject to Paragraphs 3.6, 3.10 and 3.11 of this Schedule 37 (Corporate Resolution Planning):

a) where this Contract is a Critical Service Contract, the Supplier shall provide the Relevant Buyer or Relevant Buyers with the CRP Information within sixty (60) Days of the Effective Date; and

b) except where it has already been provided in accordance with Paragraph 3.2(a) of this Schedule 37 (Corporate Resolution Planning) where the Supplier is a Public Sector Dependent Supplier, it shall provide the Relevant Buyer or Relevant Buyers with the CRP Information within sixty (60) Days of the date of the Relevant Buyer's or Relevant Buyers' request.

3.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 3.2, 3.8 and 3.9 of this Schedule 37 (Corporate Resolution Planning):

a) is full, comprehensive, accurate and up to date.

b) is split into three parts:

i) Exposure Information (Contracts List)

ii) Corporate Resolvability Assessment (Structural Review);

iii) Financial Information and Commentary

and is structured and presented in accordance with the requirements and explanatory notes set out in the latest published version of the Resolution Planning Guidance Note published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-sourcing-and-consultancy-playbooks> and contains the level of detail required (adapted as necessary to the Supplier's circumstances);

c) incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Buyer or Relevant Buyers to understand and consider the information for approval.

d) provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision in respect of UK Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and

e) complies with the requirements set out at Annex 1 (Exposure Information (Contracts List)), Annex 2 (Corporate Resolvability Assessment (Structural Review)) and Annex 3 (Financial Information and Commentary) respectively.

3.4 Following receipt by the Relevant Buyer or Relevant Buyers of the CRP Information pursuant to Paragraphs 3.2, 3.8 and 3.9 of this Schedule 37 (Corporate Resolution Planning), the Buyer shall procure that the Relevant Buyer or Relevant Buyers discuss in good faith the contents of the CRP Information with the Supplier and no later than 60 Days after the date on which the CRP Information was delivered by the Supplier and either provide an Assurance to the Supplier that Relevant Buyer or Relevant Buyers approve the CRP Information or that Relevant Buyer or Relevant Buyers reject the CRP Information.

3.5 If the Relevant Buyer or Relevant Buyers reject the CRP Information:

a) the Buyer shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and

b) the Supplier shall revise the CRP Information, taking reasonable account of the Relevant Buyer's or Relevant Buyers' comments, and shall re-submit the CRP Information to the Relevant Buyer or Relevant Buyers for approval within thirty (30) Days of the date of the Relevant Buyer's or Relevant Buyers' rejection. The provisions of Paragraphs 3.3 to 3.5 of this Schedule 37 (Corporate Resolution Planning) shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3.6 Where the Supplier or a member of the Supplier Group has already provided CRP Information to a Crown Body or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Crown Body and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then

provided that the Assurance remains Valid on the date by which the CRP Information would otherwise be required, the Supplier shall not be required to provide the CRP Information under Paragraph 3.2 if it provides a copy of the Valid Assurance to the Relevant Buyer or Relevant Buyers on or before the date on which the CRP Information would otherwise have been required.

3.7 An Assurance shall be deemed Valid for the purposes of Paragraph 3.6 of this Schedule 37(Corporate Resolution Planning) if:

- a) the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than twelve (12) Months has elapsed since it was issued and no more than eighteen (18) Months has elapsed since the Accounting Reference Date on which the CRP Information was based); and
- b) no Corporate Change Events or Financial Distress Events (or events which would be deemed to be Corporate Change Events or Financial Distress Events if this Contract had then been in force) have occurred since the date of issue of the Assurance.

3.8 If this Contract is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 3.8 (c) of this Schedule 37 (Corporate Resolution Planning) its initial CRP Information) to the Relevant Buyer or Relevant Buyers:

- a) Within fourteen (14) Days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 3.11 of this Schedule 37 (Corporate Resolution Planning)) unless the Supplier is relieved of the consequences of the Financial Distress Event (Schedule 24 Financial Difficulties)
- b) Within thirty (30) Days of a Corporate Change Event unless:
  - i) the Supplier requests and the Relevant Buyer (acting reasonably) agrees to a Corporate Change Event Grace Period, in the event of which the time period for the Supplier to comply with this Paragraph shall be extended as determined by the Relevant Buyer (acting reasonably) but shall in any case be no longer than six (6) Months after the Corporate Change Event. During a Corporate Change Event Grace Period the Supplier shall regularly and fully engage with the Relevant Buyer to enable it to understand the nature of the Corporate Change Event and the Relevant Buyer shall reserve the right to terminate a Corporate Change Event Grace Period at any time if the Supplier fails to comply with this Paragraph; or
  - ii) not required pursuant to Paragraph 3.10 of this Schedule 37 (Corporate Resolution Planning);
- c) within thirty (30) Days of the date that:
  - i) the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 3.10 of this Schedule 37 (Corporate Resolution Planning); or

ii) none of the credit rating agencies specified at Paragraph 3.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and

d) in any event, within six (6) Months after each Accounting Reference Date or within fifteen (15) Months of the date of the previous Assurance received from the Relevant Buyer (whichever is the earlier), unless:

i) updated CRP Information has been provided under any of Paragraphs 3.8(a), 3.8(b) or 3.8(c) of this Schedule 37 (Corporate Resolution Planning) since the most recent Accounting Reference Date (being no more than twelve (12) Months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 3.8(d) of this Schedule 37 (Corporate Resolution Planning); or

ii) not required pursuant to Paragraph 3.10 of this Schedule 37 (Corporate Resolution Planning).

3.9 Where the Supplier is a Public Sector Dependent Supplier and this Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 3.8(a) to 3.8(d) of this Schedule 37 (Corporate Resolution Planning), the Supplier shall provide at the request of the Relevant Buyer or Relevant Buyers and within the applicable timescales for each event as set out in Paragraph 3.8 of this Schedule 37 (Corporate Resolution Planning) (or such longer timescales as may be notified to the Supplier by the Buyer), the CRP Information to the Relevant Buyer or Relevant Buyers.

3.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of "minimal risk" from Dun & Bradstreet (for "risk indication") the Supplier will not be required to provide any CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 6 of Schedule 24 (*Financial Difficulties*)) (as defined in Schedule 24 (*Financial Difficulties*) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 3.10 of this Schedule 37 (Corporate Resolution Planning), in which cases the Supplier shall provide the updated version of the CRP Information in accordance with Paragraph 3.8 of this Schedule 37 (Corporate Resolution Planning).

3.11 Subject to Paragraph 5 of this Schedule 37 (Corporate Resolution Planning), where the Supplier demonstrates to the reasonable satisfaction of the Relevant Buyer or Relevant Buyers that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Relevant Buyer or Relevant Buyers, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no longer apply and the Supplier shall promptly provide the relevant information to the Relevant Buyer or Relevant Buyers to the extent required under Paragraph 3.8 of this Schedule 37 (Corporate Resolution Planning).

#### **4. Termination Rights**

4.1 The Buyer shall be entitled to terminate this Contract under Clause 14.4 of the Core Terms (*Ending this Contract*) if the Supplier is required to provide CRP

Information under Paragraph 3 of this Schedule 37 (Corporate Resolution Planning) and either:

- a) the Supplier fails to provide the CRP Information within 4 Months of the Effective Date if this is a Critical Service Contract or otherwise within four (4) Months of the Relevant Buyer's or Relevant Buyers' request; or
- b) the Supplier fails to obtain an Assurance from the Relevant Buyer or Relevant Buyers within four (4) Months of the date that it was first required to provide the CRP Information under this Contract.

## **5. Confidentiality and usage of CRP Information**

5.1 The Buyer agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of Critical National Infrastructure and to enable contingency planning to maintain service continuity for end users and protect Critical National Infrastructure in such eventuality.

5.2 Where the Relevant Buyer is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Buyer shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage Contract with the Supplier containing terms no less stringent than those placed on the Buyer under Paragraph 5.1 of this Schedule 37 (Corporate Resolution Planning) and Clause 19 of the Core Terms (*What you must keep Confidential*).

5.3 The Supplier shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Relevant Buyer or Relevant Buyers pursuant to Paragraph 3 of this Schedule 37 (Corporate Resolution Planning) subject, where necessary, to the Relevant Buyer or Relevant Buyers entering into an appropriate confidentiality Contract in the form required by the third party.

5.4 Where the Supplier is unable to procure consent pursuant to Paragraph 5.3 of this Schedule 37 (Corporate Resolution Planning), the Supplier shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:

- a) redacting only those parts of the information which are subject to such obligations of confidentiality.
- b) providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
  - i) summarising the information.
  - ii) grouping the information;
  - iii) anonymising the information; and
  - iv) presenting the information in general terms.

5.5 The Supplier shall provide the Relevant Buyer or Relevant Buyers with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Supplier is legally permitted to do so.

## ANNEX 1: EXPOSURE: CRITICAL CONTRACTS LIST

- 1 The Supplier shall:
  - 1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:
    - (a) are with any UK public sector bodies including Crown Bodies and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local Buyers, health bodies, police fire and rescue, education bodies and the devolved administrations.
    - (b) are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in Paragraph 1.1(a) of this Annex **Error! Reference source not found.** of Schedule 37 (Corporate Resolution Planning) and where the member of the Supplier Group is acting as a Key Sub-contractor under this Contract with the end recipient; or
    - (c) involve or could reasonably be considered to involve Critical National Infrastructure.
  - 1.2 provide the Relevant Buyer with a copy of the latest version of each underlying contract worth more than £5m per Contract Year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link

## **ANNEX 2: CORPORATE RESOLVABILITY ASSESSMENT (STRUCTURAL REVIEW)**

- 1 The Supplier shall:
  - 1.1 provide sufficient information to allow the Relevant Buyer to understand the implications on the Supplier Group's UK Public Sector Business and Critical National Infrastructure agreements listed pursuant to Annex **Error! Reference source not found.** of this Schedule 37 (Corporate Resolution Planning) if the Supplier or another member of the Supplier Group is subject to an Insolvency Event.
  - 1.2 ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Supplier Group; and
  - 1.3 provide full details of the importance of each member of the Supplier Group to the Supplier Group's UK Public Sector Business and Critical National Infrastructure agreements listed pursuant to Annex **Error! Reference source not found.** of this Schedule 37 (Corporate Resolution Planning) and the dependencies between each.



### **ANNEX 3: Financial information AND COMMENTARY**

- 1 The Supplier shall:
  - 1.1 provide sufficient financial information for the Supplier Group level, contracting operating entities level, and shared services entities' level to allow the Relevant Buyer to understand the current financial interconnectedness of the Supplier Group and the current performance of the Supplier as a standalone entity; and
  - 1.2 ensure that the information is presented in a simple, effective and easily understood manner.
  - 1.3 For the avoidance of doubt the financial information to be provided pursuant to Paragraph 1 of this Annex 3 should be based on the most recent audited accounts for the relevant entities (or interim accounts where available) updated for any material changes since the Accounting Reference Date provided that such accounts are available in a reasonable timeframe to allow the Supplier to comply with its obligations under this Schedule. If such accounts are not available in that timeframe, to the extent permitted by Law financial information should be based on unpublished unaudited accounts or management accounts (disclosure of which to the Relevant Buyer remains protected by confidentiality).

# Schedule 38 (Buyer Responsibilities)

## 1. Introduction

1.1 The responsibilities of the Buyer set out in this Schedule 38 (Buyer Responsibilities) shall constitute the Buyer Responsibilities under this Contract. Any obligations of the Buyer in (Specification) and Schedule 4 (Tender) shall not be Buyer Responsibilities and the Buyer shall have no obligation to perform any such obligations unless they are specifically stated to be "Buyer Responsibilities" and cross referenced in the table in Paragraph 3 of this Schedule 38 (Buyer Responsibilities).

## 2. General Obligations

2.1 The Buyer shall:

2.1.1 use its reasonable endeavours to provide the Supplier with access to appropriate members of the Buyer's staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Term and the Termination Assistance Period;

2.1.2 provide sufficient and suitably qualified staff to fulfil the Buyer's roles and duties under this Contract as defined in the Implementation Plan;

2.1.3 use its reasonable endeavours to provide such documentation, data and/or other information that the Supplier reasonably requests that is necessary to perform its obligations under the terms of this Contract provided that such documentation, data and/or information is available to the Buyer and is authorised for release by the Buyer; and

2.1.4 procure for the Supplier such agreed access and use of the Buyer Premises (as a licensee only) and facilities (including relevant IT systems) as is reasonably required for the Supplier to comply with its obligations under this Contract, such access to be provided during the Buyer's normal working hours on each Working Day or as otherwise agreed by the Buyer (such agreement not to be unreasonably withheld or delayed).

## 3. Specific Obligations

3.1 The Buyer shall, in relation to this Contract perform the Buyer's responsibilities identified as such in this Contract the details of which are set out below:

Buyer Responsibilities	Agreed Timescales
Process Authorisation Requests and provide guest access to Guest Access Systems for authorised Supplier Personnel, in each case in accordance with in accordance with Paragraph 5 of Schedule 2 (Specification)	As per Paragraph 5 of Schedule 2 (Specification)
Provide Supplier with requisite notice to any change to resourcing requirements in line with applicable notice period set out in the table at Paragraph 6.17 of Schedule 2 (Specification)	As per Paragraph 6.17 of Schedule 2 (Specification)
Buyer's obligation to pay the Charges (to the extent such Charges have been invoiced in accordance with requirements of Clause 4 of the Core Terms and Schedule 3 (Charges) (as applicable).	As per Clause 4 of the Core Terms and Schedule 3 (Charges)
Provision of Performance Monitoring Reports as Paragraph 1.3 of Part B of Schedule 10 (Service Levels)	As per Paragraph 1.3 of Part B of Schedule 10 (Service Levels)