SCHEDULE 32

INTELLECTUAL PROPERTY RIGHTS

Schedule 32 (*Intellectual Property Rights*)

1 INTELLECTUAL PROPERTY RIGHTS

1.1 Except as expressly set out in this Contract:

(a) the Authority shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:

(i) the Supplier Software;

(ii) the Third Party Software;

(iii) the Third Party IPRs; and

(iv) the Supplier Background IPRs;

(b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including:

(i) the Authority Software;

(ii) the Authority Data; and

(iii) the Authority Background IPRs;

(c) Specially Written Software and Project Specific IPRs (except for any Know-How, trade secrets or Confidential Information contained therein) shall be the property of the Authority.

1.2 Where either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Paragraph 1.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

1.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

1.4 Unless otherwise agreed in writing, the Parties shall record all Specially Written Software and Project Specific IPRs in Annex 1 to this Schedule 32 (*Intellectual Property Rights*) and shall keep Annex 1 updated during the Term.

2 TRANSFER AND LICENCES GRANTED BY THE SUPPLIER

Specially Written Software and Project Specific IPRs

2.1 Subject to Paragraphs 2.17 (*Patents*) and 2.18 (*SAAS*), the Supplier hereby agrees to transfer to the Authority, or shall procure the transfer to the Authority of, all rights (subject to Paragraph 1.1(a) (*Intellectual Property Rights*)) in the Specially Written Software and the Project Specific IPRs including (without limitation):

(a) the Documentation, Source Code and the Object Code of the Specially Written Software; and

(b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the "**Software Supporting Materials**");

but not including any Know-How, trade secrets or Confidential Information.

2.2 The Supplier:

(a) shall:

(i) inform the Authority of all Specially Written Software and any element of Project Specific IPRs that constitutes a modification or enhancement to Supplier Software or Third Party Software; and

(ii) deliver to the Authority the Specially Written Software and the software element of Project Specific IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven (7) days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable and shall provide updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Authority; and

(iii) without prejudice to Paragraph 2.11 (*Third Party Software and Third Party IPRs*), provide full details to the Authority of any Supplier Background IPRs or Third Party IPRs which are embedded in or which are an integral part of the Specially Written Software or any element of Project Specific IPRs;

(b) acknowledges and agrees that the ownership of the media referred to in Paragraph 2.2(a)(ii) shall vest in the Authority upon their receipt by the Authority; and

(c) shall execute all such assignments as are required to ensure that any rights in the Specially Written Software and Project Specific IPRs are properly transferred to the Authority.

Supplier Software and Supplier Background IPRs

2.3 The Supplier shall not use any Supplier Non-COTS Software or Supplier Non-COTS Background IPR in the provision of the Services unless it is detailed in Schedule 12 (*Software*) or sent to the Technical Board for review and approval granted by the Authority.

2.4 The Supplier hereby grants to the Authority:

(a) subject to the provisions of Paragraphs 2.17 (*Patents*) and 2.18 (*SAAS*), and Clause 34.11(b) (*Consequences of expiry or termination*), perpetual, royalty-free and non-exclusive licences to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

(i) the Supplier Non-COTS Software for which the Supplier delivers a copy to the Authority for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function; and

(ii) the Supplier Non-COTS Background IPRs for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function;

(b) subject to the provisions of Paragraph 2.18 (*SAAS*), a perpetual and non-exclusive licence to use the Supplier COTS Software for which the Supplier delivers a copy to the Authority and Supplier COTS Background IPRs on the licence terms identified in a letter in or substantially in the form set out in Annex 1 to Schedule 12 (*Software*) and signed by or on behalf of the Parties on or before the Effective Date (and where not signed, on the terms set out in paragraph (a) above) provided always that the Authority shall remain entitled to sub-license and to assign and novate the Supplier COTS Software and Supplier COTS Background IPRs on equivalent terms to those set out in Paragraphs 2.7 (*Authority's right to sub-licence*) and 2.8 (*Authority's right to assign/novate sub-licences*) in relation to the Supplier Non-COTS Software and Supplier Non-COTS Background IPRs; and

(c) a perpetual royalty-free non-exclusive licence to use without limitation any Know-How, trade secrets or Confidential Information contained within the Specially Written Software or the Project Specific IPRs.

2.5 At any time during the Term or following termination or expiry of this Contract, the Supplier may terminate the licence granted in respect of the Supplier Non- COTS Software under Paragraph 2.4(a)(i) or in respect of the Supplier Non- COTS Background IPRs under Paragraph 2.4(a)(ii) by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if the Authority or any person to whom the Authority grants a sub-licence pursuant to Paragraph 2.7 (*Authority's right to sub-license*) commits any material breach of the terms of Paragraph 2.4(a)(i) or 2.4(a)(ii) or 2.7(a)(ii) (as the case may be) which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Authority written notice specifying the breach and requiring its remedy.

2.6 In the event the licence of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs is terminated pursuant to Paragraph 2.5, the Authority shall:

(a) immediately cease all use of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs (as the case may be);

(b) at the discretion of the Supplier, return or destroy documents and other tangible materials to the extent that they contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs, provided that if the Supplier has not made an election within six (6) months of the termination of the licence, the Authority may destroy the documents and other tangible materials that contain any of the Supplier Non-COTS Software and/or the Supplier Non-COTS Background IPRs (as the case may be); and

(c) ensure, so far as reasonably practicable, that any Supplier Non- COTS Software and/or Supplier Non-COTS Background IPRs that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Authority) from any computer, word processor, voicemail system or any other device containing such Supplier Non-COTS Software and/or Supplier Non-COTS Background IPRs.

Authority's right to sub-license

2.7 Subject to Paragraphs 2.17 (*Patents*) and 2.18 (*SAAS*), the Authority may sub-license:

(a) the rights granted under Paragraph 2.4(a) (*Supplier Software and Supplier Background IPRs*) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:

(i) the sub-licence is on terms no broader than those granted to the Authority;

(ii) the sub-licence authorises the third party to use the rights licensed in Paragraph 2.4(a) (Supplier Software and Supplier Background IPRs) only for purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function; and

(iii) the sub-licensee shall have executed a confidentiality undertaking in favour of the Supplier in or substantially in the form set out in Annex 2 to Schedule 12 (*Software*); and

(b) the rights granted under Paragraph 2.4(a) (*Supplier Software and Supplier Background IPRs*) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Specially Written Software and/or the Project Specific IPRs provided that:

(i) the sub-licence is on terms no broader than those granted to the Authority; and

(ii) the Supplier has received a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 12 (*Software*) duly executed by the Approved Sub-Licensee.

Authority's right to assign/novate licences

2.8 The Authority may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Paragraph 2.4(a) (*Supplier Software and Supplier Background IPRs*) to:

(a) a Central Government Body; or

(b) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority.

2.9 Any change in the legal status of the Authority which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Paragraph 2.4 (*Supplier Software and Supplier Background IPRs*). If the Authority ceases to be a Central Government Body, the successor body to the Authority shall still be entitled to the benefit of the licence granted in Paragraph 2.4 (*Supplier Software and Supplier Background IPRs*).

2.10 If a licence granted in Paragraph 2.4 (*Supplier Software and Supplier Background IPRs*) is novated under Paragraph 2.8 (*Authority's right to assign/novate licences*) or there is a change of the Authority's status pursuant to Paragraph 2.9, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the Authority.

Third Party Software and Third Party IPRs

2.11 Subject to the provisions of Paragraph 2.18 (*SAAS*), the Supplier shall not use in the provision of the Services (including in any Specially Written Software or in the software element of Project Specific IPRs) any Third Party Non-COTS Software or Third Party Non-COTS IPRs unless detailed in Schedule 12 (*Software*) or approval is granted by the Authority following a review by the Technical Board and has in each case either:

(a) first procured that the owner or an authorised licensor of the relevant Third Party Non-COTS IPRs or Third Party Non-COTS Software (as the case may be) has granted a direct licence to the Authority on a royalty-free basis to the Authority and on terms no less favourable to the Authority than those set out in Paragraphs 2.4(a) and 2.5 (*Supplier Software and Supplier Background IPRs*) and Paragraph 2.8 (*Authority's right to assign/novate licences*); or

(b) complied with the provisions of Paragraph 2.12.

2.12 subject to the provisions of Paragraph 2.18 (*SAAS*), if the Supplier cannot obtain for the Authority a licence in respect of any Third Party Non-COTS Software and/or Third Party Non-COTS IPRs in accordance with the licence terms set out in Paragraph 2.11(a), the Supplier shall:

(a) notify the Authority in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use; and

(b) use the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs only if the Authority has first approved in writing either:

(i) the terms of the licence from the relevant third party; or

(ii) use without a licence, with reference to the acts authorised and the specific IPR involved. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Authority and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 - 243 of the Copyright, Designs and Patents Act 1988.

2.13 The Supplier shall:

(a) notify the Authority in writing of all Third Party COTS Software and Third Party COTS IPRs that it uses and the terms on which it uses them; and

(b) unless instructed otherwise in writing by the Authority in any case within twenty (20) Working Days of notification pursuant to Paragraph 2.12 use all reasonable endeavours to procure in each case that the owner or an authorised licensor of the relevant Third Party COTS Software and Third Party COTS IPRs grants a direct licence to the Authority on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

2.14 Should the Supplier become aware at any time, including after termination, that the Specially Written Software and/or the Project Specific IPRs contain any Intellectual Property Rights for which the Authority does not have a suitable licence, then the Supplier must notify the Authority within ten (10) days of what those rights are and which parts of the Specially Written Software and the Project Specific IPRs they are found in.

Termination and Replacement Suppliers

2.15 For the avoidance of doubt, subject to the provisions of Paragraph 2.18 (*SAAS*), the termination or expiry of this Contract shall not of itself result in any termination of any of the licences granted by the Supplier or relevant third party pursuant to or as contemplated by this Paragraph 2.

2.16 Subject to the provisions of Paragraph 2.18 (*SAAS*), the Supplier shall, if requested by the Authority in accordance with Schedule 25 (*Exit Management*) and at the Supplier's cost:

(a) grant (or procure the grant) to any Replacement Supplier of:

(i) a licence to use any Supplier Non-COTS Software, Supplier Non-COTS Background IPRs, Third Party Non-COTS IPRs and/or Third Party Non-COTS Software on a royalty-free basis to the Replacement Supplier and on terms no less favourable than those granted to the Authority in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this Paragraph 2 subject to receipt by the Supplier of a confidentiality undertaking in its favour in or substantially

in the form set out in Annex 2 to Schedule 12 (*Software*) duly executed by the Replacement Supplier;

(ii) a licence to use any Supplier COTS Software and/or Supplier COTS Background IPRs, on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the Supplier; and/or

(b) use all reasonable endeavours to procure the grant to any Replacement Supplier of a licence to use any Third Party COTS Software and/or Third Party COTS IPRs on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

Patents

2.17 Where a patent owned by the Supplier is necessarily infringed by the use of the Specially Written Software or Project Specific IPRs by the Authority or any Replacement Supplier, the Supplier hereby grants to the Authority and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software solely for the purpose for which they were delivered under this Contract.

2.18 SAAS

The Parties acknowledge and agree that the Supplier may deliver the Services (or part thereof) using SAAS Software. Such SAAS Software will either be Supplier COTS Software or Third Party COTS Software (as the case may be) and shall be licenced to the Authority on such basis other than:

(a) in respect of SAAS Software which is Supplier COTS Software ("**Supplier SAAS Software**") the Supplier hereby grants to the Authority during the Term a royalty-free (other than in respect of payment of the appropriate part of the Charges) and non-exclusive licence to use the Supplier SAAS Software for any purpose relating to the Services;

(b) in respect of SAAS Software which is Third Party COTS Software ("**Third Party SAAS Software**") the Supplier hereby grants to the Authority during the Term a royalty-free (other than in respect of payment of the appropriate part of the Charges) and non-exclusive licences to use the Third Party SAAS Software on the licence terms identified in a letter in or substantially in the form set out in Annex 1 to Schedule 12 (*Software*) and signed by or on behalf of the Parties on or before the Effective Date (and where not signed, on the terms set out in paragraph (a) above) provided always that the Authority shall remain entitled to sub-license and to assign and novate the Third Party SAAS Software on equivalent terms to those set out in Paragraphs 2.7 (*Authority's right to sub-licence*) and 2.8 (*Authority's right to assign/novate sub-licences*); and

(c) the Supplier shall not use in the provision of the Services any SAAS Software unless detailed in Schedule 12 (*Software*) or approval is granted by the Authority following a review by the Technical Board and has in each case either:

(i) first procured that the owner or an authorised licensor of the relevant SAAS Software (as the case may be) has granted a direct licence to the Authority on terms no less favourable to the Authority than those set out in this Paragraph 2.18; or

(ii) if the Supplier cannot obtain for the Authority a licence in respect of any SAAS Software in accordance with the licence terms set out in Paragraph 2.18(c)(i) above, the Supplier shall:

(A) notify the Authority in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use; and

(B) use the relevant SAAS Software only if the Authority has first approved in writing either:

(1) the terms of the licence from the relevant third party; or

(2) use without a licence, with reference to the acts authorised and the specific IPR involved. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Authority and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 - 243 of the Copyright, Designs and Patents Act 1988;

(d) the termination or expiry of this Contract shall result in the termination of any of the licences granted by the Supplier or relevant third party under this Paragraph 2.18 (*SAAS*) other than where at the Authority's cost (on charges proportionate to the part of the Charges which related to the provision of the SAAS Software) the Authority requires the grant (or requires the Supplier to procure the grant) to any Replacement Supplier of a licence and in which case the Supplier shall grant:

(i) a licence to use the Supplier SAAS Software on a royalty-free (other than in respect of the costs referred to above) basis to the Replacement Supplier and on terms no less favourable than those granted to the Authority in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this Paragraph 2 subject to receipt by the Supplier of a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 12 (*Software*) duly executed by the Replacement Supplier;

(e) use all reasonable endeavours to procure the grant to any Replacement Supplier of a licence to use Third Party SAAS Software on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

3 LICENCES GRANTED BY THE AUTHORITY

3.1 Subject to Paragraph 3.3, the Authority hereby grants to the Supplier during the Term (including any Termination Assistance Period) a royalty-free, non- exclusive, non-transferable licence to use the Authority Software, the Authority Background IPRs, the Specially Written Software and the Project Specific IPRs and the Authority Data for the purpose of using or exploiting the Specially Written Software and the Project Specific IPRs, including (but not limited to) the right to grant sub-licences to Sub-contractors provided that:

(a) any relevant Sub-contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (*Confidentiality*);

(b) the Supplier shall not, without the Authority's prior written consent, use the Authority Software, Authority Background IPRs and the Authority Data for any other purpose or for the benefit of any person other than the Authority; and

(c) the Supplier shall not, without the Authority's prior written consent, use the Specially Written Software and the Project Specific IPRs for any other purpose or for the benefit of any person other than the Authority.

3.2 On the expiry of the licence granted pursuant to Paragraph 3.1 any sub-licence granted by the Supplier in accordance with Paragraph 3.1 shall terminate automatically and the Supplier shall:

(a) immediately cease all use of the Authority Software, the Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and the Authority Data (as the case may be);

(b) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the Authority Software, the Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and the Authority Data, provided that if the Authority has not made an election within six (6) months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Authority Software, the Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and the Authority Data (as the case may be); and

(c) ensure, so far as reasonably practicable, that any Authority Software, Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Supplier computer, word processor, voicemail system or any other Supplier device

containing such Authority Software, Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and/or Authority Data.

3.3 The Supplier may use or exploit the Specially Written Software and/or the Project Specific IPRs provided that:

(a) the Supplier must always offer a price and solution to the Authority which is in accordance with the Charges;

(b) where the Supplier proposes to exploit Specially Written Software and/or the Project Specific IPRs, that it provides a detailed proposal of its plans for exploitation of the Specially Written Software and/or the Project Specific IPRs and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the Specially Written Software and/or the Project Specific IPRs, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Authority to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Authority may reasonably request;

(c) where the Supplier proposes to discount the prices offered to the Authority in return for the right to exploit Specially Written Software and/or the Project Specific IPRs, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 3.3(b) above have been applied to the price for the Deliverables offered to the Authority and other potential users;

3.4 The Supplier acknowledges and agrees that the Authority is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Authority will need to consider its position and approach on a case by case basis.

ANNEX 1: SPECIALLY WRITTEN SOFTWARE AND PROJECT SPECIFIC IPRS

Name of Specially Written Software and Project Specific IPRs	**Details**
Nil	Nil