

Date: 28th November 2023

V4

A Contract for the Provision of Language Services – Translation and Transcription

Between

The Secretary of State for Justice

And

thebigword Group Limited

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This contract is dated:

PARTIES:

- (1) THE SECRETARY OF STATE FOR JUSTICE of 102 Petty France, London, SW1H 9AJ acting as part of the Crown (the “**Authority**”);

AND

- (2) THEBIGWORD GROUP LIMITED with registered company number 5551907 whose registered office is Link-Up House Wortley Ring Road, Lower Wortley, Leeds, LS12 6AB (the “**Service Provider**”)

(each a “**Party**” and together the “**Parties**”).

WHEREAS

- A. The Authority placed a contract notice 2020/S 207-506366 on 20 October 2020 in the Official Journal of the European Union and Contracts Finder seeking tenders from

providers interested in entering into a contract for the supply of Translation and Transcription Services.

- B. On 21 October 2020 the Authority issued an invitation to tender (the "Invitation to Tender") for the provision of Language Services – Translation and Transcription Services.
- C. In response to the Invitation to Tender, the Service Provider submitted a tender to the Authority on 20 November 2020 (set out in Schedule 3 (Service Solution)) (the "Tender") through which it represented to the Authority that it is capable of delivering the Services in accordance with the Authority's requirements as set out in the Invitation to Tender and, in particular, the Supplier made representations to the Authority in the Tender in relation to its competence, professionalism and ability to provide the Services in an efficient and cost effective manner.
- D. Following the competitive tender process, the Authority wishes to appoint the Service Provider to provide Translation and Transcription services and the Service Provider agrees to provide those services in accordance with these terms and conditions;

NOW IT IS HEREBY AGREED:

A GENERAL

A1 Definitions and Interpretation

Unless the context otherwise requires the following terms shall have the meanings given to them below:

"Acceptance Criteria" means the criteria set out in Annex 2 of Schedule 4 (Implementation).

"Account Management Team" means the team appointed by the Service Provider from time to time to fulfil the role set out in Paragraph 2.1 of Schedule 8 (Governance).

"Achieved Performance Level" means for each KPI, the actual performance achieved by the Service Provider over the relevant monthly/quarterly measurement period in accordance with Schedule 6 (Performance).

"Uplift" means an adjustment to the Base Unit Price calculated in accordance with Part 1 of Schedule 5.

"Affected Party" means the Party seeking to claim relief in respect of a Force Majeure Event.

"Affiliate" means 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 with, that body corporate from time to time.

"Alternative Format" means making a written, printed, type up copy of words or audio copy of words that have been spoken or written down and include, but are not limited to, formats such as Braille, Large Print, Easy Read, Text to Audio and Typesetting in any font and font size.

“Approval” and **“Approved”** means the prior written consent of the Authority or the Commissioning Body as appropriate in the context of the relevant provision.

“Assignee” has the meaning set out in clause F3.9.

“Assignment” means a completed work or project for Translation or Transcription services.

“Associated Person” means as it is defined in section 44(4) of the Criminal Finances Act 2017.

“Auditors” has the meaning set out in clause F5.

“Authorised Representative” means the Authority representative named in a CCN as authorised to approve Changes.

“Authority Board Lead” means the individual appointed by the Authority from time to time to fulfil the role set out in Paragraph 3.5 of Schedule 8.

“Authority Code of Conduct” means the Interpreters and Translators Authority Code of Conduct set out in Annex 3 to Schedule 2 and as may be amended from time to time.

“Authority Software” means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Service Provider for the purposes of providing the Services.

“Authority System” means the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Service Provider in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Service Provider System or which is necessary for the Authority to receive the Services.

“Base Unit Price” means the price per word, per minute or per A4 page payable for the provision of the Services for each Assignment, calculated in accordance with Schedule 5.

“Baseline Security Requirements” means the security requirements in Annex 7 of Schedule 2 and Schedule 14.

“Basware” means Basware eMarketplace, the procurement software used by the Authority for financial transactions.

“BCDR Plan” has the meaning set out in Paragraph 2.1 of Schedule 21.

“Board Leads” means the Service Provider Board Lead and the Authority Board Lead except in the case of the Quality Assurance Board where it shall also include the Quality Assurance Service Provider Board Lead.

“Board Meeting” means a meeting of the Board Members of each Governance Board.

“Board Members” means the Board Leads and any other members of each respective Governance Board as further detailed in Annex 1 to Schedule 8, or as otherwise appointed from time to time.

“Booked End Time” means the time that the Language Professional was due to complete an Assignment, as recorded by the Commissioning Body in the Booking.

“Booking” means a booking for an Assignment made by a Commissioning Body in accordance with Schedule 2.

“Booking Service” means the website and repository (including any extensions, enhancements or additions thereof) described in the Specification which shall be developed, hosted and maintained by the Service Provider in accordance with the Contract, including its source code and executable code.

“Booking Service Contingency Plan” means the plan to be implemented by the Service Provider if the Booking Service is not available by the Service Commencement Date and means the plan to be implemented during Booking Service unavailability in accordance with Schedule 2, Schedule 4 (Implementation) and Schedule 21 (BCDR).

“BPSS” means the Government’s Baseline Personnel Security Standard for Government employees.

“Breach of Security” means an occurrence of:

- (a) any unauthorised access to or use of the ICT Environment and/or any Information Assets and/or Commissioning Body Data (including Confidential Information) in connection with the Contract;
- (b) the loss (physical or otherwise) and/or unauthorised disclosure of any Information Assets and/or Commissioning Body Data (including Confidential Information) in connection with the Contract, including copies; and/or
- (c) any part of the Service Provider System ceasing to be compliant with the Certification Requirements.

“BS 8555” means the standard published to help organisations improve their environmental performance by the British Standards Institution.

“Business Continuity Plan” has the meaning set out in Paragraph 2.2.2 of Schedule 21.

“Business Continuity Services” has the meaning set out in Paragraph 4.2.2 of Schedule 21.

“Calendar Days” means all days in a month, including weekends and bank holidays.

“CCN” means a change control notice in the form set out in Schedule 10.

“CESG” means of the Government’s Communications Electronics Security Group.

“Change” means a change in any of the terms or conditions of the Contract.

“Change in Law” means any change in Law which affects the performance of the Services which comes into force after the Commencement Date.

“Commencement Date” means the date on which the Contract is signed by the Authority.

“Commercially Sensitive Information” means the information listed in Schedule 15 comprising the information of a commercially sensitive nature relating to:

- (a) the Price; and/or
- (b) the Service Provider’s business and investment plans

which the Service Provider has informed the Authority would cause the Service Provider significant commercial disadvantage or material financial loss if it was disclosed.

"Commissioning Body" means the Authority or one of the entities listed in Schedule 1, which together are referred to as the **"Commissioning Bodies"**.

"Commissioning Body Background IPR" means:

- (a) Intellectual Property Rights owned or licensed by any Commissioning Body before the Commencement Date; and/or
- (b) Intellectual Property Rights created, acquired or licensed by any Commissioning Body independently of the Contract.

"Commissioning Body Data" means:

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any written, electronic, magnetic, optical or tangible media, and which:
 - (i) are supplied to the Service Provider by or on behalf of any Commissioning Body; and/or
 - (ii) the Service Provider is required to process, store or transmit pursuant to the Contract; or
- (b) any Personal Data for which a Commissioning Body is the Data Controller and the Service Provider processes in the performance of its obligations under the Contract

"Commissioning Body Materials" means:

- (a) the Commissioning Body Data;
- (b) the Register;
- (c) any other assets, rights, materials, documentation, information, programs, codes, hardware, software, telecoms devices and equipment which a Commissioning Body owns or has the right to use; and
- (d) any Intellectual Property Rights vesting in any of the items set out in (a), (b) and/or (c) above,
but excluding Service Provider Assets

"Commissioning Body Premises" means any premises owned, occupied or controlled by the Commissioning Body or any other Crown Body which are made available for use by the Service Provider or its Sub-Contractors for provision of the Services.

"Common Language" means a language which is listed at Annex 2 (List of Common Languages) of Schedule 2. The list is not exhaustive and may be amended from time to time based on Commissioning Body requirements.

"Comparable Supply" means the supply of services to another customer of the Service Provider which are the same or similar to any of the Services.

"Complexity Levels" means as defined in Table 3 in Annex 1 of Schedule 2.

“Comptroller and Auditor General” means the comptroller and auditor general of the National Audit Office.

“Confidential Information” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“Consumer Prices Index” means the consumer prices index published by the Office of National Statistics from time to time at:

[http://www.ons.gov.uk/ons/taxonomy/search/index.html?newquery=&nscl=Consumer+Price+Indices&nscl-orig=Consumer+Price+Indices&content-type=publicationContentTypes&sortDirection=DESCENDING&sortBy=pubdate](http://www.ons.gov.uk/ons/taxonomy/search/index.html?newquery=*&nscl=Consumer+Price+Indices&nscl-orig=Consumer+Price+Indices&content-type=publicationContentTypes&sortDirection=DESCENDING&sortBy=pubdate)*

“Continuous Improvement and Innovation Report” means all activities and areas identified by the Service Provider where performance can be improved, including all steps taken by the Service Provider to address performance issues and, where the performance trend analysis identifies a deteriorating trend in performance, repeat failures, or significant failures that impact any Commissioning Body and an action plan to identify how these failures are to be rectified.

“Contract” means these terms and conditions, the attached Schedules and any other provisions the Parties expressly agree are included.

“Contract Management Review Board” means the body described in Annex 1 to Schedule 8.

“Contracting Authority” means any contracting authority (other than the Authority) as defined in regulation 3 of the Regulations.

“Contracts Finder” means the Government’s portal for public sector procurement opportunities.

“Control” means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** are interpreted accordingly.

“Controller” means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

“Copyright” means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

“Critical Performance Failure” means a Performance Failure where the level of service performance is below the Target Performance Level set out in the column titled “Critical Performance Failure Threshold” in the table in Annex 1 of Schedule 6.

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, Government ministers, Government departments, Government offices and Government agencies and **“Crown Body”** is an emanation of the foregoing.

“Customer Service Solution” means either a single dedicated telephone helpdesk service or a web based customer support/other innovative technology that meet the requirements in Annex 6 (Technology) and Schedule 14 (Information Security) in accordance with Schedule 2 (Specification) and defined by the Service Provider at Schedule 3 (Service Solution).

“Data Loss Event” means any event which results, or may result, in unauthorised access to Personal Data held by the Service Provider under the Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Contract, including any Personal Data.

“Data Protection Impact Assessment” means an assessment by the Controller of the effect of the envisaged processing on the protection of Personal Data.

“Data Protection Legislation” means:

- (a) the GDPR, the LED and applicable implementing Laws;
- (b) the DPA to the extent that it relates to the processing of Personal Data and privacy;
- (c) all applicable Laws relating to the processing of Personal Data and privacy.

“Data Protection Officer” means as it is defined in the GDPR.

“Data Subject” means as it is defined in the GDPR.

“Data Subject Request” means 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.

“Database Rights” means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

“Default” means any breach of the obligations or warranties of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Service Provider Personnel in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

“Deliverable” means one or more of:

- (a) Translations;
- (b) the assessments and reports produced by the Service Provider or Service Provider Personnel during the Term;

- (c) any updates, amendments, modifications or improvements the Service Provider or Service Provider Personnel make to the Register;
- (d) any data acquired, generated or developed by the Service Provider or Service Provider Personnel to enable the Authority and/or any other third party to populate the Register;
- (e) template documents and forms produced by the Service Provider or Service Provider Personnel for use in preparing and delivering the Translations;
- (f) any other materials, item or feature to be delivered by the Service Provider or Service Provider Personnel during the Term, including those set out in the Specification, Implementation Plan and any Exit Plan; and
- (g) any Intellectual Property Rights vesting in any of the items set out in (a), (b), (c), (d), (e) and/or (f) above,

but shall not include Service Provider Assets.

"Detailed Implementation Plan" means the plan developed and revised from time to time in accordance with paragraph 3 of Schedule 4 (Implementation).

"Directive" means Directive 2010/64/EU of the European Parliament and the Council on the right to interpretation and translation in criminal proceedings.

"Disaster" means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for period of 4 hours or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable for that period.

"Disaster Recovery Plan" has the meaning set out in Paragraph 2.2.3 of Schedule 21.

"Disaster Recovery Services" means the services embodied in the processes and procedures for restoring the Services following the occurrence of a Disaster.

"Disaster Recovery System" means the system identified by the Service Provider in the Service Solution which shall be used for the purpose of delivering the Disaster Recovery Services.

"DOTAS" means the Disclosure of Tax Avoidance Schemes rules which require a promotor 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 and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

"DPA" means the Data Protection Act 2018.

"EIR" means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations.

"Employee Liability" means 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 related to employment 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) compensation for less favourable treatment of part-time workers or fixed term employees;
- (f) compensation for less favourable treatment of part-time workers or fixed term employees; and
- (g) any investigation relating to employment matters 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.

“End Date” means the date specified in clause A5.1.

“Exit Day” means as it is defined in the European Union (Withdrawal) Act 2018.

“Exit Manager” means each Party’s suitably skilled and experienced member of personnel who shall be responsible for co-ordinating and managing all aspects of each Party’s obligations under the approved Exit Plan. In respect of the Service Provider’s Exit Manager, such individual shall be a member of Key Personnel.

“Exit Milestone” means an event or task set out in an Exit Plan.

“Exit Milestone Date” means the date set out against the relevant Exit Milestone by which the Exit Milestone must be achieved.

“Exit Period” means:

- (a) the period of 12 Months prior to the date on which the Contract is due to expire;
- (b) if the Contract is terminated early, the longer of the period from the date of notification of termination to:
 - (i) the effective date of termination; or
 - (ii) 12 Months following the date of notification of termination, or
- (c) such other period of time agreed between the Parties in the Exit Plan.

“Exit Plan” means the plan produced and updated by the Service Provider during the Term in accordance with Schedule 13.

“Exit Services” means the services and activities to be provided by the Service Provider in accordance with the Exit Plan.

“Exit Team” means the Service Provider Personnel who assist the Exit Manager in all aspects of the Service Provider's responsibilities and obligations with regard to the approved Exit Plan, each of whom shall be Key Personnel.

“Extension” means as it is defined in clause A5.2.

“Financial Year” means the period from 1st April each year to the 31st March the following year.

“Fast-track Change” any change to the Contract which the Parties agree to expedite in accordance with Paragraph 7 of Schedule 10.

“Financial Distress Event” means the occurrence of one or more of the events listed in paragraph 3.1 of Schedule 23 (Financial Distress).

“Financial Distress Remediation Plan” means a plan setting out how the Service Provider will ensure the continued performance and delivery of the Services in accordance with the Contract if a Financial Distress Event occurs.

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

“Force Majeure Event” means any event, other than one related to the Covid-19 pandemic which the Parties knew about or ought to have known about on the Commencement Date, outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of Government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Service Provider or the Service Provider Personnel or any other failure in the Service Provider's supply chain.

“Former Service Provider” means a service provider supplying services to the Authority before the Service Commencement Date and the relevant transfer date that are the same as or substantially similar to the services (or any part of the services) and shall include any Sub-Contractor of such service provider (or any Sub-Contractor of any such Sub-Contractor).

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679).

“General Anti-Abuse Rule” means:

- (d) the legislation in Part 5 of the Finance Act 2013; and
- (e) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.

“General Change in Law” means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Service Provider) or which affects or relates to a Comparable Supply.

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would

reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

“Governance Boards” has the meaning set out in Paragraph 3.1 of Schedule 8.

“Government” means the government of the United Kingdom.

“Government Buying Standards” means the standards published here:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

“Greening Government Commitments” means the Government’s policy to reduce its effects on the environment, the details of which are published here:

<https://www.gov.uk/government/collections/greening-government-commitments>

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others.

“HMRC” means HM Revenue & Customs.

“ICT Environment” means the Commissioning Body System and the Service Provider System.

“Impact Assessment” means an assessment of a Change Request in accordance with Paragraph 4 of Schedule 10.

“Implementation” has the meaning set out in paragraph 1.1 of Schedule 4.

“Implementation Milestone” means the event or task relating to Implementation, as set out in the Implementation Plan.

“Implementation Period” means the period between the Commencement Date and the Service Commencement Date.

“Implementation Plan” means the Outline Implementation Plan or (if and when Approved pursuant to paragraph 3 of Schedule 4 (Implementation)) the Detailed Implementation Plan as updated from time to time in accordance with Schedule 4 (Implementation).

“Implementation Services” means any mobilisation carried out by the Service Provider to enable the Service Provider to commence the Services on the Service Commencement Date.

“In Person Assessment” means a type of assessment which may be undertaken by the Quality Assurance Service Provider where the Quality Assurance Service Provider meets Language Professionals in person to ascertain whether the Services are being performed in accordance with the Contract.

“Information” has the meaning given under section 84 of the FOIA.

“Information Assets” means definable pieces of information stored in any manner which are determined by the Authority to be valuable and relevant to the Services.

“Initial Term” means the period from the Service Commencement Date to the End Date.

“Initial Waiver Period” means 3 Months from and including the Service Commencement Date, as set out in Schedule 6.

“Insurances” has the meaning set out in paragraph 2.1 of Schedule 11.

“Intellectual Property Rights” means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“ISMS” means the Service Provider’s information and management system and processes to manage information security as set out in Schedule 14.

“ISO 14001” means the family of standards related to environmental management published by the International Organisation for Standardisation.

“IT Health Check” means penetration testing of systems under the Service Provider’s control on which Information Assets and/or Commissioning Body Data are held which are carried out by third parties in accordance with the CHECK scheme operated by CESG or to an equivalent standard.

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003.

“ITI Code of Conduct” means the Professional Code of Conduct of the Institution of Translation & Interpreting as set out at:

<http://www.iti.org.uk/attachments/article/154/Code%20of%20Conduct%20-%20individual.pdf>

as may be amended from time to time.

“Jaggaer” means the Authority’s eSourcing Portal.

“Key Personnel” means those persons named in Schedule 17 as amended from time to time in accordance with clause B4.

“Key Roles” means a role described as a key role in Schedule 17 and any additional roles added from time to time in accordance with clause B4.

“Know-How” means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

“KPI” means the Key Performance Indicators set out in Annex 1 of Schedule 6.

“Language Professional” means an individual who translates the meaning of what is written or otherwise recorded in one language into a second language in written form or into an accessible format (including but not limited to braille and large type), including the transcription of recorded material into written form in English and other formats (including but not limited to large print, audio, video and pictorial English).

“Language Professional Data” has the meaning set out in clause D2.

“Law” means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Service Provider is bound to comply.

“Law Enforcement Purposes” means as it is defined in the DPA.

“LED” means the Law Enforcement Directive (Directive (EU) 2016/680).

“Losses” means losses, liabilities, damages, costs, fines and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

“Malicious Software” means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

“Management Information” means the information specified in Annex 1 to Schedule 9, as amended from time to time in accordance with Paragraph 2.2 of Schedule 9.

“Material Breach” means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority or a Commissioning Body would otherwise derive from:

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses D1, D2, D3, D4, G3, I4 or paragraph 9 of Schedule 20.

“Moderate Performance Failure Threshold” means a Performance Failure where the level of service performance is below the Target Performance Level set out in the column titled “Moderate Service Performance Failure Threshold” in the table in Annex 1 of Schedule 6.

“Modern Slavery Helpline” means the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available by telephone on 08000 121 700 or online at:

<https://www.modernslaveryhelpline.org/report>

“Month” means calendar month and **“Monthly”** shall be construed accordingly.

“MSA” means the Modern Slavery Act 2015.

“Mystery Shopping Assessment” means a type of assessment which may be undertaken by the Quality Assurance Service Provider to assess whether the Services are being performed by a Language Professional in accordance with the Contract, including reviewing:

- (a) the quality and accuracy of the Translations;

- (b) the appropriateness of the engagement, body language and demeanour of the Language Professional;
- (c) the Language Professional's adherence to the Authority Code of Conduct; and
- (d) whether the Language Professional's qualifications, security level and right to work evidence are sufficient.

"NICs" means National Insurance Contributions.

"Non-Fulfilled or Non-Fulfilment" means where an Assignment has not been completed, including where:

- (a) a Language Professional has not been assigned to the Booking;
- (b) the Service Provider assigns a Language Professional to fulfil an Assignment but that individual does not have the Security Level and/or Qualification Level required by the Assignment and the Commissioning Body has not given its consent pursuant to paragraph 2.8 or paragraph 3.13 of the Specification; and
- (c) the assigned Language Professional does not complete the Assignment by the Booked End Date.

"Normal Working Hours" means 08:00 to 20:00 Monday to Friday (excluding bank holidays) and any other times and dates notified in writing by a Commissioning Body to the Supplier.

"Notifiable Default" has the meaning set out in clause H2.5.

"Number of Minutes" means the number of minutes (or parts thereof) of audio transcribed from the Source Language.

"Number of Words" means the number of words translated from the Source Language.

"Occasion of Tax Non-Compliance" means:

- (a) any tax return of the Service Provider 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:
 - i) a Relevant Tax Authority successfully challenging the Service Provider under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Service Provider was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime;and/or
- (b) any tax return of the Service Provider submitted to a Relevant Tax Authority on or after 1 October 2012 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 Commencement Date or to a civil penalty for fraud or evasion.

“Onboarding Process” means, except for Pre-Registered Language Professionals, the process undertaken by each Language Professional before providing Services, as described in the Service Solution.

“Open Book Data” means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the payments already paid or payable and payments forecast to be paid under the Contract during the remainder of the Term (whether by the Authority or another Commissioning Body), including details and all assumptions relating to:

- (a) the Service Provider's costs broken down against each Service including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;
- (b) operating expenditure relating to the provision of the Services including an analysis showing:
 - (i) the unit costs and quantity of consumables and bought-in services;
 - (ii) manpower resources broken down into the number and grade/role of the Service Provider's Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
 - (iii) a list of costs underpinning those rates for each manpower grade, being the agreed rate less the Service Provider's profit margin; and
 - (iv) expenses reimbursable under the Contract;
- (c) overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- (d) the Service Provider's profit achieved over the Term 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 Service Provider; and
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency.

“Operational Services” means the Services described in the Specification which are not Implementation Services.

"Other Service Provider" means as it is defined in clause B2.8.

"Outline Implementation Plan" means the outline implementation plan set out at Annex 1 of Schedule 4 (Implementation).

"Performance Credits" means any service credits payable by the Service Provider for failure to meet its obligations under the Contract, as set out and calculated in accordance with

Schedule 6.

"Performance Failure" in respect of a KPI, where the level of service performance is below the Target Performance Level in a Month.

"Performance Points" means points which accrue for Performance Failures as set out in Annex 1 of Schedule 6.

"Personnel" means all directors, officers, employees, agents, consultants and sub-contractors of either Party (as the context requires) including, in respect of the Service Provider, the Language Professionals.

"Personal Data" means as it is defined in the GDPR.

"Personal Data Breach" means as it is defined in the GDPR.

"Pre-Meeting Report" means the report the Service Provider is required to prepare in advance of each Board Meeting as further detailed in Annex 1 to Schedule 8.

"Pre-Registered Language Professional" means a Language Professional who is on the Register as at the Service Commencement Date.

"Premises" means the location where the Services are to be supplied as set out in the Specification

"Price" means the price (excluding any applicable VAT) payable to the Service Provider by a Commissioning Body under the Contract, as set out in Schedule 5 for the full and proper performance by the Service Provider of its obligations under the Contract.

"Primary Language" means a first language, native language or mother tongue, being the language learnt from birth or that which is spoken best by the person and, for the avoidance of doubt, a person can have more than one primary language.

"Processor" means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

"Prohibited Act" means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by a Commissioning Body a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;

- ii) under legislation or common law concerning fraudulent acts (including offences by the Service Provider under Part 3 of the Criminal Finances Act 2017); or
 - iii) the defrauding, attempting to defraud or conspiring to defraud a Commissioning Body;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

“Property” means the property, other than real property, made available to the Service Provider by Commissioning Bodies in connection with the Contract.

“Protective Measures” means appropriate technical and organisational measures which may include: 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 measures adopted.

“PSI 67/2011” is the Prison Service Instruction published on 1st November 2011 relating to the searching of the person as amended from time to time and available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2011>

“PSI 10/2012” is the Prison Service Instruction published on 26 March 2012 relating to the Conveyance and Possession of Prohibited Items and other Related Offences as amended from time to time and available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2012>

“PSI 07/2014” is the Prison Service Instruction published on 2nd June 2014 relating to security vetting as amended from time to time and available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014>

“PSI 24/2014” is the Prison Service Instruction published on 1st May 2014 relating to information assurance as amended from time to time and available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014>

“Purchase Order” a Commissioning Body’s order for the supply of the Services.

“Quality Assurance Board” the body described in Annex 1 to Schedule 8.

“Quality Assurance Service Provider” means the London Borough of Newham (The Language Shop) a local authority whose address is Newham Dockside, 1000 Dockside Road, London E16 2QU, or such Other Service Provider which the Authority notifies the Service Provider from time to time.

“Quality Assurance Service Provider Board Lead” means the individual appointed by the Quality Assurance Service Provider to be its board lead.

“Qualification Level” means the qualification requirements of the Language Professionals as set out in Annex 4 of Schedule 2 as may be amended by the Authority from time to time.

“Quality Standards” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Service Provider would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 2.

“Rare Language” means a language identified as a rare language in accordance with section 5, Annex 4 of Schedule 2.

“Rectification Plan” means a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default.

“Rectification Plan Failure” means where:

- (a) the Service Provider does not submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in clause H2.7 (a);
- (b) the Authority rejects a revised draft of the Rectification Plan submitted by the Service Provider pursuant to clause H2.7 (g);
- (c) the Service Provider does not rectify a Notifiable Default by the later of:
 - (i) 30 Working Days of a notification submitted by the Service Provider pursuant to clause H2.5 (f) or by the Authority pursuant to clause H2.6; and
 - (ii) where the Parties have agreed a Rectification Plan in respect of that Notifiable Default and the Service Provider can demonstrate that it is implementing the Rectification Plan in good faith, the date specified in the Rectification Plan by which the Service Provider must rectify the Notifiable Default; and/or
- (d) following the successful implementation of a Rectification Plan, the same Notifiable Default recurring within a period of 6 Months for the same (or substantially the same) root cause as that of the original Notifiable Default.

“Rectification Plan Process” is the process described in clause H2.7.

“Register” means the Authority's register of Language Professionals created by the Authority as required by the Directive, including both the structure and content of such register together with any updates and/or changes made to that register from time to time and as set out in indicative template form in Schedule 16.

“Regulations” means the Public Contract Regulations 2015 (SI 2015/102).

“Regulator Correspondence” means any correspondence from the Information Commissioner's Office, or any successor body, in relation to the processing of Personal Data under the Contract.

“Regulatory Body” means a Government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Authority.

"Relevant Conviction" means a conviction that is relevant to the nature of the Services or as listed by the Authority and/or relevant to the work of the Authority.

"Relevant Requirements" means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Authority pursuant to section 9 of the Bribery Act 2010.

"Relevant Tax Authority" means HMRC or, if applicable, a tax authority in the jurisdiction in which the Service Provider is established.

"Replacement Service Provider" means any third-party service provider appointed by the Authority to supply any services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

"Request for Information" means a request for information under the FOIA or the EIR.

"Results" means any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- a) prepared by or for the Service Provider for use in relation to the performance of its obligations under the Contract; or
- b) the result of any work done by the Service Provider or any Service Provider Personnel in relation to the provision of the Services.

"Retention Period" means the period of time the Service Provider is required to retain the data, documents and information of the Commissioning Bodies, as set out in Annex 4 to Schedule 9, or as otherwise amended by the Authority from time to time.

"Returning Employees" means those persons agreed by the Parties to be employed by the Service Provider (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Term.

"Review Report" has the meaning set out in Paragraph 6.2 of Schedule 21.

"Security Levels" means as defined in Table 2 in Annex 1 of Schedule 2.

"Security Policy Framework" means the Government's Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) as updated from time to time.

"Security Test" means a test carried out by the Service Provider, a Commissioning Body or a third party to validate the ISMS and the security of all relevant processes and systems on which Information Assets and/or Commissioning Body Data are held.

"Service Commencement Date" means the 29 October 2021 or, if earlier, the date identified in the Implementation Plan upon which the Operational Services are to commence.

"Service Payment" means the payment for the Services calculated in accordance with Schedule 5.

"Service Provider Assets" means all assets and rights used by the Service Provider to provide the Services including hardware, software, telecoms devices and equipment (and including the Booking Service, Website and any user manuals and other documentation relating to the Booking Service and Website) and all Intellectual Property Rights vesting in

such assets and rights but excluding Commissioning Body Premises, Commissioning Body Materials and the Deliverables.

“Service Provider Board Lead” means the individual appointed by the Service Provider from time to time to act as its Board Lead in accordance with paragraph 3.4 of Schedule 8.

“Service Provider Personnel” means all directors, officers, employees, agents, consultants and contractors of the Service Provider and/or of any of its Sub-Contractors engaged in the performance of the Service Provider’s obligations under the Contract.

“Service Provider Premises” means any real property of the Service Provider, whether owned, licensed or leased.

“Service Provider’s Risk Profile Proposals” has the meaning set out in Paragraph 6.2.3 of Schedule 21.

“Service Provider System” means the information and communications technology system used by the Service Provider in performing the Services including the Software, the Service Provider Assets and related cabling (but excluding the Authority System).

“Service Solution” means the service solution set out in Schedule 3 describing the way in which the Service provider intends to provide the Services.

“Services” means any and all of the services to be provided by the Service Provider under the Contract, including: (i) those set out in Schedule 2 (Specification); (ii) the Implementation Services; and (iii) the Operational Services;

“SME” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the European Commission’s Recommendation of 6 May 2003 available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

“Source Language” the language in which the original document or recording which is to be translated or transcribed is expressed.

“Specific Change in Law” means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

“Specification” means the description of the Services to be supplied under the Contract as set out in Schedule 2.

“Spot Check Assessment” means a type of ad hoc assessment which may be undertaken by the Quality Assurance Service Provider to assess whether the Services are being performed in accordance with the Contract, including reviewing:

- (a) the quality and accuracy of the Translations;
- (b) the appropriateness of the engagement, body language and demeanour of the Language Professional;
- (c) the Language Professional's adherence to the Authority Code of Conduct; and
- (d) whether the Language Professional's qualifications, security level and right to work evidence are sufficient.

"SSCBA" means the Social Security Contributions and Benefits Act 1992.

"Step-In Notice" has the meaning given in clause H12.2.

"Step-in Trigger" has the meaning given in clause H12.1.

"Step-Out Date" has the meaning given in clause H12.6.

"Step-Out Notice" has the meaning given in clause H12.6.

"Step-Out Plan" has the meaning given in clause H12.7.

"Strategic Board" means the body described in Annex 1 to Schedule 8.

"Sub-Contract" means a contract between two or more service providers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and **"Sub-Contractor"** shall be construed accordingly.

"Sub-processor" means any third party appointed to process Personal Data on behalf of the Service Provider related to the Contract.

"Target Language" the language into which the document or recording is being translated or transcribed.

"Target Performance Level" in respect of each KPI, the minimum level of performance stated in the "Target Performance Level" column of the table set out in Annex 1 of Schedule 6.

"Tender" means the Service Provider's tender submitted in response to the Authority's invitation to Service Providers for offers to supply the Services.

"Term" means the period from the Commencement Date to:

(a) the End Date; or

(b) following an Extension, the end date of the Extension

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

"Tender Process" has the meaning set out in Paragraph 10.2 of Schedule 13.

"Third Party IP Claim" has the meaning given to it in clause E8.5.

"Transcription Services" means as it is defined in paragraph 1.2 of Schedule 2.

"Transcriptions" means as it is defined in paragraph 1.2 of Schedule 2.

"Translations" means the translations and interpretations prepared during the provision of the Services whether in written, recorded or digital form and including both the content and the medium in which it is recorded and all drafts of and, variations and modifications to, such works.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“TUPE Information” means the information set out in clause B10.1.

“Urgency Type” means as it is defined in Table 1 in Annex 1 of Schedule 2.

“Valid Invoice” means an invoice containing the information set out in clause C1.5 and C1.6 and Part 2 of Schedule 5.

“VAT” means value added tax charged or regulated in accordance with the Value-Added Tax Act 1994.

“VCSE” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“Vulnerability Correction Plan” means a remedial plan prepared by the Service Provider to address vulnerabilities identified in an IT Health Check report.

“Website” means the publicly accessible website (including any extensions, enhancements or additions thereof), as further detailed in Schedule 2, to be developed, hosted and maintained by the Service Provider under the Contract including its source code and executable code.

“Welsh Language Scheme” means, where relevant, the Welsh language scheme of the Commissioning Body as amended from time to time.

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

In the Contract, unless the context implies otherwise:

- (a) the singular includes the plural and vice versa unless the context requires otherwise;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include natural persons, a company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” 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”;
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) the Schedules form an integral part of the Contract and have effect as if set out in full in the body of the Contract. A reference to the Contract includes the Schedules;

- (h) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (i) references to the Contract are references to the Contract as amended from time to time;
- (j) any reference in the Contract which immediately before Exit Day is a reference to (as it has effect from time to time):
 - (i) 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 the application of s.3 of the European Union (Withdrawal) Act 2018 is read as a reference to the EU References as they form part of domestic law by virtue of s.3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (ii) any EU institution or EU authority or other such EU body is read as a reference to the UK institution, authority or body to which its functions were transferred.

A2 Authority Obligations

- A2.1 Save as otherwise expressly provided, the Authority’s obligations under the Contract are the Authority’s obligations in its capacity as a contracting counterparty and nothing in the Contract operates as an obligation upon, or in any other way fetters or constrains, the Authority in any other capacity.
- A2.2 The Authority gives no rights of exclusivity or any volume guarantees whatsoever in relation to the Services.

A3 Service Provider’s Status

- A3.1 The Service Provider is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between it and a Commissioning Body and accordingly neither the Service Provider nor any Commissioning Body is authorised to act in the name of, or on behalf of, or otherwise bind the other save as expressly permitted by the Contract.
- A3.2 The Service Provider shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Service Provider is acting as the agent or employee of a Commissioning Body.

A4 Mistakes in Information

The Service Provider is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Service Provider in connection with the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

A5 Term

- A5.1 The Contract starts on the Commencement Date and ends on **28 October 2025** unless it is terminated early or extended in accordance with the Contract (the “**Initial Term**”).
- A5.2 The Authority may at its sole discretion extend the Term for any period or periods up to a maximum of 3 years in total from the expiry of the Initial Term by giving the Service Provider no less than 3 Months’ written notice.
- A5.3 The terms of the Contract will apply throughout any Extension.
- A5.4 The Service Provider shall provide:
- (a) the Implementation Services from (and including) the Commencement Date; and
 - (b) the Operational Services from (and including) the Service Commencement Date.

A6 Execution of the Contract

- A6.1 The Parties acknowledge that the execution of the Contract may be carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000, in which case the Contract shall be deemed to be formed on the date on which both Parties communicate acceptance of its terms on Jaggaer.
- A6.2 The Service Provider accepts full responsibility for any wrongful act or misdoing arising during the execution of the Contract and agrees to indemnify the Authority for all Losses in respect of any claim against the Authority arising from any error by the Service Provider.

B. THE SERVICES

B1 Basis of the Contract

- B1.1 In consideration of the Service Provider’s performance of its obligations under the Contract each Commissioning Body ordering Services shall pay the Service Provider the Price in accordance with clause C1.
- B1.2 The terms and conditions in the Contract apply to the exclusion of any other terms and conditions the Service Provider seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- B1.3 The Price is fixed from the Service Commencement Date to the second anniversary of the Service Commencement Date. Thereafter, any adjustment to the Price (including during any Extension) shall be calculated in accordance with Paragraph 3 of Schedule 5.
- B1.4 Except where otherwise provided, the Parties shall each bear their own costs and expenses incurred in respect of compliance with their obligations under this Contract.

B2 Delivery of the Services

- B2.1 The Service Provider shall provide the Services to each Commissioning Body who requests them provided that it shall not provide Services to a Commissioning Body listed in Part B of Schedule 1 without Approval.

B2.2 Save in respect of instructions given by the Authority, the Service Provider may take day to day instruction from a Commissioning Body in respect of the Services which that Commissioning Body has commissioned, provided that:

- (a) it shall immediately cease to follow the instructions of any or all Commissioning Bodies on notice from the Authority;
- (b) if a Commissioning Body provides instruction to the Service Provider that, if actioned, would cause:
 - (i) a conflict between the instructions given by the Authority or another Commissioning Body;
 - (ii) the Service Provider to breach the terms of the Contract; and/or
 - (iii) would result in additional costs being incurred by the Service Provider and/or Authority,

the Service Provider shall not act on such instruction and shall immediately notify the Authority in writing who shall confirm, at its sole discretion, how the Service Provider is to proceed; and

- (c) it shall not take any instruction from any Commissioning Bodies (other than the Authority) in relation to:
 - (i) termination of the whole or part of the Contract;
 - (ii) the consequences of a Default;
 - (iii) the application of Service Credits; and/or
 - (iv) any variation to the Contract,

together with any other matters the Authority may notify the Service Provider of from time to time.

B2.3 The Parties shall comply with the provisions of Schedule 4 (Implementation) in relation to the agreement and maintenance of the Detailed Implementation Plan such that:

- (a) the Service Provider shall comply with the Implementation Plan;
- (b) if there is, or is reasonably likely to be, any delay in the Service Provider's performance of the Implementation Services and/or readiness to deliver the Operational Services from Service Commencement Date, the Service Provider shall: (i) comply with the terms of clause H2.7 (Rectification Plan Process); and (ii) use all reasonable endeavours to eliminate or mitigate the consequences of any delay or anticipated delay;
- (c) the Service Provider shall comply with its obligations under this clause B2.3 regardless of the responsibility for or cause of such delay; and
- (d) the Service Provider acknowledges that measurement of its performance against KPI shall begin after the Initial Waiver Period.

B2.4 In performing the Services the Service Provider shall, and shall procure Service Provider Personnel shall, meet or exceed the standards required by:

- (a) the Target Performance Level for each KPI;
 - (b) Quality Standards;
 - (c) Good Industry Practice;
 - (d) the Specification (Schedule 2);
 - (e) the Service Solution (Schedule 3); and
 - (f) the Law.
- B2.5 Where the Service Provider identifies a conflict amongst the standards set out in clause B2.4, it shall promptly inform the Authority which may direct how the conflict will be resolved.
- B2.6 The Service Provider shall at all times:
 - (a) comply with the provisions of Schedule 5 (Pricing and Payment) and Schedule 9 (Management Information, Reports and Records) in relation to the monitoring and reporting on its performance against the KPI in Schedule 6 (Performance); and
 - (b) maintain accreditation with the relevant Quality Standards authorisation bodies set out in Schedule 2 (Specification).
- B2.7 To the extent that the standard of the Service has not been specified in the Contract, the Service Provider shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Service Provider shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- B2.8 The Service Provider shall co-operate, and shall procure that Service Provider Personnel co-operate, with all reasonable procedures and processes which may be undertaken by the Authority and any other service providers of the Authority ("**Other Service Providers**") in respect of ensuring the quality and the standard of the Services provided by and on behalf of the Service Provider, including those services set out in the Specification which are undertaken by the Quality Assurance Service Provider.
- B2.9 In co-operating with the procedures and processes which may be undertaken in accordance with clause B2.8, the Service Provider shall:
 - (b) promptly, and in any event within 2 Working Days, provide such information and reports which may be reasonably required by the Authority and/or Other Service Providers; and
 - (c) provide the Authority and/or such Other Service Providers reasonable access to:
 - (i) any Premises (or such premises which may be used by Sub-Contractors to perform in the provision of the Services);
 - (ii) the Service Provider Assets;

- (iii) any other equipment which may be used in the provision of the Services including that belonging to its Sub-Contractors; and
- (iv) the Service Provider Personnel.

B2.10 If the Services being performed by a Language Professional on behalf of the Service Provider do not meet the requirements of the Contract, the Service Provider shall, and shall procure the Language Professional shall, comply with the procedures set out in the Specification in respect of the improvement of such Services and, as required by the Authority or the Quality Assurance Service Provider, suspend and/or remove the Language Professional from the provision of the Services.

B2.11 Notwithstanding clause B2.8, the Service Provider shall monitor and ensure that Service Provider Personnel are performing the Services on behalf of the Service Provider to the standard set out in the Contract and shall notify the Authority and the Quality Assurance Service Provider immediately if it suspects or becomes aware that its own the performance or the performance or qualifications of Service Provider Personnel fall below the standards set out in the Contract.

B2.12 The Service Provider acknowledges that the Authority relies on the skill and judgment of the Service Provider in the supply of the Services and the performance of the Service Provider's obligations under the Contract.

B2.13 The Service Provider shall:

- a) ensure that all Service Provider Personnel supplying the Services do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services;
- b) ensure that all Service Provider Personnel are properly managed and supervised;
- c) comply with the standards and requirements set out in Schedule 20;
- d) at all times allocate sufficient resources to supply the Services in accordance with the Contract;
- e) provide any ancillary or incidental services, function or responsibility not included in the Specification where they are necessary for the proper performance of the Services;
- f) obtain, and maintain all consents, approvals, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary for the provision of the Services or performance of any other obligation under the Contract;
- g) ensure the Service Provider Assets used in the performance of the Services are free of all encumbrances (except as Approved);
- h) ensure that in the performance of its obligations under the Contract it does not disrupt the operations of other Commissioning Bodies and their respective Personnel;
- i) ensure that any documentation, information and training provided to each Commissioning Body under the Contract (including in relation to the use of the Booking Service and Website) is comprehensive and accurate;

- j) co-operate with Other Service Providers and provide reasonable information (including any documentation), advice and assistance in connection with the Services to them including to enable them to provide services to the Commissioning Bodies and, on the expiry or termination of the Contract, to enable the timely transition of the Services (or any of them) to the respective Commissioning Bodies and/or to any Replacement Service Provider;
 - k) to the extent it is legally able to do so, hold on trust for the sole benefit of the Authority, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services and, where any such warranties are held on trust, at its cost enforce such warranties in accordance with any reasonable directions that the Authority may notify from time to time to the Service Provider;
 - l) unless it is unable to do so, assign to the Authority on the Authority's written request and at the cost of the Service Provider any such warranties and/or indemnities as are referred to in clause B2.13(k);
 - m) provide each Commissioning Body with such advice and assistance as that Commissioning Body may reasonably require during the Term in respect of the Services;
 - n) gather, collate and provide such information and co-operation as the Authority may reasonably request for the purposes of ascertaining the Service Provider's compliance with its obligations under the Contract;
 - o) subject to clause E1.5, notify the Authority in writing within 10 Working Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under the Contract;
 - p) ensure that neither it, nor any of its affiliates or Service Provider Personnel, bring any Commissioning Body into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in that Commissioning Body, regardless of whether or not such act or omission is related to the Service Provider's obligations under the Contract; and
 - q) not, in delivering the Services, in any manner endanger the safety or convenience of the public.
- B2.14 The Authority may inspect the manner in which the Service Provider supplies the Services at the Premises during normal business hours on reasonable notice. The Service Provider shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection. In this clause B2, Services include planning or preliminary work in connection with the supply of the Services.
- B2.15 If reasonably requested to do so by the Authority, the Service Provider shall co-ordinate its activities in supplying the Services with those of the Authority and Other Service Providers.
- B2.16 If the Authority informs the Service Provider in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not as a result of a default

by the Authority, the Service Provider shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.

- B2.17 If, in delivering the Services, the Service Provider is required to visit Commissioning Body Premises which are prisons, the Service Provider shall comply with Schedule 7 (Premises).

B3 Service Provider Assets

- B3.1 The Service Provider shall provide all the Service Provider Assets and resource necessary for the supply of the Services.
- B3.2 The Service Provider shall not deliver any Service Provider Assets to, or begin any work on, the Premises without Approval.
- B3.3 All Service Provider Assets brought onto the Premises are at the Service Provider's own risk and the Authority has no liability for any loss of or damage to any Service Provider Assets unless the Service Provider demonstrates that such loss or damage was caused or contributed to by the Authority's Default. The Service Provider shall provide for the haulage or carriage thereof to the Premises and the removal of Service Provider Assets when no longer required at its sole cost.
- B3.4 Service Provider Assets brought onto the Premises remain the property of the Service Provider.
- B3.5 If the Authority reimburses the cost of any Service Provider Assets to the Service Provider the Service Provider Assets shall become the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Service Provider shall keep a full and accurate inventory of such Service Provider Assets and deliver that inventory to the Authority on request and on completion of the Services.
- B3.6 The Service Provider shall maintain all Service Provider Assets in a safe, serviceable and clean condition.
- B3.7 The Service Provider shall, at the Authority's written request, at its own cost and as soon as reasonably practicable:
- (a) remove immediately from the Premises Service Provider Assets which are, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Service Provider Assets.
- B3.8 Within 20 Working Days of the end of the Term, the Service Provider shall remove the Service Provider Assets together with any other materials used by the Service Provider to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Service Provider shall make good any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Service Provider or Service Provider Personnel.
- B3.9 Subject to any express provision of the Service Provider's BCDR Plan to the contrary, the loss or destruction for any reason of the Service Provider Assets shall not relieve

the Service Provider of its obligation to supply the Services in accordance with this Contract.

B4 Key Personnel

- B4.1 The Service Provider shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term.
- B4.2 The Service Provider shall not remove or replace any Key Personnel (including when carrying out its obligations under any Exit Plan) unless:
- (a) requested to do so by the Authority;
 - (b) the person concerned resigns, retires, dies or is on maternity or paternity leave or long-term sick leave;
 - (c) the person's employment or contractual arrangement with the Service Provider or Sub-Contractor is terminated for material breach of contract by the employee; or
 - (d) the Service Provider obtains Approval (such Approval not to be unreasonably withheld or delayed).
- B4.3 The Authority may identify any further roles as being Key Roles and, following agreement by the Service Provider (such agreement not to be unreasonably withheld or delayed), the relevant persons selected to fill those Key Roles are included in the list of Key Personnel.
- B4.4 The identity of each member of Key Personnel is subject to Approval.
- B4.5 The Authority may interview and assess any proposed replacement for Key Personnel and any replacements to Key Personnel are subject to Approval. Such replacements shall be of at least equal status, experience and skills to Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B4.6 The Authority shall not unreasonably withhold Approval under clauses B4.4 or B4.5 and Approval is conditional on appropriate arrangements being made by the Service Provider to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.
- B4.7 The Service Provider shall:
- (a) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of 2 weeks or less), in which case the Service Provider shall ensure appropriate temporary cover for that Key Role;
 - (b) ensure that any Key Role is not vacant for any longer than 10 Working Days;
 - (c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least one month's notice;
 - (d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing Service Provider Personnel work together to transfer responsibilities and ensure that such

change does not have an adverse impact on the performance of the Services;
and

- (e) ensure that any replacement for a Key Role:
 - i) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - ii) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

B5 Service Provider Personnel

B5.1 A Commissioning Body may, on notice to the Service Provider, refuse to admit onto, or withdraw permission to remain on, the Commissioning Body's Premises:

- (a) any member of the Service Provider Personnel; or
- (b) any person employed or engaged by any member of the Service Provider Personnel

whose admission or continued presence would, in the Commissioning Body's reasonable opinion, be undesirable.

B5.2 Commissioning Bodies maintain the security of the Commissioning Body's Premises in accordance with their standard security requirements, including Prison Rules 1999 Part III, the Prison (Amendment) Rules 2005, the Young Offender Institute Rules 2000 Part III and the Young Offender Institute (Amendment) Rules 2008, available to the Service Provider on request. The Service Provider shall comply with all such security requirements while on the Commissioning Body's Premises, and ensure that all Service Provider Personnel comply with such requirements.

B5.3 Commissioning Bodies may search any persons or vehicles engaged or used by the Service Provider at the Commissioning Body's Premises.

B5.4 At the Commissioning Body's written request, the Service Provider shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Commissioning Body's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Commissioning Body may reasonably request.

B5.5 The Service Provider shall ensure that all Service Provider Personnel who have access to the Commissioning Body's Premises, the Authority System or the Commissioning Body Data have been cleared in accordance with the BPSS.

B5.6 The Service Provider shall:

(a) co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:

- i) use reasonable endeavours to make available any Service Provider Personnel requested by the Authority to attend an interview for the purpose of an investigation; and

- ii) provide documents, records or other material in whatever form which the Authority may reasonably request or which may be requested on the Authority's behalf, for the purposes of an investigation
- (b) comply with PSI 10/2012;
- (c) not employ or engage any person where the Service Provider knows, or by reason of the circumstances might reasonably be expected to know, that the person concerned is involved in any unlawful procurement of social security benefits or tax exemptions in connection with his employment by or engagement with the Service Provider;
- (d) not make, facilitate or participate in the procurement of any unlawful payments to any of Service Provider Personnel, whether in the nature of social security fraud, evasion of tax or otherwise;
- (e) ensure that Service Provider Personnel, if required in the Specification, or if otherwise requested by from time to time by a Commissioning Body and/or Quality Assurance Service Provider, have undertaken a Disclosure and Barring Service check and such other security clearance requirements as set out in the Contract;
- (f) without limitation to clause B5.8, and subject to the procedure set out in Paragraph 21 of Annex 7 of Schedule 2 in respect of Language Professionals, where the Authority serves notice in writing, giving its reasons, remove from the provision of the Services any Service Provider Personnel as instructed by the Authority;
- (g) if a member of the Service Provider's Personnel discloses that they have a Relevant Conviction, or is found to have a Relevant Conviction, promptly notify each Commissioning Body. Each Commissioning Body may, at any time following receipt of a notification given under this clause B5.8, instruct the Service Provider to immediately remove the relevant member of the Service Provider's Personnel from the provision of the Services it receives;
- (h) in respect of Language Professionals:
 - i) appoint Language Professionals without Approval only if it:
 - (A) only engages with such Language Professionals on terms which shall:
 - (AA) ensure that the Language Professionals keep confidential all Confidential Information of the Commissioning Bodies;
 - (BB) ensure that the Service Provider Assets and the Deliverables can be licensed and assigned (as appropriate) in the manner contemplated in clause E1;
 - (CC) confirm that the Language Professional will not sub-contract the obligations they have to the Service Provider in respect of the Contract;

(DD) confirm the Language Professional is required to:

(AAA) perform the Services with all reasonable skill and care in a timely, professional and ethical manner, together with any other standards of services which may be set out in the Contract and which are applicable to such grade of Language Professional;

(BBB) comply with the Authority Code of Conduct together with all other policies and procedures which may be in force at any Commissioning Body Premises or other location which the Language Professional visits; and

(CCC) record all instances where he/she performs translation and interpretation services on behalf of the Service Provider under the Contract;

(EE) prohibit the Language Professional placing himself in a conflict of interest, as further detailed in clause 14 of the Contract; and

no less (B) ensures each Language Professional is qualified to a standard than set out in the Specification.

ii) ensure:

(A) except in the case of Pre-Registered Language Professionals, that each Language Professional does not commence the provision of the Services on behalf of the Service Provider until he/she has successfully completed the Onboarding Process;

(B) that within 2 Working Days of commencement of engagement of each Language Professional (and, at all other times, promptly and, in any event, within 2 Working Days of request) provide to the Quality Assurance Service Provider (or, if there is no Quality Assurance Service Provider, to the Authority and/or such Other Service Provider the Authority may direct) the Language Professional Data and such other information the Quality Assurance Service Provider may require in respect of the Language Professionals to enable it to perform services on behalf of the Authority (including those services set out in the Specification);

(C) that it promptly and, in any event, within 2 Working Days, notifies the Quality Assurance Service Provider (or, if there is no Quality Assurance Service Provider, to the Authority and/or such Other Service Provider as the Authority may direct) with details of any changes to the Language Professional Data and other information which has been provided under clause B5.6(h)ii)(B); and

(D) without limitation to clause B5.6(h)ii)(B), promptly, and in any event within 2 Working Days of request, provide up to date

information on the Language Professionals (including Language Professional Data) to any Commissioning Body

and

- (i) if requested by the Authority, promptly, and in any event within 2 Working Days, provide to the Authority a copy of the contract entered into between the Service Provider and a Language Professional (which may be shared with any other Commissioning Body, Quality Assurance Service Provider and/or the Auditors).

B5.7 The Authority shall use reasonable endeavours to ensure that the Quality Assurance Service Provider does not (except as expressly permitted in this clause B5.7) disclose to any Other Service Provider the Service Provider's Confidential Information which the Service Provider is required to provide in accordance with clauses 0 save that the Quality Assurance Service Provider may disclose the Service Provider's Confidential Information to the Authority and any other Commissioning Body in accordance with the terms of the contract between the Quality Assurance Service Provider and the Authority.

B5.8 The Service Provider shall at all times remain responsible for its Personnel (including those of its Sub-Contractors) and the acts and omissions of its Personnel (including those of its Sub-Contractors). An obligation on the Service Provider to do, or refrain from doing, any act or thing shall include an obligation on the Service Provider to procure that Service Provider Personnel (and those of its Sub-Contractors) also do, or refrain from doing, such act or thing.

B6 Due Diligence

Save as the Commissioning Body may otherwise direct, the Service Provider is deemed to have inspected the Premises before submitting its Tender and to have completed due diligence in relation to all matters connected with the performance of its obligations under the Contract.

B7 Licence to Occupy

B7.1 Any land or Premises made available from time to time to the Service Provider by a Commissioning Body in connection with the Contract are on a non-exclusive licence basis free of charge and are used by the Service Provider solely for the purpose of performing its obligations under the Contract. The Service Provider has the use of such land or Premises as licensee and shall vacate the same on termination of the Contract.

B7.2 The Service Provider shall limit access to the land or Premises to such Service Provider Personnel as is necessary for it to perform its obligations under the Contract and the Service Provider shall co-operate (and ensure that Service Provider Personnel co-operate) with other persons working concurrently on such land or Premises as the Authority may reasonably request.

B7.3 If the Service Provider requires modifications to the Commissioning Body's Premises such modifications are subject to Approval and shall be carried out by the Authority at the Service Provider's cost.

B7.4 The Service Provider shall (and shall ensure that any Service Provider Personnel on the Commissioning Body's Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as

may be in force from time to time for the conduct of personnel when on the Commissioning Body's Premises as determined by the relevant Commissioning Body.

- B7.5 The Contract does not create a tenancy of any nature in favour of the Service Provider, or its Service Provider Personnel and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, a Commissioning Body may use the Premises owned or occupied by it in any manner it sees fit.

B8 Property and Assets

- B8.1 All Property is and remains the property of the Commissioning Body and the Service Provider irrevocably licenses the relevant Commissioning Body and its agents to enter any Premises of the Service Provider during normal business hours on reasonable notice to recover any such Property.
- B8.2 The Service Provider does not have a lien or any other interest on the Property and the Service Provider at all times possesses the Property as fiduciary agent and bailee of the relevant Commissioning Body. The Service Provider shall take all reasonable steps to ensure that the title of the relevant Commissioning Body to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the relevant Commissioning Body's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Commissioning Body.
- B8.3 The Property is deemed to be in good condition when received by or on behalf of the Service Provider unless the Service Provider notifies the Commissioning Body otherwise within 5 Working Days of receipt.
- B8.4 The Service Provider shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without Approval.
- B8.5 The Service Provider shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Commissioning Body's reasonable security requirements as required from time to time.
- B8.6 The Service Provider is liable for all loss of or damage to the Property, unless such loss or damage was caused by the Commissioning Body's negligence. The Service Provider shall inform the Commissioning Body immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.
- B8.7 In respect of Commissioning Body Premises, the Service Provider shall, and shall procure Service Provider Personnel shall, comply with Schedule 7.
- B8.8 In respect of Information Security, the Service Provider shall, and shall procure Service Provider Personnel shall, comply with Schedule 14.
- B8.9 The Service Provider shall not delete or remove any proprietary notices contained within or relating to the Commissioning Body Materials and Deliverables.

B8.10 To the extent that Commissioning Body Materials and/or Deliverables are held and/or processed by the Service Provider or any Service Provider Personnel on its behalf, the Service Provider shall:

- (a) preserve the integrity and maintain in good order and condition the Commissioning Body Materials and Deliverables and shall prevent the corruption, loss or damage of or to Commissioning Body Materials and Deliverables including any copy thereof;
- (b) promptly return the Commissioning Body Materials and Deliverables (and all copies thereof) to the relevant Commissioning Body upon its request at no additional cost and in the format and on the media requested by such Commissioning Body from time to time;
- (c) destroy, and procure its Sub-Contractors destroy, all Commissioning Body Materials and/or Deliverables upon the earlier of:
 - i) the expiry of the applicable Retention Period; and
 - ii) the written request of the Commissioning Body to whom the Commissioning Body Materials and/or Deliverables belong,

and following the destruction of such Commissioning Body Materials and/or Deliverables, certify that it has done so to the relevant Commissioning Body;

- (d) without prejudice to any other rights or remedies the Commissioning Bodies may have, allow the Commissioning Bodies and their respective agents to enter the Service Provider Premises during normal business hours on reasonable notice to remove the Commissioning Body Materials and/or Deliverables; and
- (e) at the request of the Commissioning Body to whom the Commissioning Body Materials and/or Deliverables belong, store such items separately and ensure that they are clearly identifiable as belonging to the respective Commissioning Body.

B8.11 To the extent the Commissioning Body Materials and Deliverables comprises data, the Service Provider shall perform secure back-ups of such data at least 24 hour intervals and ensure that up-to-date back-ups are stored off-site in accordance with the BCDR Plan. The Service Provider shall ensure that such back-ups are available to the respective Commissioning Bodies (or to such other persons as the respective Commissioning Bodies may direct) at all times upon request.

B8.12 If at any time the Service Provider suspects or has reason to believe that Commissioning Body Materials and/or Deliverables have or may become corrupted, lost, degraded or damaged in any way for any reason as a result of its actions or omissions or that of its Personnel, then the Service Provider shall:

- i. notify the Authority and any other affected Commissioning Bodies immediately;
- ii. inform the Authority and any other affected Commissioning Body of the remedial action the Service Provider proposes to take;
- iii. use its best endeavours to recover the Commissioning Body Materials and/or Deliverables and otherwise make good any damage caused;

- iv. without prejudice to clause B8.12(iii), promptly act on the instructions of the Authority and any other affected Commissioning Bodies; and
 - v. co-operate with any investigation the Authority and other Commissioning Bodies consider necessary to undertake as a result of breach of suspected breach.
- B8.13 If, through any Default of the Service Provider and/or its Personnel, Commissioning Body Data is either lost, corrupted, degraded or damaged, the Service Provider shall on demand indemnify and keep indemnified and hold harmless each Commissioning Body from and against all Losses which each Commissioning Body may suffer or incur as a result of or in connection with any such Default.

B9 Offers of Employment

- B9.1 Neither Party shall, directly or indirectly, solicit or procure (otherwise than by general advertising or under TUPE, any employees or contractors (including the Service Provider Personnel) of the other Party who are directly employed or engaged in connection with the provision of the Services while such persons are employed or engaged and for a period of 6 Months thereafter.
- B9.2 If either Party breaches clause B9.1, it shall pay the other Party a sum equivalent to 20% of the annual base salary payable by the Party in breach in respect of the first year of person's employment.
- B9.3 The Parties agree that the sum specified in clause B9.2 is a reasonable pre-estimate of the loss and damage which the Party not in breach would suffer if there was a breach of clause B9.1.

B10 Employment

- B10.1 Where the commencement of the provision of the Services or any part of the Services results in one or more transfers of employment to which TUPE applies, Part A of Schedule 18 (TUPE) applies.
- B10.2 Part B of Schedule 18 (TUPE) applies on the expiry or termination of the Services or any part of the Services.

C. PAYMENT

C1 Payment and VAT

- C1.1 The Service Provider shall submit invoices to the relevant Commissioning Body in accordance with this clause C1 and Schedule 5 (Pricing and Payment).
- C1.2 If the Authority is not the Commissioning Body the Service Provider shall submit invoices to the Commissioning Body in accordance with the Commissioning Body's written instructions and policies.
- C1.3 If the Authority is the Commissioning Body the Service Provider shall submit invoices in accordance with clauses C1.4 to C1.15 and Part 2 of Schedule 5.

- C1.4 The Authority issues Purchase Orders using Basware and, unless Approved otherwise, the Service Provider shall, when invited, register on Basware.
- C1.5 If the Service Provider registers on Basware, a Valid Invoice is an invoice issued through Basware unless the invoice contains:
- (a) additional lines not included in the relevant Purchase Order;
 - (b) line descriptions which have been materially altered so that they no longer match the equivalent description in the relevant Purchase Order;
 - (c) Prices and/or volumes which have been increased without Approval.
- C1.6 If, with Approval, the Service Provider does not register on Basware, a Valid Invoice is an invoice which includes the information set out in Part 2 of Schedule 5 and, if requested by the Authority:
- (d) timesheets for Service Provider Personnel engaged in providing the Services signed and dated by the Authority's representative on the Premises on the day;
 - (e) the name of the individuals to whom the timesheet relates and hourly rates for each;
 - (f) identification of which individuals are Service Provider's staff and which are Sub-Contractors' staff;
 - (g) the address of the Premises and the date on which work was undertaken;
 - (h) the time spent working on the Premises by the individuals concerned;
 - (i) details of the type of work undertaken by the individuals concerned;
 - (j) separate identification of time spent travelling and/or meal or rest breaks; and
 - (k) if appropriate, details of journeys made and distances travelled.
- C1.7 The Authority shall not pay an invoice which is not a Valid Invoice.
- C1.8 The Authority shall not pay the Service Provider's overhead costs unless Approved and overhead costs include, without limitation: facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.
- C1.9 The Service Provider may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C1.10 If the Authority pays the Service Provider prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C1.11 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Service Provider. All payments made by the Authority to the

Service Provider are on an interim basis pending final resolution of an account with the Service Provider in accordance with the terms of this clause C1.

C1.12 The Service Provider shall:

- (a) add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. If the Service Provider fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Service Provider any additional VAT;
- (b) ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice; and
- (c) not suspend the Services unless the Service Provider is entitled to terminate the Contract under clause H2.8 for failure to pay undisputed sums of money.

C1.13 The Service Provider indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Service Provider's failure to account for or to pay any VAT relating to payments made to the Service Provider under the Contract. Any amounts due under this clause C1.13 shall be paid by the Service Provider to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.

C1.14 The Authority shall:

- (a) in addition to the Price and following receipt of a Valid Invoice via Basware, pay the Service Provider a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract; and
- (b) pay all sums due to the Service Provider within 30 days of receipt of a Valid Invoice via Basware unless an alternative arrangement has been Approved.

C1.15 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank.

C2 Recovery of Sums Due

C2.1 If under the Contract any sum of money is recoverable from or payable by the Service Provider to a Commissioning Body (including any sum which the Service Provider is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Service Provider from the Commissioning Body under the Contract or under any other agreement with the Commissioning Body or the Crown.

C2.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, is a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

C2.3 The Service Provider shall make all payments due to the Commissioning Body without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Service Provider has a valid court order requiring an amount equal to such deduction to be paid by the Commissioning Body to the Service Provider.

- C2.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C3 Financial Distress

The Parties shall comply with the provisions of Schedule 14 (Financial Distress) in relation to the assessment of the financial standing of the Service Provider and the consequences of a change to that financial standing.

D. PROTECTION OF INFORMATION

D1 Commissioning Body Data

D1.1 The Service Provider shall:

- (a) not store, copy, disclose, or use the Commissioning Body Data except as necessary for the performance by the Service Provider of its obligations under the Contract or as otherwise Approved;
- (b) preserve the integrity of Commissioning Body Data and prevent the corruption or loss of Commissioning Body Data;
- (c) not delete or remove any proprietary notices contained within or relating to the Commissioning Body Data;
- (d) to the extent that Commissioning Body Data is held and/or processed by the Service Provider, supply Commissioning Body Data to the Authority as requested by the Authority in the format specified in the Specification;
- (e) perform secure back-ups of all Commissioning Body Data and ensure that up-to-date back-ups are stored securely off-site. The Service Provider shall ensure that such back-ups are made available to the Commissioning Body immediately upon request;
- (f) ensure that any system on which the Service Provider holds any Commissioning Body Data, including back-up data, is a secure system that complies with the Security Policy Framework;
- (g) identify, and disclose to the Authority on request those members of Service Provider Personnel with access to or who are involved in handling Commissioning Body Data;
- (h) on request, give the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of Personal Data, and its procedures for reducing risk;
- (i) notify the Authority immediately and inform the Authority of the remedial action the Service Provider proposes to take if it has reason to believe that Commissioning Body Data has or may become corrupted, lost or sufficiently degraded in any way for any reason; and

- (j) comply with Schedule 14 (Information Security).

D1.2 If Commissioning Body Data is corrupted, lost or sufficiently degraded as a result of the Service Provider's Default so as to be unusable, the Authority may:

- (a) require the Service Provider (at the Service Provider's cost) to restore or procure the restoration of Commissioning Body Data and the Service Provider shall do so promptly; and/or
- (b) itself restore or procure the restoration of Commissioning Body Data, and be repaid by the Service Provider any reasonable costs incurred in doing so.

D2 Language Professional Data

D2.1 With respect to Personal Data relating to Language Professionals which the Service Provider collates from the Language Professional under the Contract (and which may contain Sensitive Personal Data) ("**Language Professional Data**"):

- (a) each Party is a Data Controller in its own right in respect of its Processing of that Language Professional Data; and
- (b) any other Commissioning Body which receives Language Professional Data pursuant to the Contract is a Data Controller in its own right in respect of its Processing of that Language Professional Data.

D2.2 Prior to providing the Language Professional Data to a Commissioning Body, the Service Provider shall ensure each Language Professional about whom the Language Professional Data relates has agreed in writing:

- (a) that their Personal Data will be transferred to the Commissioning Bodies which order Services;
- (b) that their Personal Data will be held in the Register and will be Processed for the purposes of the Authority meeting its obligations under the Directive;
- (c) that their Personal Data, or parts thereof, may be published on the website of the Quality Assurance Service Provider and made available to a third party on request (provided that, in each case, the name of the Language Professional shall not be published or made available);
- (d) without limitation to clause D2.2 (b), that the Commissioning Bodies may use the Language Professional Data at any time for the purposes of:
 - i) the receipt of the Services;
 - ii) communicating with the Language Professionals;
 - iii) the performance of the Commissioning Bodies' respective businesses or functions; and/or
 - iv) compliance with Law.
- (e) the Commissioning Bodies may transfer the Language Professional Data to Other Service Providers to be Processed in accordance with the instructions of the respective Commissioning Body.

D2.3 In respect of the Language Professional Data, the Service Provider shall:

- (a) promptly, and in any event within 2 Working Days, provide evidence of the written consent obtained from a Language Professional in accordance with clause D2.2 on request of a Commissioning Body;
- (b) immediately notify each Commissioning Body in writing if the consent obtained from the Language Professional in accordance with clause D2.2 (whether in whole or in part) is revoked by the Language Professional;
- (c) ensure the transfer of Language Professional Data to a Commissioning Body shall at all times comply with Data Protection Legislation and Schedule 14 (Information Security);
- (d) immediately notify each Commissioning Body of any unlawful or unauthorised Processing of the Language Professional Data or if any of the Language Professional Data is disclosed in breach of the Contract and/or any breach of the security measures to be put in place under the Contract;
- (e) ensure that it does not knowingly or negligently do or omit to do anything which places any Commissioning Body in breach of its obligations under the Data Protection Legislation in respect of the Language Professional Data;
- (f) immediately notify each Commissioning Body if it receives a complaint in respect of its Processing of the Language Professional Data (whether from the Language Professional themselves or any other third party); and
- (g) comply with such other obligations it has under clause D3 to the extent that the obligations apply to the Language Professional Data.

D3 Data Protection and Privacy

D3.1 For the purposes of this clause D3, references to "**Commissioning Body**" are that Commissioning Body which is the Data Controller for the relevant Commissioning Body Data.

D3.2 Save in respect of clause D2 with respect to the Parties' rights and obligations under the Contract, the relevant Commissioning Body is the Data Controller and the Service Provider is the Data Processor with respect of the Service Provider's Processing of the Commissioning Body Data.

D3.3 The only processing which Commissioning Bodies authorise the Service Provider to do is described in Schedule 22 (Data Processing) and may not be determined by the Service Provider.

D3.4 The Service Provider shall:

- (a) notify the Commissioning Body immediately if it considers any of its instructions infringe Data Protection Legislation;
- (b) at its own cost, provide all reasonable assistance to the Commissioning Body in the preparation of any Data Protection Impact Assessment prior to starting any processing. Such assistance may, at the Commissioning Body's discretion, include:

- i) a systematic description of the envisaged processing operations and the purpose of the processing;
 - ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - iii) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data
- (c) in relation to any Personal Data processed in connection with its obligations under the Contract:
 - i) process that Personal Data only in accordance with Schedule 22 (Data Processing) unless the Service Provider is required to do otherwise by Law. If it is so required the Service Provider shall promptly notify the Commissioning Body before processing the Personal Data unless prohibited by Law;
 - ii) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures
- (d) ensure that:
 - i) Service Provider Personnel do not process Personal Data except in accordance with the Contract (and in particular Schedule 22 (Data Processing));
 - ii) it takes all reasonable steps to ensure the reliability and integrity of any Service Provider Personnel who have access to Personal Data and ensure that they:
 - A) are aware of and comply with the Service Provider's duties under this clause D3;
 - B) are subject to appropriate confidentiality undertakings with the Service Provider or any Sub-processor;
 - C) 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 Commissioning Body or as allowed under the Contract;
 - D) have undergone adequate training in the use, care, protection and handling of the Personal Data
- (e) not transfer Personal Data outside the EU unless Approved and:

- i) the Commissioning Body or the Service Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or s.75 of the DPA) as determined by the Commissioning Body;
- ii) the Data Subject has enforceable rights and effective legal remedies;
- iii) the Service Provider 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 Commissioning Body in meeting its obligations); and
- iv) the Service Provider complies with any reasonable instructions notified to it in advance by the Commissioning Body with respect to the processing of the Personal Data
- v) at the written direction of the Commissioning Body, delete or return Personal Data (and any copies of it) to the Commissioning Body on termination of the Contract unless the Service Provider is required by Law to retain the Personal Data;
- vi) subject to clause D2.3, notify the Commissioning Body immediately if it:
 - i) receives a Data Subject Request (or purported Data Subject Request);
 - ii) receives a request to rectify, block or erase any Personal Data;
 - iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Contract;
 - v) 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
 - vi) becomes aware of a Data Loss Event.

D3.5 The Service Provider's obligation to notify under clause D3.2 (g) includes the provision of further information to the Commissioning Body in phases as details become available.

D3.6 Taking into account the nature of the processing, the Service Provider shall provide the Commissioning Body with full assistance in relation to their obligations under the Data Protection Legislation and any complaint, communication or request made under clause D3.2 (g) (and insofar as possible within the timescales reasonably required by the Commissioning Body) including by promptly providing:

- (a) the Commissioning Body with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Commissioning Body to enable the Commissioning Body to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Commissioning Body, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Commissioning Body following any Data Loss Event; and
 - (e) assistance as requested by the Commissioning Body with respect to any request from the Information Commissioner's Office or any consultation by the Commissioning Body with the Information Commissioner's Office.
- D3.7 The Service Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause D3. This requirement does not apply if the Service Provider employs fewer than 250 people unless the Authority determines that the processing:
- (a) is not occasional;
 - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- D3.8 The Service Provider shall allow audits of its Data Processing activity by the Authority, the Authority's designated auditor or a Commissioning Body.
- D3.9 The Service Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- D3.10 Before allowing any Sub-processor to process any Personal Data in connection with the Contract, the Service Provider shall:
- (a) notify the Authority in writing of the intended Sub-processor and processing;
 - (b) obtain Approval;
 - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause D3 such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority reasonably requires.
- D3.11 The Service Provider remains fully liable for the acts and omissions of any Sub-processor.
- D3.12 Notwithstanding the provisions of clause F4, the Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any

applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

D3.13 The Parties shall take account of any guidance published by the Information Commissioner's Office and, notwithstanding the provisions of clause F4, the Authority may on not less than 30 Working Days' notice to the Service Provider amend the Contract to ensure that it complies with any guidance published by the Information Commissioner's Office.

D3.14 In relation to Personal Data processed for Law Enforcement Purposes, the Service Provider shall:

(a) maintain logs for its automated processing operations in respect of:

- i) collection;
- ii) alteration;
- iii) consultation;
- iv) disclosure (including transfers);
- v) combination; and
- vi) erasure.

(together the "**Logs**").

(b) ensure that:

- i) the Logs of consultation make it possible to establish the justification for, and date and time of, the consultation; and as far as possible, the identity of the person who consulted the data;
- ii) the Logs of disclosure make it possible to establish the justification for, and date and time of, the disclosure; and the identity of the recipients of the data; and
- iii) the Logs are made available to the Information Commissioner's Office on request

(c) use the Logs only to:

- i) verify the lawfulness of processing;
- ii) assist with self-monitoring by Commissioning Bodies or (as the case may be) the Service Provider, including the conduct of internal disciplinary proceedings;
- iii) ensure the integrity of Personal Data; and
- iv) assist with criminal proceedings

- (d) as far as possible, distinguish between Personal Data based on fact and Personal Data based on personal assessments; and
- (e) where relevant and as far as possible, maintain a clear distinction between Personal Data relating to different categories of Data Subject, for example:
 - i) persons suspected of having committed or being about to commit a criminal offence;
 - ii) persons convicted of a criminal offence;
 - iii) persons who are or maybe victims of a criminal offence; and
 - iv) witnesses or other persons with information about offences.

D3.15 This clause D3 applies during the Term and indefinitely after its expiry.

D4 Official Secrets Acts and Finance Act

D4.1 The Service Provider shall comply with:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

D5 Confidential Information

- D5.1 Except to the extent set out in this clause D5 or if disclosure or publication is expressly allowed elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.
- D5.2 The Service Provider hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.
- D5.3 If required by the Authority, the Service Provider shall ensure that Service Provider Personnel, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in a form approved by the Authority. The Service Provider shall maintain a list of the non-disclosure agreements completed in accordance with this clause D5.3.
- D5.4 If requested by the Authority, the Service Provider shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Service Provider shall ensure that Service Provider Personnel, professional advisors and consultants are aware of the Service Provider's confidentiality obligations under the Contract.
- D5.5 The Service Provider may disclose the Authority's Confidential Information only to Service Provider Personnel who are directly involved in providing the Services and

who need to know the information, and shall ensure that such Service Provider Personnel are aware of and shall comply with these obligations as to confidentiality.

D5.6 The Service Provider shall not, and shall procure that the Service Provider Personnel do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.

D5.7 Clause D5.1 shall not apply to the extent that:

- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
- (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
- (e) it is independently developed without access to the other Party's Confidential Information.

D5.8 Nothing in clause D5.1 prevents the Authority disclosing any Confidential Information obtained from the Service Provider:

- (a) for the purpose of the examination and certification of the Authority's accounts;
- (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- (c) to Parliament and Parliamentary committees;
- (d) to any Crown Body or any Contracting Authority and the Service Provider hereby acknowledges that all Government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other Government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Government department or any Contracting Authority; or
- (e) to any consultant, contractor or other person engaged by the Authority

provided that in disclosing information under clauses D5.8 (d) and (e) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

D5.9 Nothing in clauses D5.1 to D5.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in

a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

- D5.10 The Authority shall use reasonable endeavours to ensure that any Government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Service Provider's Confidential Information is disclosed pursuant to clause D5.8 is made aware of the Authority's obligations of confidentiality.
- D5.11 If the Service Provider does not comply with clauses D5.1 to D5.8 the Authority may terminate the Contract immediately on notice.
- D5.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Service Provider shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- D5.13 The Service Provider shall:
- (a) immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches;
 - (b) use best endeavours to recover such Confidential Information or data however it may be recorded;
 - (c) co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data; and
 - (d) at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Service Provider has failed to comply with clause D5.12.

D6 Freedom of Information

- D6.1 The Service Provider acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- D6.2 The Service Provider shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt and shall:
- (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
 - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and
 - (c) not respond directly to a Request for Information unless authorised to do so in writing by the Authority.
- D6.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the FOIA and/or the EIR.

D7 Publicity, Media and Official Enquiries

D7.1 The Service Provider shall not:

- (a) make any press announcements or publicise the Contract or its contents in any way;
- (b) use the Authority's name, brand or logo in any publicity, promotion, marketing or announcement of order; or
- (c) use the name, brand or logo of any of the Authority's agencies or arms-length bodies in any publicity, promotion, marketing or announcement of orders

without Approval.

D7.2 Each Party acknowledges that nothing in the Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party (including the Services and the ICT Environment) and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.

D7.3 The Service Provider shall use reasonable endeavours to ensure that Service Provider Personnel and its professional advisors comply with clause D7.1.

Annex A

CLAUSE D7 – INTERNATIONAL TRANSFERS FROM CONTROLLERS TO PROCESSORS

D7.1 For the purposes of the Clauses,

- a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'Commissioner' shall have the same meaning as in the UK GDPR;
- b) 'the data exporter' means the controller who transfers the personal data;
- c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system covered by UK adequacy regulations issued under Section 17A Data Protection Act 2018 or Paragraphs 4 and 5 of Schedule 21 of the Data Protection Act 2018;
- d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract.
- e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the UK
- f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

D7.2 The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

D7.3 In relation to third party beneficiaries:

- (a) The data subject can enforce against the data exporter this Clause, Clause D7.4(b) to (i), Clause D7.5(a) to (e), and (g) to (j), Clause D7.6(1) and (2), Clause D7.7, Clause D7.8, and Clauses 9 to 12 as third-party beneficiary.
- (b) The data subject can enforce against the data importer this Clause, Clause D7.5(a) to (e) and (g), Clause D7.6, Clause D7.7, Clause D7.8, and Clauses D7.9 to D7.12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
- (c) The data subject can enforce against the sub-processor this Clause, Clause D7.5(a) to (e) and (g), Clause D7.6, Clause D7.7, Clause D7.8(2), and Clauses D7.9 to D7.12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce

them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses

d) The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

D7.4 Obligations of the data exporter, as follows:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the Commissioner) and does not violate the applicable data protection law;
- (b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in D7.13 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not covered by adequacy regulations issued under Section 17A Data Protection Act 2018 or Paragraphs 4 and 5 of Schedule 21 Data Protection Act 2018;
- g) to forward any notification received from the data importer or any sub-processor pursuant to Clause D7.5(b) and Clause D7.8(3) to the Commissioner if the data exporter decides to continue the transfer or to lift the suspension;
- h) to make available to the data subjects upon request a copy of the Clauses, with the exception of D7.13, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses;
- j) that it will ensure compliance with Clause D7.4(a) to (i).

D7.5 Obligations of the data importer, as follows:

a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

c) that it has implemented the technical and organisational security measures specified in D7.13 before processing the personal data transferred;

d) that it will promptly notify the data exporter about:

- (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;
- (ii) any accidental or unauthorised access; and
- (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the Commissioner with regard to the processing of the data transferred;

f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the Commissioner;

g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of D7.13 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter.

h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent

i) that the processing services by the sub-processor will be carried out in accordance with Clause D7.11.

j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

D7.6 Regarding Liability:

D7.6.1 The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause D7.3 or in Clause D7.11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered

D7.6.2 If a data subject is not able to bring a claim for compensation in accordance with D7.6.1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause D7.3 or in Clause D7.11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

D7.6.3 If a data subject is not able to bring a claim against the data exporter or the data importer referred to in D7.6.1 and D7.6.2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause D7.3 or in Clause D7.11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

D7.7 The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

- (a) to refer the dispute to mediation, by an independent person or, where applicable, by the Commissioner.
- (b) to refer the dispute to the UK courts.

D7.7.1 The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.
D7.8 For the cooperation with supervisory authorities,

D7.8.1 The data exporter agrees to deposit a copy of this contract with the Commissioner if it so requests or if such deposit is required under the applicable data protection law.

D7.8.2 The parties agree that the Commissioner has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

D7.8.3 The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to D7.8.2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause D7.5(b).

D7.9 The Clauses shall be governed by the law of the country of the United Kingdom in which the data exporter is established, namely England and Wales.

D7.10 The parties undertake not to vary or modify the Clauses. This does not preclude the parties from (i) making changes permitted by Paragraph 7(3) & (4) of Schedule 21 Data Protection Act 2018; or (ii) adding clauses on business related issues where required as long as they do not contradict the Clause.

D7.11 The following applies to Sub-Processing:

D7.11.1 The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

D7.11.2 The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause D7.3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause D7.6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

D7.11.3 The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the laws of the country of the UK where the exporter is established.

D7.11.4 The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause D7.5(j), which shall be updated at least once a year. The list shall be available to the Commissioner.

D7.12 The obligation after termination, is as follows:

D7.12.1 The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

D7.12.2 The data importer and the sub-processor warrant that upon request of the data exporter and/or of the Commissioner, it will submit its data-processing facilities for an audit of the measures referred to in D7.12.1.

D7.13 The description of the importer's security measures set out in the Contract between the controller and processor will apply for Clause D7.

E. INTELLECTUAL PROPERTY

E1 Intellectual Property Rights

E1.1 All Intellectual Property Rights in:

- (a) the Results; or
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is furnished to or made available to the Service Provider by or on behalf of the Authority (together with the Results, the "**IP Materials**") shall vest in the Authority (save for Copyright and Database Rights which shall vest in Her Majesty the Queen) and the Service Provider shall not, and shall ensure that the Service Provider Personnel shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Service Provider of its obligations under the Contract.

E1.2 The Service Provider hereby assigns:

- (a) to the Authority, with full title guarantee, all Intellectual Property Rights (save for Copyright and Database Rights) which may subsist in the IP Materials. This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Service Provider; and
- (b) to Her Majesty the Queen, with full title guarantee, all Copyright and Database Rights which may subsist in the IP Materials

and shall execute all documents and do all acts as are necessary to execute these assignments.

E1.3 The Service Provider shall:

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) ensure that the third-party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority and Commissioning Bodies a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and include the right for the Authority to sub-license, transfer,

novate or assign to other Contracting Authorities, the Crown, the Replacement Service Provider or to any other third party supplying goods and/or services to the Authority;

- (c) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
 - (d) during and after the Term, indemnify and keep indemnified the Authority and Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority and Indemnified Persons may suffer or incur as a result of or in connection with any breach of this clause E1.3, except to the extent that any such claim results directly from:
 - i) items or materials based upon designs supplied by the Authority; or
 - ii) the use of data supplied by the Authority which is not required to be verified by the Service Provider under any provision of the Contract.
- E1.4 The Authority shall notify the Service Provider in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Service Provider to the Authority.
- E1.5 The Service Provider shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Service Provider or Indemnified Person) arising from the performance of the Service Provider's obligations under the Contract ("**Third Party IP Claim**"), provided that the Service Provider shall at all times:
- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
 - (b) take due and proper account of the interests of the Authority; and
 - (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).
- E1.6 The Authority shall, at the request of the Service Provider, afford to the Service Provider all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Service Provider shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Service Provider is not required to indemnify the Authority under this clause E1.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E1.3 (d) i) and ii).
- E1.7 The Authority shall not, without the Service Provider's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.
- E1.8 If any Third-Party IP Claim is made or in the reasonable opinion of the Service Provider is likely to be made, the Service Provider shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be

unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E1.3 (b) and G2.1 (g)) use its best endeavours to:

- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Service Provider is unable to comply with clauses E1.8 (a) or (b) within 20 Working Days of receipt by the Authority of the Service Provider's notification the Authority may terminate the Contract immediately by notice to the Service Provider.

- E1.9 The Service Provider grants to the Authority and, if requested by the Authority, to a Replacement Service Provider, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Service Provider owned or developed prior to the Commencement Date and which the Authority (or the Replacement Service Provider) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

F. CONTROL OF THE CONTRACT

F1 Contract Performance

- F1.1 The Parties will manage the Contract through the governance structure detailed in Schedule 8 (Governance).
- F1.2 The Service Provider shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F1.3 At or around 6 Months from the Service Commencement Date and each anniversary of the Service Commencement Date thereafter, the Authority may carry out a review of the performance of the Service Provider (a **"Review"**). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to):
- a) the Service Provider's delivery of the Services;
 - b) the Service Provider's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services;
 - c) a review of future requirements in relation to the Services; and
 - d) progress against key milestones.
- F1.4 The Service Provider shall provide at its own cost any assistance reasonably required by the Authority to perform Reviews including the provision of data and information.

- F1.5 The Authority may produce a report (a "**Review Report**") of the results of each Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Service Provider's obligations under the Contract.
- F1.6 The Authority shall give the Service Provider a copy of the Review Report (if applicable). The Authority shall consider any Service Provider comments and may produce a revised Review Report.
- F1.7 The Service Provider shall, within 10 Working Days of receipt of the Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Review Report.
- F1.8 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Service Provider's failure to meet its obligations under the Contract identified by the Review Report, or those which result from the Service Provider's failure to meet the Authority's expectations notified to the Service Provider or of which the Service Provider ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

F2 Remedies for Material Breach

- F2.1 If the Authority reasonably believes the Service Provider has committed a Material Breach it may, without prejudice to its rights under clause H2, do any of the following:
- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Service Provider has demonstrated to the Authority's reasonable satisfaction that the Service Provider will be able to supply the Services in accordance with the Specification;
 - (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
 - (c) withhold or reduce payments to the Service Provider in such amount as the Authority reasonably deems appropriate in each particular case; and/or
 - (d) terminate the Contract with immediate effect.
- F2.2 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Authority may charge the Service Provider for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Service Provider for such part of the Services.
- F2.3 If the Authority reasonably believes the Service Provider has failed to supply all or any part of the Services in accordance with the Contract, professional or Good Industry Practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give

the Service Provider notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.

F2.4 If the Service Provider has been notified of a failure in accordance with clause F2.3 the Authority may:

- (a) direct the Service Provider to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
- (b) withhold or reduce payments to the Service Provider in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

F2.5 If the Service Provider has been notified of a failure in accordance with clause F2.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F2.5 and the progress of those measures until resolved to the satisfaction of the Authority.

F2.6 If, having been notified of any failure, the Service Provider does not remedy it in accordance with clause F2.5 in the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Service Provider.

F3 Transfer and Sub-Contracting

F3.1 Except where both clauses F3.10 and F3.11 apply, the Service Provider shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such actions shall be evidenced in writing and shown to the Authority on request. Sub-Contracting any part of the Contract does not relieve the Service Provider of any of its obligations or duties under the Contract.

F3.2 The Service Provider is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Service Provider shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.

F3.3 The Authority consents to the appointment of the Sub-Contractors listed in Schedule 19 (Approved Sub-Contractors).

F3.4 The Service Provider shall ensure that Sub-Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause F5 (Audit). If any Sub-Contractor does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Service Provider on the basis of such documents or work carried out by the Sub-Contractor.

F3.4.1 The Supplier shall maintain documented Supplier Management processes which will be made available and periodically reviewed by the Authority.

F3.5 If the Authority consent to the award of a Sub-Contract, the Service Provider shall ensure that:

(a) the Sub-Contract contains:

- i) a right for the Service Provider to terminate the Sub-Contract if the Sub-Contractor does not comply with its legal obligations in connection with Data Protection Legislation, environmental, social or labour law;
- ii) obligations no less onerous on the Sub-Contractor than those on the Service Provider under the Contract in respect of data protection in clause D1, D2 and D3;
- iii) provisions requiring the Service Provider or the Sub-Contractor receiving goods or services under the Sub-Contract to consider and verify invoices under that Sub-Contract in a timely fashion;

provisions that include if the Service Provider or the Sub-Contractor fails to consider and verify an invoice in accordance with clause F3.5(a) (iii), the invoice shall be regarded as valid and undisputed for the purposes of F3.5(a) (v), after a reasonable time has passed;

- iv) provisions requiring the Service Provider or Sub-Contractor (as the case may be) to pay any undisputed sums which are due from it to their Sub-Contractor within a specified period not exceeding 30 days of verifying that invoice is valid and undisputed; and
- v) provisions giving the Authority the right to publish both the Service Provider's and the Sub-Contractor's compliance with its obligation to pay undisputed invoices within the specified payment period.
- vi) a provision requiring the Key Sub-contractor to:
 - i. promptly notify the Service Provider and the Authority in writing of any of the following of which it is, or ought to be, aware:
 - 1. the occurrence of a Financial Distress Event in relation to the Key Sub-contractor; or
 - 2. any fact, circumstance or matter of which it is aware which could cause the occurrence of a Financial Distress Event in relation to the Key Sub-contractor,

and in any event, provide such notification within 5 Working Days of the date on which the Key Sub-contractor first becomes aware of such; and

- ii. co-operate with the Service Provider and the Authority in order to give full effect to the provisions of Schedule 14 (Financial Distress), including meeting with the Service Provider and the Authority to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Remediation Plan.
- (b) the Sub-Contractor includes a provision having the same effect as set out in clause F3.5 (a) in any Sub-Contract which it awards;
- (c) the Sub-Contract in relation to provision of the Services shall include the obligations and standards set out in Schedule 20; and
- (c) copies of each Sub-Contract are sent to the Authority immediately after their execution.

F3.5.1 In advance of Sub-contracting its rights or obligations under the Contract, the Supplier shall:

- (a) Notify the proposed Sub-contractor of the Supplier's professional standards, code of conduct and service agreements.
- (b) Sign a bilateral contract with the proposed Sub-contractor on terms no less onerous than those contained in the Contract.
- (c) Ensure the proposed Sub-contractor is aware and compliant with the requirements set out in the Contract relating to, among other things, vetting, security, data protection complaints and onboarding processes.
- (d) Review previous work undertaken by the proposed Sub-contractor and ensure that the work produced was of a standard suitable under the terms of the Contract.
- (e) Ensure the proposed Sub-contractor is able to provide a service which meets the requirements of the Authority, including ensuring that the Sub-contractor can provide Language Professionals to provide Services in required languages, at required times of day.
- (f) Perform a credit check on the proposed Sub-contractor to identify any financial issues currently or historically experienced by the Sub-contractor or any related organisations.
- (g) Where appropriate, review publicly available information on Companies House to identify any concerns regarding the proposed Sub-contractor's liquidity or financial stability.
- (h) Conduct research into the proposed Sub-contractor's appearances in the media or social media to identify any potential reputational damage which could occur to the Authority or the Supplier.

F3.6 Unless approved otherwise, if the total value of the Contract over the Term is, or is likely to be, in excess of [REDACTED] the Service Provider shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Services:

- (a) advertise on Contracts Finder those that have a value in excess of [REDACTED].
- (b) within 90 days of awarding a Sub-Contract, update the notice on Contracts Finder with details of the Sub-Contractor.
- (c) monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder and awarded during the Term.
- (d) provide reports on the information in clause F3.6 (c) to the Authority in the format and frequency reasonably specified by the Authority.
- (e) promote Contracts Finder to its Service Providers and encourage them to register on Contracts Finder; and
- (f) ensure that each advertisement placed pursuant to F3.6 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.

F3.6.1 During the period of the Sub-contract, the supplier shall:

(a) Undertake a quarterly review of the Sub-contract to ensure that the Sub-contractor is compliant with the Supplier's obligations under this Contract.

(b) Undertake a quarterly audit of the Sub-contractor's systems and processes to ensure they are compliant with the Contract.

(c) Review complaints received for work completed by the Sub-contractor and ensure appropriate action is taken to rectify failures in service or trends of poor service which are identified during this review.

(d) Undertake regular social media monitoring to identify any negative statements made regarding the Sub-contractor.

(e) Monitor the percentage of invoices paid by the Sub-contractor to those in their immediate supply chain for each of the two previous six-month reporting periods. This should include the percentage of invoices paid within each of the following categories:

1. within 30 days
2. in 31 to 60 days
3. in 61 days or more
4. due but not paid by the last date for payment under agreed contractual terms.

F3.7 The Service Provider shall, at its own cost, supply to the Authority by the end of April each year for the previous Financial Year:

- (a) the total revenue received from the Authority pursuant to the Contract.
- (b) the total value of all its Sub-Contracts.
- (c) the total value of its Sub-Contracts with SMEs; and
- (d) the total value of its Sub-Contracts with VCSEs.

F3.7.1 In the event of a conflict between the terms contained in paragraph F3.4 or F3.5 and any other clause in this contract, that other clause shall prevail.

F3.8 The Authority may from time to time change the format and the content of the information required pursuant to clause F3.7.

F3.9 If the Authority believes there are:

- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Service Provider shall replace or not appoint the Sub-Contractor; or
- (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Service Provider to replace or not appoint the Sub-Contractor and the Service Provider shall comply with such requirement.

F3.10 Notwithstanding clause F3.1, the Service Provider may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Service Provider (including any interest which the Authority incurs under clause C1 (Payment and VAT)). Any assignment under this clause F3.10 is subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C2 (Recovery of Sums Due);
- (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both clauses F3.11 and F3.12.

F3.11 If the Service Provider assigns the right to receive the Price under clause F3.10, the Service Provider or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F3.12 The Service Provider shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority can make payment.

F3.13 Clause C1 continues to apply in all other respects after the assignment and shall not be amended without Approval.

F3.14 Subject to clause F3.15, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority;
- (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority

provided that any such assignment, novation or other disposal shall not increase the burden of the Service Provider's obligations under the Contract.

F3.15 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F3.15, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

F3.16 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F3.14 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

- (a) the rights of termination of the Authority in clauses H1 and H2 are available to the Service Provider in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Service Provider.

F3.17 The Authority may disclose to any Transferee any Confidential Information of the Service Provider which relates to the performance of the Service Provider's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Service Provider's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F3.18 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the Contract.

F4 Change

F4.1 After the Commencement Date, either Party may request a Change subject to the terms of this clause F4.

F4.2 During the Term, the Parties acknowledge that the Authority's operational and other requirements in respect of the Services may change from time to time, necessitating amendments to the Contract.

F4.3 The following is a non-exhaustive list of the circumstances in which those operational and other requirements may change:

- (a) a change to the list of Commissioning Bodies;
- (b) any changes to the Specification (including those resulting from changes to the business requirements and any change to the way in which the Common and Rare Languages are defined and determined);
- (c) a change arising during Implementation and the associated activities to be performed under the Contract, including under Schedule 4 (Implementation);
- (d) a change to the consents, approvals, permissions and/or licences required to perform the Services;
- (e) a change to the performance mechanism (including applicable performance measures and associated performance measurement regime) as anticipated by Schedule 6 (Performance);
- (f) a change to the Urgency, Security and Complexity Level requirements set out at Annex 1 of the Specification;
- (g) a change to the governance structure/arrangements set out in Schedule 8 (Governance);
- (h) change to the reporting and record keeping requirements set out in Schedule 9 (Management Information, Reports and Records);
- (i) a change to the nature or scope of any technology as set out in Annex 6 (Technology Specification) of Schedule 1 (Specification) or the Booking Service, or their associated infrastructure, including where driven by changes in the technology markets;
- (j) a change arising from any audits conducted by (or on behalf of) the Authority pursuant to the Contract
- (k) a change to the Statutory Obligations and Corporate Social Responsibility (Schedule 20) or Good Industry Practice;
- (l) a change arising from a Change in Law;
- (m) a change to reflect the agreed arrangements in respect of any staff transfers as referred to in Schedule 18 (TUPE Schedule);
- (n) giving effect to any Extension;
- (o) any implications of the introduction of an independent regulator (including additional obligations relating to complaints handling reporting, etc); and
- (p) any changes to the Service Provider's ways of working resulting from the introduction of innovations and/or new technology.

F4.3 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 10 (Change Control). The Party requesting the Change shall give the other Party sufficient

information and time to assess the extent and effect of the requested Change. If the receiving Party accepts the Change it shall confirm it in writing to the other Party.

- F4.4 If the Service Provider is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Service Provider to fulfil its obligations under the Contract without the Change; or
 - (b) terminate the Contract immediately except where the Service Provider has already delivered all or part of the Services or where the Service Provider can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- F4.5 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.
- F4.6 The Service Provider is deemed to warrant and represent that the CCN has been executed by a duly authorised representative of the Service Provider in addition to the warranties and representations set out in clause G2.
- F4.7 Clauses F4.5 and F4.6 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.

F5 Audit

- F5.1 The Service Provider shall:
- (a) keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority;
 - (b) on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract;
 - (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Service Provider in relation to the Services;
 - (d) allow authorised representatives of the Authority and/or the National Audit Office to examine the Service Provider's records and documents relating to the Contract and provide such copies and oral or written explanations as may reasonably be required; and
 - (e) allow the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other

information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Service Provider shall provide such explanations as are reasonably required for these purposes.

F5.2 The Service Provider shall, and shall procure its Sub-Contractors shall, on demand provide the Authority and any Auditors (the National Audit Office, the Audit Commission and their respective representatives) with all reasonable co-operation and assistance in relation to each audit, including by providing:

(a) all information within the scope of the audit requested by the Authority and/or Auditors;

(b) reasonable access to:

- i) any Service Provider Premises (and in the event the records and accounts are held by a Sub-Contractor or some other third party the Service Provider shall procure reasonable access to such party's premises);
- ii) the Service Provider Assets;
- iii) any other equipment which may be used in the provision of the Services including that belonging to its Sub-Contractors; and
- iv) the Service Provider's Personnel; and
- v) Open Book Data

F5.3 If an audit reveals:

(a) a Material Breach, Fraud or suspected Fraud, the Service Provider shall reimburse the Authority and its Auditors' reasonable costs incurred in relation to the audit and the Authority may terminate the Contract;

(b) that a Commissioning Body has overpaid for the Services, the Service Provider shall pay:

i) to the relevant Commissioning Body on demand:

(A) the amount overpaid; and

(B) interest on the amount overpaid, accruing on a basis at a rate of 3% per annum above the Bank of England's base rate from the date of overpayment by the Commissioning Body up to the date of repayment by the Service Provider, whether before or after judgment; and

ii) to the Authority on demand (in addition to any sums which may be due to it under clause F.5.3 (a), the reasonable costs incurred by the Authority and any Auditor undertaking the audit;

(c) that a Commissioning Body has underpaid for the Services, the Service Provider is not entitled to increase the Price paid or payable by the relevant Commissioning Body but, where the relevant Commissioning Body is the Authority, the Authority shall or, where the relevant Commissioning Body is not the Authority, the Authority shall use its reasonable endeavours to ensure that the relevant Commissioning Body shall pay to the Service Provider the difference between the actual Price paid and the Price which should have been due within such timescale and/or instalments as agreed between those parties in writing.

G. LIABILITIES

G1 Liability, Indemnity and Insurance

G1.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) any breach of clauses D1, D2, D3 or D5 or Schedules 14 or 20; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

G1.2 Subject to clauses G1.3 and G1.5, the Service Provider indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Service Provider of its obligations under the Contract or the presence of the Service Provider or any Service Provider Personnel on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Service Provider, or any other loss which is caused directly by any act or omission of the Service Provider.

G1.3 Subject to clause G1.1 the Service Provider's aggregate liability in respect of the Contract does not exceed £3,800,000. Any amounts that must be taken out by the Service Provider in respect of the required Insurances pursuant to clauses G1.8 to G1.12 and Schedule 11 (Insurance) shall not be taken into consideration when calculating the Service Provider's liability under clauses G1.2 or G1.3.

G1.4 Subject to clause G1.1 the Authority's aggregate liability in respect of the Contract does not exceed the Price payable in the previous calendar year of the Contract.

G1.5 The Service Provider is not responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

G1.6 The Authority may recover from the Service Provider the following losses incurred by the Authority to the extent they arise as a result of a Default by the Service Provider:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Service Provider for the remainder of the Term and or replacement deliverables which shall include any incremental costs associated with the Replacement Service Provider and/or replacement deliverables above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party by the Authority; and
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

G1.7 Subject to clauses G1.1 and G1.6, neither Party is liable to the other for any:

- (a) loss of profits, turnover, business opportunities or damage to goodwill; or
- (b) indirect, special or consequential loss.

G1.8 Unless otherwise specified by the Authority, the Service Provider shall, with effect from the Commencement Date for such period as necessary to enable the Service Provider to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of its obligations under the Contract including:

- (a) if required by the Authority, appropriate, professional indemnity insurance in the sum of not less than £5,000,000 (five million pounds) for any advice given by the Service Provider to the Authority;
- (b) cover for death or personal injury, loss of or damage to property or any other loss; and
- (c) employer's liability insurance in respect of Service Provider Personnel.

Such insurance policies shall be maintained for the duration of the Term and for a minimum of 6 years following the end of the Term.

G1.9 The Service Provider shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

G1.10 If the Service Provider does not have and maintain the insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Service Provider.

G1.11 The provisions of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities under the Contract.

- G1.12 The Service Provider shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Service Provider, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Service Provider is an insured, a co-insured or additional insured person.

G2 Warranties and Representations

- G2.1 The Service Provider warrants and represents on the Commencement Date and for the Term that:

- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Service Provider;
- (b) in entering the Contract, it has not committed any fraud;
- (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Service Provider to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Service Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Service Provider's assets or revenue;
- (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) any person engaged by the Service Provider shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence if the Service Provider has not been in existence for 3 years) prior to the date of the Contract:
 - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

- ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
- iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract;
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance; and
- (l) within the previous 12 months, no Financial Distress Events have occurred or are subsisting (or any events that would be deemed to be Financial Distress Events under this Contract had this Contract been in force) and there are currently no matters that it is aware of that could cause a Financial Distress Event.

G2.2 The Service Provider confirms that in entering into the Contract it is not relying on any statements, warranties or representations given or made (whether negligently or innocently or whether express or implied), or any acts or omissions by or on behalf of the Authority in connection with the subject matter of the Contract except those expressly set out in the Contract and the Service Provider hereby waives and releases the Authority in respect thereof absolutely.

G3 Tax Compliance

G3.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Service Provider shall:

- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
- (b) promptly give the Authority:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

G3.2 If the Service Provider or any Service Provider Personnel are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Service Provider shall:

- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or

claim arising from or made in connection with the provision of the Services by the Service Provider or any Service Provider Personnel.

H. DEFAULT, DISRUPTION AND TERMINATION

H1 Insolvency and Change of Control

H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Service Provider if the Service Provider is a company and in respect of the Service Provider:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in H1.1 (a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Service Provider shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including where the Service Provider undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Service Provider within 6 Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control

but is not permitted to terminate where Approval was granted prior to the Change of Control.

H2 Default

H2.1 In the event of any Default by the Service Provider, the Service Provider shall notify the Authority of the Default as soon as practicable but in any event within 2 Working Days of becoming aware of the Default, detailing the actual or anticipated effect of the Default and whether the Default is a Notifiable Default.

H2.2 Notwithstanding any other provision in the Contract, in the event of a Default by the Service Provider (or any anticipated Default by the Service Provider) the Service Provider shall:

- (a) (if the Default occurs) remedy the Default as soon as possible; and
- (b) use all reasonable endeavours to eliminate or mitigate the consequences or any such Default or anticipated Default on each of the Commissioning Bodies.

H2.3 The Authority may terminate the Contract with immediate effect by notice if the Service Provider commits a Default and:

- (a) the Default is not, in the opinion of the Authority, capable of remedy; or
- (b) the Default is a Material Breach; or
- (c) where a right of termination is expressly reserved in this Contract, including
 - (i) paragraph 4 of Schedule 4 (Implementation Plan); and
 - (ii) paragraph 6 of Schedule 23 (Financial Distress).

H2.4 If, through any Default of the Service Provider, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Service Provider is liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

Notifiable Defaults

H2.5 If:

- (a) a Moderate Performance Failure in relation to the same KPI occurs in 2 consecutive months;
- (b) 2 Critical Performance Failures of KPIs occur in any Month;
- (c) a Critical Performance Failure in relation to the same KPI occurs in 2 consecutive Months;
- (d) the number of Non-Fulfilled Bookings as a percentage of all Bookings during any Month is 6% or higher; and/or

- (e) the Service Provider commits a material Default that, in the opinion of the Authority, is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default),

each a **"Notifiable Default"**

the Service Provider shall notify the Authority of the Notifiable Default in accordance with clause H2.1 and unless the Notifiable Default also constitutes a Rectification Plan Failure, the Authority may not terminate the Contract on the grounds of the Notifiable Default without first following the Rectification Plan Process.

- H2.6 If a Notifiable Default occurs (including where the Authority notifies the Service Provider (setting out sufficient detail) that, in its reasonable opinion, it considers a Notifiable Default has occurred) the Service Provider shall comply with the Rectification Plan Process.

Rectification Plan Process

- H2.7 In the Rectification Plan Process:

- (a) the Service Provider shall submit a draft Rectification Plan to the Authority promptly and in any event within 10 Working Days (or such other period as may be agreed between the Parties) of the notification submitted by the Service Provider pursuant to clause H2.1 or by the Authority pursuant to clause H2.6;
- (b) the Service Provider shall submit a draft Rectification Plan even if the Service Provider disputes that it is responsible for the Notifiable Default;
- (c) the draft Rectification Plan shall set out:
 - i) full details of the Notifiable Default that has occurred, including a root cause analysis;
 - ii) the actual or anticipated effect of the Notifiable Default (including the actual or anticipated effect on the performance of its obligations under the Contract); and
 - iii) the steps which the Service Provider 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);
- (d) the Service Provider shall promptly, and in any event within 2 Working Days, provide to the Authority any further documentation that the Authority reasonably requires to assess the Service Provider's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined in accordance with the Dispute Resolution Procedure;
- (e) the Authority shall notify the Service Provider whether it approves the draft Rectification Plan as soon as reasonably practicable. If the Authority does not approve the draft Rectification Plan, the Authority shall give reasons for its decision and the Service Provider shall take the reasons into account in the

preparation of a revised Rectification Plan. The Service Provider shall submit the revised draft of the Rectification Plan to the Authority for review within 5 Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft;

- (f) if the Rectification Plan is Approved:
 - i) the Service Provider shall immediately start work on the actions set out in the Rectification Plan; and
 - ii) the Authority may not terminate the Contract in whole or in part on the grounds of the relevant Notifiable Default;
- (g) the Authority may reject the draft or revised Rectification Plan submitted to it under clause H2.7 (e) and terminate the Contract or part of the Contract immediately by notice to the Service Provider if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for reasons including:
 - i) it is insufficiently detailed to be capable of proper evaluation;
 - ii) it will take too long to complete;
 - iii) it will not prevent reoccurrence of the Notifiable Default; and/or
 - iv) it will rectify the Notifiable Default but in a manner which is not acceptable to the Authority.

H2.8 If the Authority fails to pay the Service Provider undisputed sums of money when due, the Service Provider shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Service Provider may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C3.1 or to a Force Majeure Event.

H3 Termination on Notice

The Authority may terminate the Contract at any time by giving 90 days' notice to the Service Provider.

H4 Other Grounds

- H4.1 The Authority may terminate the Contract if:
- (a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
 - (b) the Service Provider was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
 - (c) the Contract should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Regulations;

- (d) the Service Provider has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law; or
- (e) the Service Provider's Detailed Implementation Plan is not Approved by the Authority as set out at paragraph 4 of Schedule 4 (Implementation)

H5 Consequences of Expiry or Termination

- H5.1 If the Authority terminates the Contract under clause H2 and makes other arrangements for the supply of the Services the Authority may recover from the Service Provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.
- H5.2 If the Contract is terminated under clause H2 the Authority shall make no further payments to the Service Provider (for Services supplied by the Service Provider prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause H5.
- H5.3 If the Authority terminates the Contract under clauses H3 or H4 the Authority shall make no further payments to the Service Provider except for Services supplied by the Service Provider prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- H5.4 Save as otherwise expressly provided in the Contract:
 - (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
 - (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Service Provider under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D3 (Data Protection and Privacy), D4 (Official Secrets Acts and Finance Act), D5 (Confidential Information), D6 (Freedom of Information), E1 (Intellectual Property Rights), F5 (Audit), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery), H8 (Retendering and Handover), H9 (Exit Management), H10 (Knowledge Retention), I6 (Remedies Cumulative), I12 (Governing Law and Jurisdiction) and paragraph 9 of Schedule 20.

H6 Disruption

- H6.1 The Service Provider shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H6.2 The Service Provider shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

- H6.3 If there is industrial action by Service Provider Personnel, the Service Provider shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Service Provider's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.
- H6.5 If the Service Provider is unable to deliver the Services owing to disruption of the Authority's normal business, the Service Provider may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Service Provider as a direct result of such disruption.

H7 Recovery

- H7.1 On termination of the Contract for any reason, the Service Provider shall at its cost:
- (a) immediately return to the Authority all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted Service Providers or Sub-Contractors, which was obtained or produced in the course of providing the Services;
 - (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Service Provider in good working order;
 - (c) immediately vacate any Commissioning Body Premises occupied by the Service Provider;
 - (d) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Service Provider and/or the completion of any work in progress; and
 - (e) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or the Replacement Service Provider to conduct due diligence.
- H7.2 If the Service Provider does not comply with clauses H7.1 (a) and (b), the Authority may recover possession thereof and the Service Provider grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Service Provider or its Service Providers or Sub-Contractors where any such items may be held.

H8 Retendering and Handover

- H8.1 Within 21 days of being requested by the Authority, the Service Provider shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.

- H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.
- H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- H8.4 The Service Provider indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Service Provider is required to provide under clause H8.1.
- H8.5 The Service Provider shall allow access to the Premises in the presence of an authorised representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.
- H8.6 If access is required to the Service Provider's Premises for the purposes of clause H8.5, the Authority shall give the Service Provider 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Service Provider's security procedures, subject to such compliance not being in conflict with the objectives of the visit.
- H8.7 The Service Provider shall co-operate fully with the Authority during any handover at the end of the Contract. This co-operation includes allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- H8.8 Within 10 Working Days of being requested by the Authority, the Service Provider shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

H9 Exit Management

- H9.1 The Parties shall comply with the provisions of Schedule 13 and any current Exit Plan in relation to orderly transition of the Services to the Commissioning Bodies and/or any Replacement Service Providers.
- H9.2 On termination of the Contract the Service Provider shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Service Provider in accordance with the procedure set out in clauses H9.3 to H9.6.
- H9.3 If the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Service Provider shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and

effective transfer of the Services without disruption to routine operational requirements.

H9.4 The following commercial approach shall apply to the transfer of the Services if the Service Provider:

- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
- (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Service Provider's rates either set out in Schedule 2 or forming the basis for the Price.

H9.5 When requested to do so by the Authority, the Service Provider shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.

H9.6 Within one Month of receiving the software licence information described in clause H9.4, the Authority shall notify the Service Provider of the licences it wishes to be transferred and the Service Provider shall provide for the approval of the Authority a plan for licence transfer.

H10 Knowledge Retention

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

H11 BUSINESS CONTINUITY AND DISASTER RECOVERY

The Parties shall comply with the provisions of Schedule 21 (Business Continuity and Disaster Recovery) and their respective obligations under the BCDR Plan.

H12 STEP IN

H12.1 The occurrence of any of the following events shall in each case be a "**Step-in Trigger**":

- (a) one of the circumstances set out in clause H2 (Termination on Default) has occurred (regardless of whether the Authority's right to terminate in connection with the same are subject to compliance with the Rectification Plan Process, service of a notice or any other condition);
- (b) the circumstances are considered by the Authority, acting reasonably, to constitute an emergency;
- (c) the Authority is advised by a Regulatory Body that the exercise by the Authority of its rights under this clause H12 is necessary or required;

- (d) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services;
- (e) a need by the Authority to take action to discharge a statutory duty;
- (f) a Rectification Plan Failure occurs;
- (g) the Authority reasonably believes that the Service Provider cannot or will not pay Sub-Contractors in accordance with clause F3.5(a); and/or
- (h) the Authority reasonably believes that the Service Provider cannot or will not pay Language Professionals in accordance with the Contract.

H12.2 On the occurrence of a Step-In Trigger, the Authority may serve notice on the Service Provider (a **“Step-In Notice”**) that it will take action under this clause H12, either itself or with assistance (either fully or partially) of any third party. The Step-In Notice shall set out the following:

- (a) the action the Authority intends to take and in particular the Services (or part thereof) that it will control (the **“Required Action”**);
- (b) the Step-In Trigger that has occurred and whether the Authority believes that the Required Action is due to a Default by the Service Provider;
- (c) the date on which it will start the Required Action;
- (d) the time period which it believes will be necessary for the Required Action;
- (e) whether the Authority will require access to any Premises of the Service Provider; and
- (f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Service Provider’s obligations to provide the Services during the period that the Required Action is being taken.

H12.3 Following service of a Step-In Notice, the Authority shall:

- (a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
- (b) keep records of the Required Action taken and provide information about the Required Action to the Service Provider;
- (c) co-operate wherever reasonable with the Service Provider in order to enable the Service Provider to continue to provide the Services in relation to which the Authority is not assuming control; and
- (d) act reasonably in mitigating the cost that the Service Provider will incur as a result of the exercise of the Authority’s rights under this clause H12.

H12.4 For as long as and to the extent that the Required Action is continuing, then:

- (a) the Service Provider shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;

- (b) the Authority shall pay to the Service Provider the Price after subtracting the Authority's costs of taking the Required Action; and
 - (c) without prejudice to its rights under clause C2, the Authority may charge the Service Provider for any costs reasonably incurred and any reasonable administration costs in respect of the Required Action to the extent that such costs exceed the payment which would otherwise have been payable to the Service Provider for delivery of such part of the Services.
- H12.5 If the Service Provider demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in the degradation of any Services not subject to the Required Action beyond that which would have been the case had the Authority not taken the Required Action, then the Service Provider shall be entitled to an agreed adjustment of the Price.
- H12.6 Before ceasing to exercise its step in rights under this clause H12 the Authority shall deliver a written notice to the Service Provider (a "**Step-Out Notice**"), specifying:
 - (a) the Required Action it has actually taken; and
 - (b) the date on which the Authority plans to end the Required Action (the "**Step-Out Date**") subject to the Authority being satisfied with the Service Provider's ability to resume the provision of the Services and the Service Provider's plan developed in accordance with clause H12.7.
- H12.7 The Service Provider shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's Approval a draft plan (a "**Step-Out Plan**") relating to the resumption by the Service Provider of the Services, including any action the Service Provider proposes to take to ensure that the affected Services satisfy the requirements of the Contract.
- H12.8 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Service Provider of its reasons for not approving it. The Service Provider shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's Approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- H12.9 The Service Provider shall bear its own costs in connection with any step-in by the Authority under this clause H12, provided that the Authority shall reimburse the Service Provider's reasonable and proven additional expenses incurred directly as a result of any step-in action taken by the Authority under clause H12.1(b), H12.1(d) or H12.1(e) insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Service Provider's Default.

I GENERAL

I1 Dispute Resolution

- I1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Service Provider and the commercial director of the Authority.

- I1.2 Nothing in this dispute resolution procedure prevents the Parties seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- I1.3 If the dispute cannot be resolved by the Parties pursuant to clause I1.1 either Party may refer it to mediation pursuant to the procedure set out in clause I1.5.
- I1.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Service Provider and the Service Provider Personnel shall comply fully with the requirements of the Contract at all times.
- I1.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the “**Mediator**”) shall be chosen by agreement of the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
 - (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
 - (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
 - (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
 - (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
 - (f) if the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause I1.6.
- I1.6 Subject to clause I1.2, the Parties shall not institute court proceedings until the procedures set out in clauses I1.1 and I1.3 have been completed save that:
- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Service Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7;

- (b) if the Service Provider intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has 21 days following receipt of such notice to serve a reply on the Service Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7; and
- (c) the Service Provider may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause I1.7, to which the Authority may consent as it sees fit.

I1.7 If any arbitration proceedings are commenced pursuant to clause I1.6:

- (a) the arbitration is governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Service Provider (the “**Arbitration Notice**”) stating:
 - (i) that the dispute is referred to arbitration; and
 - (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with I1.7 (b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause I1.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

I2 Force Majeure

I2.1 Subject to this clause I2, a Party may claim relief under this clause I2 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Service Provider in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or Service Provider is regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or Service Provider is itself impeded by a Force Majeure Event from complying with an obligation to the Service Provider.

I2.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

- 12.3 If the Service Provider is the Affected Party, it is not entitled to claim relief under this clause 12 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Service Provider has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- 12.4 Subject to clause 12.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 12.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Service Provider is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 12.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
 - i) the other Party is not entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.3 or H2.7; and
 - ii) neither Party is liable for any Default arising as a result of such failure;
 - (b) the Service Provider fails to perform its obligations in accordance with the Contract it is entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the Contract during the occurrence of the Force Majeure Event.
- 12.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- 12.8 Relief from liability for the Affected Party under this clause 12 ends as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and is not dependent on the serving of a notice under clause 12.7.

I3 Notices and Communications

- 13.1 Subject to clause 13.3, where the Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by

letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Jaggaer.

13.2 If it is not returned as undelivered a notice served in:

- (a) a letter is deemed to have been received 2 Working Days after the day it was sent; and
- (b) an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

13.3 Notices pursuant to clauses 11, 12 or 17 or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.

13.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:

(a) For the Authority:

Contact Name: MoJ Language Services Category Team;

Address: 1st Floor, 5 Wellington Place, Leeds, LS1 4AP; and

Email: MoJProcurementLang@Justice.gov.uk

(b) For the Service Provider:

Contact Name: [REDACTED]

Address: Link Up House, Ring Road, Lower Wortley, Leeds, LS12 6AB

Email: [REDACTED]

14 Conflicts of Interest

14.1 The Service Provider shall take appropriate steps to ensure that neither the Service Provider nor any Service Provider Personnel is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Service Provider and the duties owed to the Authority under the Contract. The Service Provider will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.

14.2 The Authority may terminate the Contract immediately by notice and/or take or require the Service Provider to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Service Provider and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause 14 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

I5 Rights of Third Parties

- I5.1 Clauses B10.5 and E1.3 and paragraphs 1.4, 2.1, 2.3, 2.6, 2.8, 3.1 and 3.3 of Schedule 18 (TUPE Schedule) Part A confer benefits on persons named in them (together “**Third Party Provisions**” and each person a “**Third Party Beneficiary**”) other than the Parties and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 (“**CRTPA**”).
- I5.2 Subject to clause I5.1, a person who is not a Party has no right under the CRTPA to enforce the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- I5.3 No Third-Party Beneficiary may enforce or take steps to enforce any Third-Party Provision without Approval.
- I5.4 Any amendments to the Contract may be made by the Parties without the consent of any Third-Party Beneficiary.

I6 Remedies Cumulative

Except as expressly provided in the Contract all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy are not an election of such remedy to the exclusion of other remedies.

I7 Waiver

- I7.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy do not constitute a waiver of that right or remedy and do not cause a diminution of the obligations established by the Contract.
- I7.2 No waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause I3 (Notices and Communications).
- I7.3 A waiver of any right or remedy arising from a breach of the Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

I8 Severability

If any part of the Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such part shall be severed and the remainder of the Contract shall continue in full effect as if the Contract had been executed with the invalid, illegal or unenforceable part eliminated.

I9 Entire Agreement

The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other,

whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

I10 Change in Law

I10.1 The Service Provider is neither relieved of its obligations to supply the Services in accordance with the terms and conditions of the Contract nor entitled to an increase in the Price as the result of:

- (a) a General Change in Law; or
- (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

I10.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause I10.1(b)), the Service Provider shall:

- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
 - (i) Change is required to the Services, the Price or the Contract; and
 - (ii) relief from compliance with the Service Provider's obligations is required; and
- (b) provide the Authority with evidence:
 - (i) that the Service Provider has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors; and
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Services.

I10.3 Any variation in the Price or relief from the Service Provider's obligations resulting from a Specific Change in Law (other than as referred to in clause I10.1(b)) shall be implemented in accordance with clause F4.

I11 Counterparts

The Contract may be executed in counterparts, each of which when executed and delivered constitute an original but all counterparts together constitute one and the same instrument.

I12 Governing Law and Jurisdiction

Subject to clause I1 (Dispute Resolution) the Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Service Provider in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

IN WITNESS of which the Contract is duly executed by the Parties on the date which appears at the head of page 1.

SIGNED for and on behalf of the
Secretary of State for Justice

Signature:

Name (block capitals):

Position:

Date:

SCHEDULE 1 – COMMISSIONING BODIES

Part A

Body	Type of Body
HM Prison and Probation Service	Executive agency of the Ministry of Justice
HM Courts and Tribunals Service	Executive agency of the Ministry of Justice
Legal Aid Agency	Executive agency of the Ministry of Justice
Criminal Injuries Compensation Authority	Executive agency of the Ministry of Justice
Office of the Public Guardian	Executive agency of the Ministry of Justice
Youth Justice Board	Executive non-departmental public body
Parole Board	Executive non-departmental public body
Judicial Appointments Commission	Executive non-departmental public body
Criminal Cases Review Commission	Executive non-departmental public body
Sentencing Council	Advisory non-departmental public body
Law Commission	Advisory non-departmental public body
Independent Monitoring Boards	Non-departmental public bodies
National Archives	Non-ministerial department and executive agency of the Department for Culture Media and Sport
Official Solicitor and Public Trustee	Independent statutory office holders
HM Inspectorate of Probation	Independent inspectorate

HM Inspectorate of Prisons for England and Wales	Independent inspectorate
Prisons and Probation Ombudsman	Independent ombudsman
Victims' Commissioner	Independent statutory office holder
Crown Prosecution Service	Statutory body
The Salvation Army	Charity

Part B

Body	Type of Body
Any executive agency sponsored by the Ministry of Justice other than those listed in Part A of this Schedule 1, whether or not it is in existence as at the date of this Contract	Executive agencies
Any non-departmental public body of the Ministry of Justice, other than those listed in Part A of this Schedule 1, whether or not it is in existence as at the date of this Contract	Non-departmental public bodies
All Police and Crime Commissioners of England and Wales and their forces	Police and Crime Commissioners and police forces
All law enforcement agencies of England and Wales	Law enforcement agencies
Legal Ombudsman for England and Wales	Independent ombudsman
Community Rehabilitation Companies	Private companies
Operators of private prisons	Private companies
Other private organisations which provide services in the justice sector	Private companies, charities, etc

SCHEDULE 2 – SPECIFICATION

1. GENERAL REQUIREMENT

- 1.1 The requirement is for the provision of Translation, Transcription and Alternative Format Services.
- 1.2 Specifically, Commissioning Bodies may make Bookings in respect of:
- 1.2.1 Translation of written material from one language to another as text;
 - 1.2.2 Transcription of audio files, tapes and other electronic media into written and/or electronic text documents in the same (Transcription only) or different languages (Translation and Transcription); and
 - 1.2.3 Transcription of written documents and/or electronic media into other formats such as Braille, Large Print, Easy Read, Text to Audio and Typesetting.
- 1.3 The Service Provider shall:
- 1.3.1 maintain a pool of Language Professionals of sufficient numbers and languages with the relevant Qualifications to complete Assignments 24 hours a day and 365 days a year and to meet the requirements of the Contract;
 - 1.3.2 provide an on-demand or pre-booked remote solution 24 hours a day and 365 days a year whereby the Services are delivered in accordance with the Levels outlined in Annex 1 of this Schedule,
 - 1.3.2 provide a Booking Service for use by Commissioning Bodies for the booking, amendment, cancellation, notification and processing of Bookings, and
 - 1.3.4 use technology such as translation memory software or auto translation and any other technological innovation that could be used to improve the delivery of the Services.

2. SERVICE REQUIREMENTS

Types of Files and Materials

- 2.1 The Service Provider shall receive Bookings and deliver Assignments in respect of Translation and/or Transcription of (but not limited to):
- 2.1.1 advisory, guidance and instruction documents;
 - 2.1.2 official correspondence, legal documents and information leaflets;
 - 2.1.3 personal telephone conversations between offenders and third parties;
 - 2.1.4 personal written correspondence between offenders and third parties;
 - 2.1.5 interviews conducted with staff or offenders.

- 2.1.6 video calls between offenders and third parties where the audio element of the call requires Translation and / or Transcription.
- 2.2 On receipt of the file or material to be Translated and/or Transcribed from the Commissioning Body, the Service Provider shall hold the file or materials securely in accordance with Schedule 14 (Information Security) until the Assignment is completed and delivered to the relevant Commissioning Body.

Mandatory Booking Information

- 2.3 The Service Provider shall ensure that all mandatory Booking information is available prior to the processing of a Booking. If required, the Service Provider shall contact the Commissioning Body to obtain or clarify the mandatory Booking information to ensure the prompt processing of Bookings.
- 2.4 The mandatory Booking information to be provided from Commissioning Bodies to the Service Provider includes:
 - 2.4.1 the identity of the Commissioning Body and contact details, including the name of the requester;
 - 2.4.2 the type of service such as Translation and/or Transcription and, where relevant, if required in an Alternative Format;
 - 2.4.3 the Urgency Type as set out at Table 1 of Annex 1 of this Schedule;
 - 2.4.4 the Security Level as set out at Table 2 of Annex 1 of this Schedule; and
 - 2.4.5 the Complexity Level as set out at Table 3 of Annex 1 of this Schedule.

Identification of Languages

- 2.5 Commissioning Bodies may submit any language for Translation and/or Transcription. A list of Languages is included at Annex 2.
- 2.6 The Commissioning Body shall identify the Source Language when known. In any event, the Service Provider shall be responsible for ensuring that the correct Source Language has been identified and have an effective process to: (a) check that the stated Source Language is correct; and (b) identify the Source Language, if the Commissioning Body has not identified a language.
- 2.7 In relation to the Urgency Type, there will be provision for the Service Provider to request a downgrade to the specified Urgency Type, if the required deadline cannot be met due to the Commissioning Body either:
 - 2.7.1 failing to provide the source language;
 - 2.7.2 stating an incorrect source language;
 - 2.7.3 not being specific with the source language (e.g. only stating a Country of Origin where multiple languages are spoken in that Country); or
 - 2.7.4 where multiple languages are spoken on a call.
- 2.8 In addition, a downgrade can be requested where an excessive number of projects for the same language are submitted within a short timescale (as agreed between the Service Provider and the MoJ Operational Contract Manager), or where the word count of a source document exceeds what a linguist can deliver in the specified timescale (approximately 1,500 to 2,000 words per day).

- 2.9 A downgrade request must be submitted as soon as the Service Provider ascertains that the Assignment cannot be completed within the stated Urgency Level and must be submitted prior to that deadline being reached. If the extension request is not submitted prior to the deadline then the Assignment will be counted as late and, where appropriate, a Performance Credit will be applied. All steps taken by the Service Provider with respect to requesting an extension must be recorded on the Booking System to allow for reporting and for the Authority to conduct audits if requested. The process for requesting an extension will be agreed with the Operational Contract Manager.

Technology and Innovation

- 2.10 The Service Provider shall proactively engage with innovations being developed by the Authority and Commissioning Bodies and seek new opportunities for innovation that could be used to improve delivery of the Services. This includes identifying repetitive texts types in Translations in each Booking that has been completed previously and implementing a process to reuse the said Translation.
- 2.11 The Service Provider shall use translation memory software or auto translation to complete or facilitate an Assignment where the output of the Translation or Transcription is in line with the standards required and provides best value for money. Any technological or other innovations shall be considered and, where appropriate, implemented in accordance with Annex 6 (Technology Specification) and Schedule 14 (Information Security).
- 2.12 The Service Provider shall notify the Authority in all instances where translation memory software or auto translation has been used. All rights to the data contained within translation memory software or database shall become property of the relevant Commissioning Body.

Assignment Formats

- 2.13 All Assignments shall be completed in MS Word format unless otherwise directed. In any event, the Service Provider shall have the ability to deliver assignments in MS Word, MS Excel and PDF format.
- 2.14 The Service Provider shall ensure that each Language Professional assigned to an Assignment has access to and has been provided with appropriate training to use the format specified in the Booking. All Language Professionals must adhere to the Authority Code of Conduct.
- 2.15 The Service Provider shall provide an editable version of the document, where a form or guidance is requested in an Alternative Format.

Storage of Assignments

- 2.16 The Service Provider shall receive and store in a central storage facility all Translations and Transcriptions produced as completed Assignments and shall only delete a file from its systems where it has stored and backed up the file in the central storage facility.
- 2.17 The Service Provider shall retain a copy of each Translation and Transcription for the Retention Period in accordance with Annex 3 of Schedule 9 (Reports, Records and Management Information).
- 2.18 The Service Provider shall ensure that each Language Professional removes all records it may have relating to an Assignment at the point the Translation and/or Transcription is received by the Service Provider in accordance with Schedule 14 (Information Security).
- 2.19 Under no circumstances should the Language Professional store, keep or copy any data relating to or arising from Assignments.

- 2.20 Failure to abide by the requirements at paragraph 2.18 and/or paragraph 2.19 shall result in the immediate suspension of the Language Professional from the Services by the Service Provider.
- 2.21 All Intellectual Property Rights in each Translation and Transcription, including data in any translation memory software used by the Service Provider in providing the Services, shall be owned by the relevant Commissioning Body.
- 2.22 The relevant Commissioning Body may share Translations and Transcriptions with third parties for any purpose, at its discretion.
- 2.23 On request from a Commissioning Body, the Service Provider shall promptly (and in any event within 2 Working Days) provide that Commissioning Body with copies of Translations and Transcriptions held by the Service Provider relating to Assignments undertaken for that Commissioning Body.

Welsh Language Requirements

- 2.24 The Service Provider shall comply with the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Deliverables. The Authority intends to use the HMCTS Welsh Language Unit (WLU) for Welsh translation services in Wales. In the event the WLU is unable to meet the requirements of a request, or the demand for their services, the Authority will use this Contract, provided the WLU is satisfied the Services meet their requirements. All work in relation to Welsh language translation must be conducted by members of Cymdeithas Cyfieithwyr Cymru (Association of Welsh Translators).

3. LANGUAGE PROFESSIONALS

- 3.1 The Service Provider may use Language Professionals to complete Translation and Transcription Assignments who work remotely from any location in the United Kingdom or outside of the United Kingdom provided that there is compliance with the requirements in this Specification and Schedule 14 (Information Security) of the Contract, which includes but is not limited to the Language Professional's home or other premises provided or specified by the Service Provider.
- 3.2 The Service Provider shall ensure that all Language Professionals comply with the Authority Code of Conduct and shall deal with any non-compliance through the complaints process in accordance with paragraph 9.
- 3.3 The Service Provider shall only use those Language Professionals who:
 - 3.3.1 have been through the Service Provider's Onboarding Processes at the time of their recruitment; or
 - 3.3.2 were listed in the Register provided by the outgoing Service Provider, at the Services Commencement Date.
- 3.4 The Service Provider shall ensure that those Language Services Professionals who were listed in the Register at the Services Commencement Date also undergo the Onboarding Process within 12 months of the Services Commencement Date.
- 3.5 The Service Provider shall have in place and shall operate a procedure to address Language Professionals' poor performance including but not limited to:
 - 3.5.1 failure to deliver the level of service expected;
 - 3.5.2 inappropriate behaviour;
 - 3.5.3 failure to adhere to the Authority Code of Conduct; and

- 3.5.4 contributions to operational inefficiencies (e.g. failure to complete Assignments to the required deadline).
- 3.6 The Authority may require that the Service Provider should notify the Quality Assurance Service Provider to remove the Language Professionals with poor performance records from the Register and, where this occurs, the Service Provider shall ensure that the Language Professional is not used for further Bookings.

Security Clearance

- 3.7 The Service Provider shall ensure that each Language Professional has the required Security Level, provided that a Commissioning Body may specify additional levels of security clearance (including but not limited to counter terrorism clearance) before a Language Professional shall be permitted to undertake an Assignment, as may be specified in the Booking.
- 3.8 If the Service Provider is unable to fulfil the Assignment with a Language Professional with the required Security Level, the Service Provider may request a downgrade to the Security Level only with Approval. Notwithstanding Approval, failure to provide a Language Professional with the Security Level specified in the Booking shall result in Performance Credits accruing in accordance with Schedule 6 (Performance).
- 3.9 Except in the case of Pre-Registered Language Professionals, all the Service Provider's Personnel shall be security cleared to BPSS as a minimum.
- 3.10 The Service Provider shall comply with the security clearance requirements in Annex 7 of this Schedule (Security Clearance Requirements) and Schedule 14 (Information Security).

Qualifications

- 3.11 The Service Provider shall only use a suitably qualified Language Professional for each Assignment.
- 3.12 The required minimum Qualification Level of a Language Professional for each Assignment is set out in Annex 4 (Qualifications).
- 3.13 If the Service Provider is unable to fulfil an Assignment with a Language Professional with the required Qualification Level, the Service Provider may provide a Language Professional with a lesser Qualification Level only with approval from the Authority or Commissioning Body.
- 3.14 Notwithstanding any Approval, failure to provide a Language Professional with the Qualification Level specified in the Booking shall result in Performance Credits accruing in accordance with Schedule 6 (Performance).
- 3.15 The Authority may, at its discretion and without the need to refer the matter to the Change Control Procedure, change the Qualification Levels from time to time upon written notice to the Service Provider save that the matter shall be referred to the Change Control Procedure where the change is material and results in a cost impact on the Service Provider (and each Party shall act reasonably in determining whether the proposed change meets the requirements necessitating it being referred to the Change Control Procedure).
- 3.16 The Service Provider shall provide to the Authority or to the Quality Assurance Service Provider, as directed by the Authority, details of the qualifications and experience of Language Professionals engaged in connection with delivery of the Services and shall provide a copy of any certificate of qualification or competence that is held for any such person.
- 3.17 Except in the case of Pre-Registered Language Professionals, the qualifications and experience of each Language Professional shall be assessed against the Qualification Levels as part of the Service Provider's Onboarding Process prior to each Language Professional undertaking any Assignment.

- 3.18 The Service Provider acknowledges that the Quality Assurance Service Provider will undertake periodic reviews of the qualifications and experience of Language Professionals including Pre-Registered Language Professionals. If following a periodic review, a Language Professional is found no longer to meet the required Qualification Levels, the Authority or its Quality Assurance Service Provider will notify the Service Provider in writing and the Service Provider shall not use that Language Professional for Assignments requiring the Qualification Levels which are no longer met.
- 3.19 Where a Language Professional is capable of translating or transcribing in more than one language, the Service Provider shall ensure that the Language Professional meets the required Qualification Levels in all relevant languages in respect of which they provide Translation or Transcription, in line with the requirements set out in Annex 4.
- 3.20 No Commissioning Body shall be liable for the costs associated with Language Professionals obtaining the relevant qualifications and/or experience to meet the Qualification Levels.

Recruitment

- 3.21 The Service Provider shall maintain and seek to increase the supply of Language Professionals to ensure completion of all Assignments at all times including providing cover 24 hours a day and 365 days a year to complete all Assignments proportional to the demand for languages.
- 3.22 The Service Provider shall expressly seek the Language Professional's approval for the Service Provider to share and store their personal information relevant to the maintenance of the Register held by the Quality Assurance Service Provider.

Continuous Professional Development and Training

- 3.23 The Service Provider shall encourage the continuous professional development and training of the Language Professionals.
- 3.24 The Service Provider shall at all times work with the Quality Assurance Service Provider to support the ongoing improvement of the quality of the Services.
- 3.25 The Service Provider shall provide evidence to the Authority of monitoring and reviewing Language Professionals' continuous professional development and training by reporting as required pursuant to Schedule 9.
- 3.26 No Commissioning Body shall be liable for any costs associated with the continuous professional development and/or training of Language Professionals.
- 3.27 Where there are any technological or other innovations relating to the delivery of the Services, the Service Provider shall provide appropriate training and guidance to ensure that all Language Professionals are equipped with the appropriate skills and competencies to work with these innovations.

4. QUALITY

- 4.1 The Service Provider shall have a robust quality management system, including quality assurance, quality control and quality improvement to ensure that Assignments are delivered to the required quality levels which will be measured in accordance with the relevant KPI in Schedule 6 (Performance).
- 4.2 In addition to the Qualification requirements set out in paragraph 3 and Annex 4, the Service Provider shall ensure that Language Professionals:
- 4.2.1 maintain and develop their command of English and the other language(s) they are qualified to translate;

- 4.2.2 can demonstrate that they have an understanding of the area in which they are working and a good understanding of the workings and protocols of the justice system; and
 - 4.2.3 can develop and maintain the expected quality of translation when working with required digital and technological mediums.
- 4.3 The Service Provider shall ensure that all Translations are completed in accordance with the translation industry standard BS EN 15038 and/or ISO 17100 Certification.
- 4.4 The Service Provider shall either have or obtain during the Term accreditation to BS EN 15038 and ISO 17100 Certification. Where the Service Provider does not have such accreditation at the Services Commencement Date, it shall seek to obtain and report progress in obtaining such accreditation to the Authority annually on each anniversary of the Services Commencement Date.
- 4.5 For all Language Professionals who have not previously worked in the justice sector, or do not have extensive experience within the last 12 Months of working in the justice sector, the Service Provider shall ensure that such Language Professionals undertake and pass an induction to working in the justice sector (to be developed and operated by the Service Provider) before they are booked to an Assignment.

5. CO-OPERATION WITH THE QUALITY ASSURANCE SERVICE PROVIDER

- 5.1 The Quality Assurance Service Provider provides quality assurance services to the Authority in respect of the Contract and an overview of its role is set out in Annex 5.
- 5.2 The Service Provider shall co-operate with the Quality Assurance Service Provider to enable it to:
 - 5.2.1 fulfil its role including co-operating with any audits conducted by the Quality Assurance Service Provider including allowing onsite access to inspect records;
 - 5.2.2 update the Onboarding Process (without having to refer the matter to the Change Control Procedure); and
 - 5.2.3 incorporate and implement (to the reasonable satisfaction of the Quality Assurance Service Provider and the Authority) the reasonable recommendations from time to time of the Quality Assurance Service Provider.
- 5.3 The Service Provider shall provide to the Quality Assurance Service Provider each week an updated list of all Language Professionals who have successfully completed the Onboarding Process and is not suspended due to Quality Assurance activity or any other reasons; along with details of the Language Professional's Qualifications, Language combinations supplied, and any changes to the Language Professional's personal information, including contact details.
- 5.4 Where requested by the Quality Assurance Service Provider, the Service Provider will provide supporting Qualification and Security Clearance evidence including Qualification certificates as requested and within 24 hours. The Service Provider may also be required to be able to provide all evidence for all Language Professionals in bulk or in batches within timescales agreed with the Quality Assurance Service Provider and / or the Authority.
- 5.5 In order to facilitate the quality assurance process, the Service Provider shall provide the Quality Assurance Service Provider with such information as may be required which shall include but not limited to:

Description of information	Purpose of information	Purpose of request	Timescales for provision
Assignment details	The Service Provider shall provide details of any / all Translations and Transcriptions that have or are due to take place. These details shall include data setting out all projects that have or are due to take place as well as the source and target files for specific projects and any instructions given to the Language Professional.	<ul style="list-style-type: none"> • Ad hoc audits • Mystery Shopping Assessments • Spot Check Assessments • Any other compliance activity as directed by the Authority 	Within 24 hours of the request by a Commissioning Body or the Quality Assurance Service Provider
Complaints	The Service Provider shall provide details of all complaints (categorised as required) related to the quality or standard of Translation and Transcription relating to all Bookings. The Service Provider shall co-operate with any investigation undertaken by the Quality Assurance Service Provider and shall comply with the recommendations of their review which may include, but not limited to, the removal or suspension from the Register.	<ul style="list-style-type: none"> • Mystery Shopping Assessments • Development plans • Spot Checks • Any other compliance activity as directed by the Authority 	Within 24 hours of the complaint being made or a request for information related to historical complaints.
Breach of the Authority Code of Conduct	The Service Provider shall provide details of all alleged and actual breaches of the Authority Code of Conduct.		Within 24 hours of the Service Provider becoming aware of the alleged or actual breach or a request for information related to historical breaches.
Feedback	The Service Provider shall provide the feedback captured following completed Assignments.	<ul style="list-style-type: none"> • Customer satisfaction 	Quarterly

- 5.6 Following the actions detailed in paragraph 5.5, the Service Provider may need to suspend or remove a Language Professional from bookings based on the Quality Assurance Service Provider's assessment and recommendation. Where a Language Professional is suspended, a process will be agreed to enable the Language Professional to return to the Register.
- 5.7 Where a Language Professional has been suspended or removed from Bookings, the Service Provider shall advise the Language Professional of this, providing information on the Language Professional's status for receiving bookings and the options available in order to return to the Register.
- 5.8 The Service Provider shall treat all information provided by the Quality Assurance Service Provider as confidential and such information shall be treated in the same way as Authority Confidential Information in accordance with clause D4 of the Contract.
- 5.9 Where a Sub-Contractor is used to deliver all or any part of the Service, the requirement to co-operate with the Quality Assurance Service Provider also relates to the Sub-Contractor who will be required to comply with this Section 5 and Annex 5 of this Schedule.

6. BOOKING SERVICE

- 6.1 The Service Provider shall provide a Booking Service in accordance with Annex 6 (Technology Specification).

Training Requirements

- 6.2 The Service Provider shall provide training and guidance documents to Commissioning Bodies on how to use the Booking Service during the Implementation Period and throughout the Term.
- 6.3 Training and guidance documents must include as a minimum:
 - 6.3.1 practical support and guidance on making a Booking;
 - 6.3.2 guidance, trouble shooting and frequently asked questions documents that can be easily saved and printed; and
 - 6.3.3 guidance on how to:
 - (a) make a Booking;
 - (b) amend a Booking;
 - (c) cancel a Booking;
 - (d) review a Booking;
 - (e) request an amendment to an Assignment;
 - (f) make a query or complaint;
 - (g) provide feedback on the service provided following delivery of the Assignment; and
 - (h) access and understand Management Information.
- 6.4 In the event of any significant changes to the Booking Service, the Service Provider shall provide, within a reasonable timescale, appropriate training and guidance documents to all Commissioning Bodies prior to implementation of the changes.

Booking Service Maintenance

- 6.5 In the event of a planned upgrade or maintenance work to the Booking Service, the Service Provider shall notify all Commissioning Bodies no later than 5 Working Days in advance of any work which could affect functionality and/or availability of the Booking Service detailing the

intended duration of the work and how the Service Provider will maintain the ability to request and manage Bookings and Assignments during that period.

- 6.6 The Service Provider shall use best endeavours to ensure that upgrade or maintenance work that may affect functionality and/or availability of the Booking Service is undertaken outside of Normal Working Hours.
- 6.7 The Service Provider shall maintain an up to date Booking Service Contingency Plan for unavailability (including planned and unplanned unavailability) of the Booking Service, prepared as part of the BCDR Plan in accordance with Schedule 21 and agreed in accordance with paragraph 6.5 with regards to planned unavailability and maintenance work.
- 6.8 The Service Provider shall meet the requirements of the Contract in the event of unplanned Booking Service unavailability. The Booking Service Contingency Plan shall include details of how the Service Provider will maintain the ability to request Bookings and manage Assignments during periods of unplanned availability.
- 6.9 The Service Provider shall provide to the Authority during the Term a draft of any proposed update of its Booking Service Contingency Plan. The Authority shall notify the Service Provider whether or not it approves the proposed update and, where the Authority does not approve it, it shall provide comments on the proposed update. The Service Provider shall promptly, and in any event, within 2 Working Days, address the comments in a further updated draft Booking Service Contingency Plan and provide such updated draft to the Authority. This process shall be repeated until the proposed updated Booking Service Contingency Plan is Approved. The Service Provider shall in any event update the Booking Service Contingency Plan annually and this process shall apply to each update.
- 6.10 The Service Provider shall provide the Booking Service Contingency Plan for Booking Service unavailability and any updated versions, in each case once Approved in accordance with paragraph 6.7, to each Commissioning Body within 3 Working Days of Approval.

7. WEBSITE

- 7.1 The Service Provider shall host a publicly accessible Website providing access to key information and resources relating to the Services.
- 7.2 The Website must be accessible from the Commencement Date by Language Professionals, Commissioning Bodies and the general public to view information including:
 - 7.2.1 concise summaries of the language services provided by the Authority under the Contract;
 - 7.2.2 glossaries of commonly used terminology;
 - 7.2.3 lists of recognised languages and dialects;
 - 7.2.4 the Authority Code of Conduct;
 - 7.2.5 guidance on the Service Provider's complaints process; and
 - 7.2.6 copies of frequently used forms that can be downloaded.

The Website shall provide a link through which Commissioning Bodies and Language Professionals can access and log into the Booking Service.

- 7.3 The Service Provider shall ensure that the Website complies with and shall control the Website in accordance with the technology specification set out in Annex 6 (Technology) and with Schedule 14 (Information Security).

- 7.4 The Service Provider shall ensure that the Website includes such information as is reasonably necessary to ensure compliance with Law and Good Industry Practice, including a privacy policy and user terms and conditions.
- 7.5 In the event of planned Website unavailability and any other functional changes, the Service Provider shall notify all Commissioning Bodies no later than 5 Working Days in advance of any work which could affect functionality and/or availability of the Website detailing the intended duration of the work.
- 7.6 The Service Provider shall use best endeavours to ensure that upgrade or maintenance work that may affect functionality and/or availability of the Website is undertaken outside of Normal Working Hours.
- 7.7 In the event of unplanned Website unavailability the Service Provider shall, within one hour of becoming aware that it is not available, notify all Commissioning Bodies of the action being taken to restore the Website. Thereafter regular updates (to be agreed with the Authority) should be provided until the Website availability is resumed.

8. CUSTOMER SUPPORT

- 8.1 The Service Provider shall provide a Customer Service Solution, either via a single dedicated telephone helpdesk service or a web based customer support/other innovative technology that meet the requirements in Annex 6 (Technology) and Schedule 14 (Information Security) to provide advice and support on all booking, ordering, invoicing, performance issues, general enquiries, Language Professional status and any other enquiries relating to the Services to all Commissioning Bodies.
- 8.2 The Service Provider shall ensure that the Customer Service Solution is available 24 hours a day and 365 days a year.
- 8.3 The Service Provider's telephone service shall require a dedicated non-premium rate and/or no call connection charge, telephone number which must be accessible from UK landlines, mobile telephones and overseas, via a UK dialling code and be able to accept calls from outside the UK.
- 8.4 The Service Provider shall ensure that calls to the telephone helpdesk are answered by an operator within 20 seconds of the first ring.

9. COMPLAINTS PROCESS

- 9.1 The Service Provider shall have in place and operate robust and auditable procedures to record, process and resolve complaints or problems initiated by Commissioning Bodies, or end users, including, but not limited to, suspects, witnesses and accused persons. These procedures will be regularly reviewed by and agreed with the Authority.
- 9.2 The Service Provider shall provide clear guidance to Commissioning Bodies on their complaints process.
- 9.3 The Service Provider shall provide a clear route for complaints to be made by parties other than the Commissioning Body, including written instructions for defendants where required. The Service Provider shall provide clear guidance on the complaints process on the Website, which shall include instructions on how to report complaints to a Commissioning Body and/or the Service Provider.
- 9.4 The Service Provider shall immediately, and in any event within one Calendar Day, refer complaints related to the quality or standard of translation or a possible breach of the Authority Code of Conduct by Language Professionals whilst completing Assignments to the Quality Assurance Service Provider for review.

- 9.5 The Service Provider shall co-operate with any investigation undertaken by the Quality Assurance Service Provider and shall comply with the recommendations of their review which may include, but not be limited to, the removal or suspension from the Register of the Language Professional in question.
- 9.6 The Service Provider shall ensure that the complaints process allows for the identification and tracking of complaints from initiation to resolution. Details of such complaints and proposed and/or completed corrective action, including actions taken to prevent the issue from reoccurring, will be reviewed at Contract Management and review meetings.
- 9.7 The Service Provider shall maintain a full record of:
- 9.7.1 all complaints raised using the Authority complaint categories which may be updated from time to time;
 - 9.7.2 General
 - (a) failure to complete an Assignment on time;
 - (b) contact centre communications issues;
 - (c) Booking Service issues (technical); and
 - (d) account management issues
 - 9.7.3 Quality
 - (a) any breach of the Authority Code of Conduct;
 - (b) translation issues; and
 - (c) transcription issues
 - 9.7.4 the escalation within its own organisation;
 - 9.7.5 engagement with the Quality Assurance Service Provider;
 - 9.7.6 any response provided;
 - 9.7.7 the resolution status of each complaint;
 - 9.7.8 the action taken in response to the complaint; and
 - 9.7.9 timescales for responding to and resolving complaints.
- 9.8 The Service Provider shall ensure that all complaints are resolved in a professional and efficient manner.
- 9.9 All complaints made by a Commissioning Body or third party in relation to the Services must be acknowledged by the Service Provider within 24 hours of the details of the complaint being received by the Service Provider. Thereafter, updates on how the Service Provider is proactively working to seek a resolution of the complaint should be made by the Service Provider to the relevant Commissioning Body and third party on request. As a minimum, complaints must be acknowledged within 24 hours, referred to the Quality Assurance Service Provider within one Calendar Day and if not referred to the Quality Assurance Service Provider, satisfactorily resolved within 3 Calendar Days, unless otherwise agreed with the relevant Commissioning Body.
- 9.10 The Service Provider shall provide Management Information on all complaints made, as requested by the Authority. This shall include as a minimum, the date the complaint was received and resolved, complainant contact details, the nature of the complaint, actions agreed and taken to resolve the complaint, and actions agreed and taken to minimise or prevent the reoccurrence of complaints of a similar nature/category. The Authority reserves the right to

define any additional requirement in relation to complaints with the Service Provider during the Term.

- 9.11 The level and nature of complaints arising, and the proposed corrective action or that under way or completed shall be reviewed by the Parties periodically, as appropriate according to the numbers of complaints arising, and in any event at intervals of not less than 3 months.
- 9.12 The Authority may discuss with the Service Provider delivery performance and address any concerns that may exist around the number of complaints or quality of the service provided at Contract review meetings or as otherwise required by the Authority.

10. SENSITIVE SUBJECT MATTER

- 10.1 The Service Provider shall notify all Language Professionals that the material, content and subject matter may be distressing to some people. Such notification should take place in writing at the point of engagement of a Language Professional and written acknowledgement from the Language Professional of such notification shall be retained by the Service Provider, prior to the undertaking of any work associated with the Contract and acknowledgement of this notice received from the Language Professional.
- 10.2 Material, which some Language Professionals may find distressing, includes the description of events which may include, but is not limited to physical or mental abuse, sexual acts or abuse, harm or abuse of young or vulnerable people, graphic descriptions of injuries or actions, acts of terrorism and hate crimes including crimes that are targeted at a person because of hostility or prejudice towards that person's: disability, race or ethnicity, religion or belief and sexual orientation.

11. SOCIAL VALUE AND EQUALITY

- 11.1 The Service Provider shall collaborate with the Authority to achieve social value outcomes and benefits in line with the Public Services (Social Value) Act 2012 which address economic, environmental and social value. The Service Provider shall propose and deliver initiatives that may fall under one or more of the following categories:
 - 11.1.1 Social: Examples may include community engagement projects, volunteering opportunities, supporting social groups, and inclusion and wellbeing of staff and sub-contractors.
 - 11.1.2 Economic: Examples may include support for employment, apprenticeships and training and skills initiatives for staff and Language Professionals. Additionally, these opportunities may relate to the justice sector such as apprenticeships, employment or skills, training and development initiatives for ex-offenders.
 - 11.1.3 Environmental: Examples may include energy saving schemes, carbon footprint/emissions schemes, use of environmentally friendly products and management of waste.

ANNEX 1

Table 1 – Urgency Levels

Urgency Type	Definition
UT4 (Long)	Service required after 48 hours but within 7 Calendar Days of the Booking. A longer timescale may be agreed dependant on the length of the source document.
UT3 (Standard)	Service required after 24 hours but within 48 hours of the Booking.
UT 2 (Short)	Service required within 24 hours of the Booking.
UT 1 (Urgent)	Service required within 3 hours of the Booking.

Table 2 -Security Levels

Security Level	Definition
SL1	Security clearance to Baseline Personnel Security Standard (BPSS)
SL2	Security clearance to Counter Terrorism Check standard (CTC)
SL3	Security clearance to Security Check standard (SC)
SL4	Security clearance to Developed Vetting standard (DV)

Table 3 – Complexity Levels

Complexity Level	Definition
Standard	The majority of assignments shall be deemed to be of a Complexity Level of Standard. Material will not contain technical language, scientific information or complex calculations.
Technical	A minority of assignments shall be deemed to be of a Complexity Level of Technical. Material may contain technical language, scientific information or complex calculations. This is currently restricted to translation of Legal documentation from English to Welsh and Welsh to English.

ANNEX 2**List of Languages**

This list is not exhaustive and will be updated by the Authority as and when necessary.

Languages		
Afar	Fula	Oromo (Central)
*Akan	Ga	Pahari – Kullu
*Afrikaans	Gaelic – Irish	Pahari – Mashu
Albanian	Gaelic - Scottish	*Pahari – Potwari
Albanian (Kosovo)	Galician	Pashto
Algerian	Ganda	Pashto (Afghanistan)
*Amharic	Georgian	Pashto (Pakistan)
Arabic - Classical	German	*Patois
Arabic - Egypt	German (Austrian)	Persian (Afghanistan)
Arabic – Libya	German (Swiss)	Persian (Iran)
*Arabic – Modern Standard	*Ghanaian	Polish
Arabic – Morocco	Greek (Cyprus)	Portuguese (Brazil)
Arabic – Saudi Arabia	Greek (Greek)	Portuguese (Creole)
Arabic – U.A.E.	Gujarati	Portuguese (European)
*Armenian	Hausa	Punjabi
Azerbaijani (North)	*Hebrew	Punjabi, Eastern (India)
Azerbaijani (Southern)	*Hindi	Punjabi, Western (Pakistan)
Azeri	Hungarian	Roma
Balochi – Southern	*Igbo	Romanian
Balochi – Western	Ilocano	*Romany
Bangla	Indonesian	Rundi
Belarusian	Italian (Italy)	Russian
Bengali	Italian (Swiss)	Sanskrit
*Bosnian	isiXhosa	*Serbian

Bravanese	*isiZulu	Serbo-Croat
British Sign	Japanese	Setswana
Braille	Kashmiri	*Shona
Bulgarian	Kazakh	Sindhi
Cantonese	Khmer	*Sinhala
Catalan	Kinyarwanda	*Sinhalese
Cebuano	Kirundi	Slovak
Creole	*Kiswahili	Slovene
Creole – English	Korean	Slovenian
*Creole – French	*Kurdish (Bahdini)	Somali
Creole – Portuguese	Kurdish (Gorani)	Spanish
*Croatian	*Kurdish (Kurmanji)	Spanish (Bolivarian)
Czech	Kurdish (Sonari)	*Spanish (Columbian)
Chinese – Simplified	Kurdish (Sorani)	Spanish (Peru)
Chinese – Taiwan	Latin	Swahili
Chinese - Traditional	Latvian	Swahili (Coastal)
Danish	*Lingala	Swahili (Congo)
Dari	*Lithuanian	Swedish
Dari (Afghan)	*Luganda	Sylheti
Dari (Iranian)	Macedonian	Tagalog
Dutch (Belgium)	Malay	Taiwanese
Dutch (Netherlands)	Malayalam	*Tamazight
English	Malaysian	Tamil
English - AUS	Maltese	Temne
English (Pidgin)	Mandarin	*Tetum
English (US)	Mandinka	Thai
*Estonian	Maninka	*Tigre
Éwé	*Marathi	Tigrinya

Farsi	Mirpuri	Tswana
Filipino	Moldovan	Turkish
*Finnish	Mongolian	*Twi
*Flemish	Moroccan	*Ukrainian
French	Ndebele - Northern	Urdu
French (Algerian)	Ndebele - Southern	*Uzbek (Northern)
French (Belgium)	*Ndebele (South Africa)	Vietnamese
French (Cameroon)	Nepalese	Welsh
French (Canada)	Nepali	*Wolof
French (Congolese)	Norwegian (Bokmal)	Yiddish
French (Swiss)	*Norwegian (Nynorsk)	Yoruba

Languages marked with an asterisk (*) are identified as a Rare Language

ANNEX 3

Authority Code of Conduct

1. Professional Competence

All Language Professionals must:

- 1.1 at all times cooperate with the Authority Quality Assurance process through participation in the Mystery Shopping Assessment, Spot Check Assessment and In Person Assessment processes;
- 1.2 only accept Bookings and Assignments for languages in which they can demonstrate that they have the required level of competency and refuse any work beyond their level of competency, either linguistically or due to a lack of specialised knowledge;
- 1.3 be fluent in and demonstrate a comprehensive understanding of the written and spoken form of both languages including regional dialects, colloquialisms, idiomatic expressions and technical terms;
- 1.4 maintain language and other relevant professional Language Professional skills in order to discharge services to the required standard;
- 1.5 be familiar with any cultural backgrounds relevant to the Assignment;
- 1.6 understand the relevant procedures and protocols of the justice system as required for the relevant Commissioning Body;
- 1.7 not delegate any work to third parties or accept any delegated work;

Points 1.8 to 1.15 below only apply to Language Professionals when they are required to attend a location to deliver language services as specified by a Commissioning Body.

- 1.8 be able to verify their identity on request by the Commissioning Body at any point during their Booking, through the use of valid and up to date photo identification badge which they must have with them when they attend any Assignment.
- 1.9 arrive at the venue in readiness to commence interpreting at the time requested to by informing a member of staff of their arrival so the time can be recorded accurately;
- 1.10 arrive at the venue with the official timesheet;
- 1.11 ensure all timesheets are approved by the appropriate member of the Commissioning Body before leaving the venue.
- 1.12 remain for the entire duration of the Assignment until released by the Commissioning Body;
- 1.13 dress appropriately for all Assignments. Those whose appearance could be considered inappropriate are liable to be removed from the Assignment;
- 1.14 take an oath or give an affirmation before the Assignment begins if directed to do so;
- 1.15 in the case of Language Professionals providing interpretation services comply with the specific requirements for face to face and remote interpretation set out in section 3 below; and
- 1.16 in the case of Language Professionals providing Translation and Transcription Services, comply with the specific requirements for the Services set out in section 2 below.

2. Translation and Transcription Services – Written Interpretation

Language Professionals must also:

2.1 Translate all documents and transcribe recordings, taking reasonable action to ensure effective communication and clear understanding between the parties; and

2.2 inform the Commissioning Body where difficulties are encountered with dialect, technical terms or lack of relevant background knowledge which may impair their ability to carry out the Assignment. If these issues cannot be resolved to the satisfaction of the Commissioning Body the Language Professional shall withdraw from the Assignment.

3. Face to Face and Remote Interpretation – Verbal Interpretation (not applicable to Translation / Transcription)

Language Professionals must also:

3.1 interpret impartially between the various parties, taking reasonable action to ensure effective communication and clear understanding;

3.2 convey the exact meaning of what has been said by each party, without making changes or omissions to the content; intervening only to prevent potential misunderstandings. In exceptional circumstances a summary (which must not distort in any way the meaning of what has been said) may be given if requested by the Commissioning Body;

3.3 inform the Commissioning Body where difficulties are encountered with dialect, technical terms or lack of relevant background knowledge which may impair their ability to carry out the Assignment. If these issues cannot be resolved to the satisfaction of the Commissioning Body the Language Professional shall withdraw from the Assignment.

3.4 not give legal or other advice or express opinions to any of the parties that exceed their role and duties as Language Professionals; and

3.5 request that the relevant parties provide an environment that is conducive to deliver interpretation; such as ensuring that all parties can be heard clearly etc. The Language Professional must inform the relevant parties if the environment appears unsuitable for the purpose.

4. Ethics

All Language Professionals must:

4.1 at all times act with integrity, maintain high standards and conduct themselves in an ethical and professional manner;

4.2 carry out Assignments impartially and disclose any personal interest, such as financial or business related, in order that the Commissioning Body can assess if this constitutes a potential conflict of interest as soon as they become aware of it. If the Commissioning Body considers the conflict to be unacceptable the Language Professional shall be asked to withdraw from the Assignment;

4.3 not accept any gift or reward that could be construed as an incentive to act against their professional obligations;

4.4 immediately notify the Commissioning Body of any prior relationship with any party to proceedings in a particular Assignment.

4.5 immediately notify the Commissioning Body of any previous involvement with a particular Assignment;

4.6 disclose to the Commissioning Body if they have had any involvement in previous Assignments with the same individual;

4.7 disclose to the Commissioning Body any criminal record or other information which may make them unsuitable for a particular Assignment. At the discretion of the Commissioning Body, individuals with a criminal record may be precluded from receiving particular Assignments;

- 4.8 not discriminate between parties (to their advantage or disadvantage) either directly or indirectly and act impartially at all times and not act in any way that might result in prejudice or preference on grounds of religion or belief, race, politics, gender, gender reassignment, age, sexual orientation or disability other than as obliged to in order to faithfully translate, interpret or otherwise transfer meaning and
- 4.9 respond within the required timescale to any allegations of misconduct or departure from the Authority Code of Conduct.

5. Confidentiality

All Language Professionals must:

- 5.1 treat all material provided in the course of an Assignment as confidential and unless disclosure is required by Law, ensure no information is communicated to any third party without Approval;
- 5.2 ensure that material is used only for the purpose authorised by the Commissioning Body;
- 5.3 ensure that all material is returned to the Commissioning Body at the conclusion of an Assignment;
- 5.4 comply with all relevant Data Protection Legislation;
- 5.5 not use any of the information obtained during the course of an Assignment for any purpose other than that as authorised; and
- 5.6 secure safely any document, recordings or media provided during the course of an Assignment, ensuring that it is not copied and is returned at the end of the Assignment. Documents are for the eyes of the Language Professional and authorised staff only and must not be seen by or shared with anyone else.

ANNEX 4

Qualification Levels

This Annex sets out the minimum level of qualification a Language Professional is required to have in order to work on the applicable Complexity Level of Assignment.

Core Language requirements

1. A Language Professional may work on an Assignment for translation services only where their Primary Language is the Target Language or for a specified specialist alternative, including Braille, pictorial English and large print documents.
2. **To work on a Translation Assignment the Language Professional must:**
 - 2.1 be a fully qualified Language Professional with qualified membership status of a relevant professional body (such as the Chartered Institute of Linguists, American Translators Association or Institute of Translation and Interpreting). Their membership must be valid at the time of onboarding and evidence retained for audit purposes; or
 - 2.2 have obtained a degree or equivalent in Source Language; have at least three (3) years' experience as a professional translator¹ or have completed 100,000 words of translation; and have suitable references.
3. **To work on a Transcription Assignment the Language Professional must:**
 - 3.1 be a fully qualified Language Professional with qualified membership status of a relevant professional body (such as the Chartered Institute of Linguists, American Translators Association, Institute of Translation and Interpreting or NRPSI – National Register of Public Service Interpreters), their membership must be valid at the time of onboarding and evidence retained for audit purposes; or
 - 3.2 have obtained a degree or equivalent in Source language, or alternative qualification (see below table for equivalent); have at least 3 years' experience as a professional Linguist; and have suitable references

Table of equivalent qualifications for 3.2;

DPSI - Diploma in Public Service Interpreting

ISL Level 6 – International School of Languages

DPI (former MET Police Test) - Diploma in Police Interpreting

IND – Immigration and Nationality Directorate (former Home Office Test)

¹ a professional translator is a suitably qualified linguist who provide, or has recently provided, formal translation services as a paid occupation, either in a full-time or part-time capacity

Note: Transcription in this context is a blended approach whereby the traditional transcription service (listening to a source audio and conveying the same content into a written format) is amalgamated with translation (translating words or text from one language into another).

4. A Language Professional may work on an Assignment where they do not meet all or some the requirements of Paragraphs 1 to 3, provided that the Language Professional demonstrates alternative experience and qualifications, e.g. a degree in Target language and where the Source Language is their Primary language. Where a linguist offers translation services in the 'reverse language' pair this should be by exception and monitored.

5. The Authority may require that a Language Professional passes an assessment before working on a particular or any Assignment, which may include the translation of a piece of text, as may be notified by the Authority to the Service Provider from time to time.

6. All Assignments in relation to Welsh Language Translation and/or Transcription must be completed by members of Cymdeithas Cyfieithwyr Cymru (Association of Welsh Translators).

Rare language requirements

7. To work on a Translation Assignment:

A rare language will be measured using three-fold criteria:

7.1 the Service Provider has 2 or fewer² translators authorised with this language combination and,

7.2 the Service Provider receives on average 50 or fewer³ serviceable assignments over a 12-month period with this language combination and,

7.3 CIOL (Chartered Institute of Linguists) do not offer DipTrans (Diploma in Translation) qualifications

7.4 A Language Professional may work on an Assignment where they do not meet all or some of the requirements provided that the Language Professional:

7.4.1 Has demonstrable Translation experience and,

7.4.2 Has suitable professional references.

7.5 Languages identified as rare will be reviewed periodically – languages may be added or removed from the list;

8. To work on a Transcription Assignment:

A rare language will be measured using three-fold criteria:

8.1 the Service Provider has 2 or fewer* transcribers authorised with this language combination and,

² the rationale for '2 or fewer' is based on the requirement for a 24/7 service which a single translator would be unable to cover

³ the rationale for '50 or fewer' is based on an analysis of assignments which identified that 3% of assignments would fall into this category

8.2 the Service Provider receives on average 40 or fewer* serviceable assignments over a 12-month period with this language combination and,

8.3 a linguist is unable to obtain a DPSI qualification in this language pair

* the rationale for '2 or fewer' is based on the requirement for a 24/7 service which a single translator would be unable to cover; the rationale for '40 or fewer' is based on an analysis of assignments which identified that 3% of assignments would fall into this category.

8.4 A Language Professional may work on an Assignment where they do not meet all or some the requirements provided that the Language Professional:

8.4.1 Has demonstrable Transcription experience and,

8.4.2 Has suitable professional references

8.5 Languages identified as rare will be reviewed periodically – languages may be added or removed from the list.

English to English Requirements

9. To work on a Transcription Assignment:

9.1 Freelance transcribers to have passed an English literacy test, a speed typing test and audio transcription test in order to ensure accuracy of work.

9.2 Has demonstrable experience as a Transcriber

9.3 Has suitable professional references.

ANNEX 5

Role of the Quality Assurance Service Provider

1. Working with the Service Provider, the Quality Assurance Service Provider shall on behalf of the Authority:
 - 1.1 Manage and maintain the Register.
 - 1.2 Provide annual assurance to the Authority that the Onboarding Processes of the Service Provider are robust and follow Good Industry Practice.
 - 1.3 Carry out Spot Check Assessments, In Person Assessments and Mystery Shopping Assessments to assess the quality of the services delivered by the Language Professionals. The Mystery Shopping Assessments are to be carried out remotely (through recordings) or in person at Commissioning Bodies' Premises or other Locations.
 - 1.4 The Spot Check Assessments, In Person Assessments and Mystery Shopping Assessments undertaken by the Quality Assurance Service Provider shall include, as a minimum:
 - 1.4.1 An assessment of the Language Professionals' ability and competence to deliver the Services on behalf of the Service Provider;
 - 1.4.2 Confirmation that the Language Professional has agreed to the Authority Code of Conduct.
 - 1.4.3 An independent quality check of the Onboarding Processes that took place at the time of the initial recruitment between the Language Professional and the Service Provider. This will include an interrogation of the language skills and qualifications, security clearance, acceptance of the Authority Code of Conduct and the relevant experience of Language Professionals.
2. In instances where the quality of the Services being performed by the Language Professional is identified as unacceptable, take the appropriate steps to: a) suspend or b) remove the Language Professional from the Register and in the case of scenario a, in conjunction with the Service Provider and the Language Professional agree a development plan which would allow the Language Professional to meet the required standard and/or reinstatement on the Register.
3. Carry out ad-hoc audits of the Services delivered by the Service Provider as directed by the Authority.
4. Investigate complaints it may receive in respect of the Services delivered by the Service Provider.
5. Investigate all instances of alleged breaches of the Authority Code of Conduct (in conjunction and cooperation with) the Language Services Service Provider(s).
6. Undertake a periodic customer survey to measure the end user and Commissioning Body satisfaction with the Services delivered by the Service Provider.
7. Work with the Service Provider to ensure accurate provision of relevant (to be determined) data at regular (to be determined) intervals.

On-Boarding Quality Checks (part of Overall Assessment)

8. The Quality Assurance Service Provider shall conduct the following checks, including any other quality checks deemed appropriate from time to time:
 - A. **BPSS and Security**
 - a. Proof of Identity
 - b. Proof of Address

- c. Proof of Right to Work in UK
- d. Proof of Criminal Record checks
- e. Evidence of Employment references (3 years)
- f. Complete BPSS (all of the above evidenced and any other acceptable documentation in line with <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>)

B. Qualifications

- a. Evidence of qualification /Qualifying Professional Membership required by contract
- b. Evidence of relevant words/duration of experience as required by contract.

C. MoJ's Terms and Conditions

- a. Evidence that MoJ's terms and conditions have been accepted by the Language Professional including code of conduct

D. Allocation of bookings

- a. Evidence that linguists have only been deployed to bookings for which they are appropriately qualified and authorised on the Register

Technical (Quality) Assessments

- 9. The Quality Assurance Service Provider shall assess Translations and Transcriptions will be by reviewing completed translations, with reference to the source materials and any other instructions given to the Language Professional in the Booking.
- 10. The assessment process shall:
 - 10.1 Result in either pass or fail.
 - 10.2 Be based on established translation quality assessment methodologies that minimise the impact of factors relating to style or preferential word-choice and focused on whether the Translation or Transcription is accurate and fit for purpose. Formatting such as bold, italic, choice of font is ignored for the purposes of the assessment, unless it has a material impact on the understanding or meaning of the text. Language Professionals may be assessed multiple times during the life of the contract.
 - 10.3 Ensure that when evaluating a Translation or Transcription, the assessor logs errors and omissions. The assessor shall objectively log the number, type and severity of errors and this shall determine whether the result is a pass or a fail. This helps to remove bias or subjectivity: it is a mathematical decision based on error rate, not a personal view of whether the assessor liked the translation.
 - 10.4 Ensure the assessor uses a prescribed set of assessment criteria and measure the number of errors in the final document against these criteria. These errors will be defined as minor, major or critical as per Table 1 – Assessment Scoring Matrix. One critical error in a document will result in a fail. The number of other errors resulting in a fail will depend on the word count being assessed.
 - 10.5 Ensure that errors are classified into one of three primary types, mechanical, accuracy and content as per Table 1 – Assessment Scoring Matrix.

Table 1 - Assessment Scoring Matrix

Competencies

MECHANICAL ERRORS					
A problem with the mechanics/ presentation of the text.					
ACCURACY ERRORS	Terminology	Mistranslation	Untranslated	Omission	Addition
Translation errors	The term used is incorrect or not usually used in this context. Example: Using "Under-age offender" as opposed to "young offender".	Something has been mistranslated. Example: The Italian word "Il" being translated into English as "he" instead of "it".	Something is still in the source language unless there is a reason (e.g. proper nouns).	Something is missing from the translation. Example: A word, phrase or sentence is left out entirely.	Information has been added. Example: The translator has added "(which is a ministerial department)" after "the MoJ".
CONTENT ERRORS	Inconsistency	Register	Style	Fluency	Unintelligible
Errors are related to the content of the text.	Translation has inconsistent information (which affects the meaning of the document, rather than a purely stylistic inconsistency).	N/A (we will not score/judge on formal vs informal, even though some readers might have strong preferences about that)	N/A (we will not score/judge on formal vs informal, even though some readers might have strong preferences about that)	N/A (we will not score/judge on how "smoothly" we think the translation reads)	The text makes no sense, but the error does not fall into another category. Example: "the a2fg;54b was signed yesterday"

Error Classification

Minor errors	Major errors	Critical errors
Are noticeable but do not have an impact on meaning of the translation/ transcription.	Make it difficult to read the target content, but the reader is able to understand the meaning of the translation/ transcription.	Have a major impact on meaning of the translation/ transcription. The target content is misleading, wrong and not fit for purpose.

ANNEX 6

Technology Specification

1. General requirements

- 1.1 The Booking Service shall:
 - 1.1.1 meet Good Industry Practice;
 - 1.1.2 have high availability, particularly during Normal Working Hours; and
 - 1.1.3 provide for the secure hosting and maintenance of the Booking Service on a secure platform in accordance with the requirement in Schedule 14 (Information Security).
- 1.2 The IT elements of the Booking Service shall be fully supported by the Service Provider for the Contract Period, such support to include monitoring, reporting, updates and patching, technical support and training, reporting and resolution of problems and incidents, and change management.
- 1.3 On expiry or termination of the Contract, the Service Provider shall provide support to business continuity and to migrate any required information to a Replacement Service Provider(s) in accordance with Schedule 13 (Exit).
- 1.4 In order to comply with Paragraph 1.2, the Booking Service should be based as far as feasible on open source and open data standards.

2. Booking Service requirements

- 2.1 The Service Provider shall:
 - 2.1.1 provide a secure, fully managed, Booking Service which can be used by Commissioning Bodies, which shall include the facility to request Bookings at any time;
 - 2.1.2 provide reliable and robust access to applications and service whereby users are able to access the service at any time;
 - 2.1.3 ensure that the Booking Service is not affected by either an increased or decreased volume of bookings requested by Commissioning Bodies and supports transient peaks and short term increases in demand; and
 - 2.1.4 ensure that the Booking Service has high speed, resilient connections from / to both government secure internet, public services network and the internet to ensure good connectivity at all times.
- 2.2 The Booking Service shall have the following minimum functionality:
 - 2.2.1 input of Commissioning Body requester details and mandatory Booking information (including, but not limited to, the type of service i.e. Translation and/or Transcription with Alternative Format) and the Levels at Annex 1 and other requirements as set out in this Specification);
 - 2.2.2 ability for Commissioning Bodies to upload files in a range of formats such as document file formats, audio file formats, video file formats and image file formats and access the completed Assignment files in a range of formats, either in MS Word or in the format requested in the Booking
 - 2.2.3 provision of an accurate record of progress for each Booking including up to date access to the current status of each Assignment including when an Assignment has not been completed;

- 2.2.4 provision to record where any Urgency Level, Security Level and Qualification downgrade has been agreed with the Commissioning Body;
 - 2.2.5 facilities for the Commissioning Body to amend or cancel the Booking and to raise notifications, queries and complaints about a Booking and/or Assignment; and
 - 2.2.6 provision of the primary source of Management Information relating to Commissioning Body requirements.
- 2.3 The Service Provider shall issue the following notifications to Commissioning Bodies via a secure email to a designated email address provided on the Booking:
 - 2.3.1 confirmation to the relevant Commissioning Body that the Booking has been received;
 - 2.3.2 notification to the relevant Commissioning Body that the Translation and/or Transcription files have been received and are accessible;
 - 2.3.3 notification to the relevant Commissioning Body when a downgrade has been requested; and
 - 2.3.4 notification that the Assignment is completed and when the relevant Translation and/or Transcription produced as a result of the Assignment has been issued to the requesting Commissioning Body.
- 2.4 The Service Provider shall ensure that files can be uploaded to and retrievable from a SFTP or Cloud-based system, such as SharePoint, if the Commissioning Body is unable to upload or retrieve files via the Booking Service due to compatibility and accessibility concerns. A clear audit trail of the uploaded files must be recorded on the Booking Service against the relevant Booking.
- 2.5 If the Service Provider is required to obtain Approval in relation to provision of the Services, Approval shall be taken to have been obtained only if given by the Authority or other relevant Commissioning Body in writing, including via the secure Booking Service, and (if given verbally) once it has been confirmed in writing and recorded on the Booking Service.

3. Access

- 3.1 The Booking Service must provide robust role-based access at all levels from infrastructure and administration through to end user.
- 3.2 The Booking Service must be capable of limiting users to a single logon at any one time and any exceptions to this must be clearly identified.
- 3.3 Access to the Booking Service must be authenticated using user names and passwords. All such passwords must comply with HMG Security Guidelines.
- 3.4 Administrators must have the ability to reset a user's password and users must have the ability to change their own password.
- 3.5 Users should be able to access the Booking Service using a web browser on a variety of devices including tablet and other mobile devices. Where there may be limitations in functionality (e.g. uploading documents from a mobile device) these should be clearly identified. Any internally facing functionality which requires use of a computer (rather than a mobile device) interface should be clearly identified.

Note: Internal users are currently constrained by Authority and HMG policies on access from a secure environment using approved devices. In practice, internal users will be accessing the Booking Service from a desktop computer or laptop in accordance with the Authority's web browser standards.

4. Archive

- 4.1 Users must be able to access archived data within 24 hours of a legitimate request being made.
- 4.2 It must be possible to identify and securely destroy data in accordance with the requirements of the Contract including those relating to the Retention Period.

5. Audit, logging and monitoring

- 5.1 The Service Provider shall put in place appropriate monitoring tools and processes to support and maintain the KPI and to identify any changes in demand or usage of the Booking Service.
- 5.2 The Booking Service must maintain logs and records for audit purposes. Audit logs and records must be maintained in a way that facilitates finding or identifying specific items within the log, and which supports a policy of forensic readiness capable of supporting the investigation and response to security breaches.
- 5.3 The Booking Service must maintain a log or record of all access to the Booking Service. The access log will be maintained such that it is possible to identify all successful and unsuccessful access attempts.
- 5.4 The Booking Service must log or record all operations and changes made to data and information. As a minimum, it should be possible to identify the user that accessed the Booking Service, and the time the access or any change was made, including changes and uploads made by web users.
- 5.5 Audit and monitoring logs and records must be available to designated authorised users.
- 5.6 It must not be possible to amend or delete any audit trail without a separate audit event capturing these changes.
- 5.7 Audit and log data must be held for the same amount of time as the source data it pertains to (i.e. for the same data retention period).
- 5.8 When data or information is changed, a record of the original data must be maintained.
- 5.9 The Booking Service must not delete from audit and monitoring logs any data relating to users who have been removed from the Booking Service.
- 5.10 The creation and storage of audit logs must not impact on the performance of the Booking Service.
- 5.11 In the event of error or component failure, the relevant log files must provide enough information to support investigation and isolation of the point and possible cause of failure.

6. Availability and resilience

- 6.1 The Booking Service must be sufficiently robust and resilient to meet the required hours of operation, with no single points of failure and designed to minimise data loss in line with Schedule 14 (Information Security).
- 6.2 It must be possible to restore the Booking Service to a known point (for example in the event of a failure or for other business reason). In support of this the Service Provider must provide a backup and storage approach that will ensure that data loss is minimised and that data can be restored within a reasonable period, to be approved by the Authority.
- 6.3 Backups must be verified to ensure that they are capable of being restored and the restore procedures should be successfully tested on a regular basis but at least annually.
- 6.4 Backup data must be transported and stored securely in line with Authority Information Assurance Guidelines.

7. Business continuity and disaster recovery

- 7.1 The Service Provider shall ensure that their BCDR Plan produced in accordance with Schedule 21 includes disaster recovery for the Booking Service.
- 7.2 In the event of a disaster, the Service Provider shall minimise data loss. The Service Provider shall clearly identify the maximum potential data loss and propose within their Booking Service design mechanisms and processes to facilitate data recovery and minimise the impact of data loss.
- 7.3 In the event of an incident, any proposed recovery arrangements must be capable of supporting the business until such time as the full Booking Service is restored and the Service Provider shall clearly identify any constraints around such provision.

8. Capacity

- 8.1 The Booking Service must be capable of managing and storing the volume of data and information produced by the service, plus all monitoring, audit and other logs.
- 8.2 The Booking Service must be able to support the anticipated required number of users as during Normal Working Hours.
- 8.3 The Booking Service must support changes in capacity and demand as required.
- 8.4 The Booking Service must support the bulk email load as required by the Service Provider's operations.
- 8.5 The Booking Service must have the capability to run management reports as required by Schedule 9.

9. Compliance and Policy

- 9.1 All the Service Provider's Personnel working on the Booking Service with access to customer and user data shall be security cleared to a minimum of baseline standard.
- 9.2 The Booking Service should be designed in such a way as to facilitate Authority's compliance with the Equality Act 2010 and other equalities legislation, which includes but is not limited to ensuring that the Booking Service meets relevant accessibility and usability standards as referenced in Government Digital Service Guidance.
- 9.3 The Booking Service must facilitate the Authority's compliance with Laws, including but not limited to provisions for controlling access to data and monitoring changes.
- 9.4 The Service Provider shall ensure that the Booking Service follows current industry and government best practices for accessibility and must work with commonly available assistive technologies. The cross government minimum accessibility standard is WCAG 2.0 AA.
- 9.5 The Booking Service must facilitate compliance with Laws relating to the use of the Welsh Language including the Welsh Language Scheme.
- 9.6 The Service Provider shall maintain good practices in respect of coding, development, document management and record keeping which the Authority may access and audit on request.
- 9.7 The Booking Service shall be capable of identifying to the user at initial logon that:
 - 9.7.1 only authorised users may logon to the Booking Service;
 - 9.7.2 by logging on, users accept that their activities are subject to protective monitoring; and
 - 9.7.3 any unauthorised access or misuse of the Booking Service is a criminal act under the Computer Misuse Act 1990.

- 9.8 The Booking Service will meet Cabinet Office digital standards, including prioritising the use of open source, open standards, open data standards and use of common components and services.

10. Data integrity

- 10.1 The Booking Service must maintain the integrity of information that is processed. It must ensure that changes are completed and confirmed by the user, and are auditable (and cannot be repudiated), before they are applied.
- 10.2 It shall not be possible for more than one person to update a record at the same time.
- 10.3 The Booking Service must validate data at the point of entry. Data validation will include enforcement of any appropriate and agreed data standards or formats.
- 10.4 The Booking Service shall ensure that once a transaction has been committed by a user, the effects will persist in the Booking Service and will not be lost or undone except due to deliberate further action by the same user or by another authorised user.
- 10.5 The Booking Service shall provide the means to restore the business data to a known, consistent state following the discovery of any fault in the application software.
- 10.6 Data no longer required (subject to retention rules or authorised requests from the Authority) shall be securely removed / deleted.

11. Design and usability

- 11.1 The Booking Service shall be capable of automatically changing between GMT and BST and will record or display the correct UK time.
- 11.2 The design of the Booking Service shall take into account current Government Digital Service Guidance on design and usability.
- 11.3 The requirements of the Booking Service for web browsers must adhere to the Authority Web Browser Standards and any exceptions to this principle shall be clearly identified and justified by the Service Provider to the satisfaction of the Authority.
- 11.4 The Booking Service will produce on screen error messages which are meaningful and appropriate to users, and which offer immediate prompts for actions to resolve the error wherever appropriate.

12. Documentation

- 12.1 The Service Provider shall provide sufficient training and guidance documentation to support independent technical and security assessment of the status of the Booking Service as set out in Schedule 14.
- 12.2 The Service Provider shall keep all documentation up to date and reflect the current state of any technology and procedures associated with the Booking Service at all times.

13. Support, maintenance, testing and service provision

- 13.1 The Service Provider shall support and maintain the Booking Service for the Term and shall have a documented service management approach which includes but not limited to incident, problem, change and service level management disciplines.
- 13.2 All releases and changes to the production service, not limited to the live technical Booking Service shall be managed and agreed in accordance with 14 (Information Security).
- 13.3 All releases/changes shall be subject to 14 (Information Security).

- 13.4 Changes/releases identified to impact end users shall be subject to user acceptance testing (at minimum) before implementation. No changes will be made to the production service unless they have been adequately tested first to the satisfaction of the Authority.
- 13.5 All releases/changes shall be subject to Assistive Technology testing taking place and prompt remediation will take place where it doesn't fully comply.
- 13.6 The Service Provider shall propose for agreement the recovery point and recovery time objective for the Service.
- 13.7 Prior to the Services Commencement Date, all outstanding defects discovered during testing (including functional and non-functional areas e.g. OAT/UAT) should be documented and a live service based impact assessment completed. The impact assessment shall be:
 - 13.7.1 service based;
 - 13.7.2 end user based; and
 - 13.7.3 support based.
- 13.8 The Service Provider shall provide and comply with its own documented standard incident management targets and incident classification scheme.
- 13.9 The Service Provider shall provide and comply with its escalation framework that describes both hierarchical and functional escalations paths for the Service.

14. Interoperability

- 14.1 The Booking Service shall be capable of importing or exporting data and interfacing with other services using recognised formats or protocols (e.g.XML, SOAP, CSV) if and where the Service Provider's proposal requires an interface with other systems.
- 14.2 Where required, the Booking Service must be capable of sending and receiving data and emails in batches.
- 14.3 It must be possible to export all data held in the Booking Service in a recognised open format such as XML or CSV.

15. Security and information assurance – general

- 15.1 The Booking Service must be protected by appropriate people, process, technology and physical security controls as part of a 'defence-in-depth' approach.
- 15.2 The Service Provider shall comply with Schedule 14 (Information Security) in relation to cyber security and information assurance requirements.

ANNEX 7

Security Clearance Requirements

1. General Requirements

- 1.1 The Service Provider shall comply with such requirements as the Commissioning Body may in its absolute discretion impose in relation to the security vetting level required.
- 1.2 The Service Provider shall ensure that Language Professional have undergone a BPSS check to the standard defined in the following guidance <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard> including a basic criminal records disclosure check, or received the level of checking appropriate to the site/particular booking, as dictated by the Commissioning Body.
- 1.3 This might also involve the need for National Security clearance at Counter Terrorist Check (CTC), Security Check (SC) or Developed Vetting (DV) levels or NPVV3 in the case of the police. The link below provides details of the majority of the security / vetting requirements.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/367514/Security_Requirements_for_List_X_Contractors.pdf

2. Records and Results

- 2.1 The Service Provider shall complete and retain the required Verification Record forms attached in the guidance, to evidence that vetting checks have been completed to the required standard by all Language Professional and provide these to the Quality Assurance Service Provider as part of the Register and where otherwise requested.
- 2.2 The Commissioning Body must be notified of any adverse results from a criminal records check (i.e. spent or unspent convictions) relating to a Language Professional. Adverse results will be considered on a case by case basis and the Commissioning Body reserves the right to exclude Language Professional from involvement in the Contract as a result. Where the Commissioning Body excludes translators on this basis it remains the responsibility of the Service Provider to ensure that the Language Professionals are not given access to material processed in meeting the requirements of the Contract.

3. Special Circumstances

- 3.1 The Service Provider shall ensure a sufficient number of Language Professionals have been vetted by the Disclosure and Barring Service in order fulfil the Authority's obligations under the Safeguarding Vulnerable Groups Act 2006. (Vulnerable Groups include those held in lawful custody or are on probation).
- 3.2 Where required by the Commissioning Body the Service Provider shall provide a list of Service Provider Personnel who have been vetted by the Disclosure and Barring Service.

4. Access to Information

- 4.1 If and when directed by the Commissioning Body, the Service Provider shall provide a list of the names and addresses, National Insurance numbers, periods of employment, immigration status and tax exemption certificates of all Language Professional who are expected to require admission in connection with the Contract to any premises occupied by or on behalf of the Commissioning Body, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Commissioning Body may reasonably desire. The Service Provider must provide the Commissioning Body with a list of security cleared personnel, and documentary evidence of clearance checks on request.
- 4.2 The Service Provider shall obtain the written confirmation from all Language Professional that they consent to their details and associated data to be shared with the Commissioning Body.

5. Renewal/Updating of Security Clearances and Vetting requirements

- 5.1 The Service Provider shall take responsibility for keeping clearances and checks up to date in accordance with their renewal periods, and shall allow the Commissioning Body access to all such records within 5 Working Days of receiving a request.
- 5.2 The Service Provider shall ensure that Language Professional ID cards are maintained and updated, as cards will not be accepted by the Commissioning Body if they do not clearly show up to date information and an up to date photograph.
- 5.3 The Authority shall not be responsible for any costs associated with the Language Professional obtaining or renewing any security, vetting or relevant disclosure certificate.

6. Suspension of Language Professional services

- 6.1 The Authority may (either itself or through its Quality Assurance Service Provider) require the Service Provider to suspend immediately any Language Professional appointed by the Service Provider. The Service Provider shall have the right to make representations to the Authority (or its Quality Assurance Service Provider) concerning such individuals.
- 6.2 After taking any or such representations into account, the Authority (either itself or through its Quality Assurance Service Provider) may withdraw such notice of suspension, suspend its operation upon such conditions as it shall think fit, or to confirm the immediate withdrawal of the Language Professional from the provision of the Services entirely.
- 6.3 If the Authority (either itself or through its Quality Assurance Service Provider) confirms immediate withdrawal of an individual, then the Service Provider shall forthwith remove such individual from the provision of the Services and provide a replacement within the timescale requested by the Authority.
- 6.4 No Commissioning Body (including the Authority) shall in any circumstances be liable either to the Service Provider or to the individual Language Services Professional in respect of any liability, loss or damage occasioned by such withdrawal, suspension or removal and the Service Provider shall fully indemnify the Commissioning Body (including the Authority) from and against any claim made by such individual.

SCHEDULE 3 – SERVICE SOLUTION

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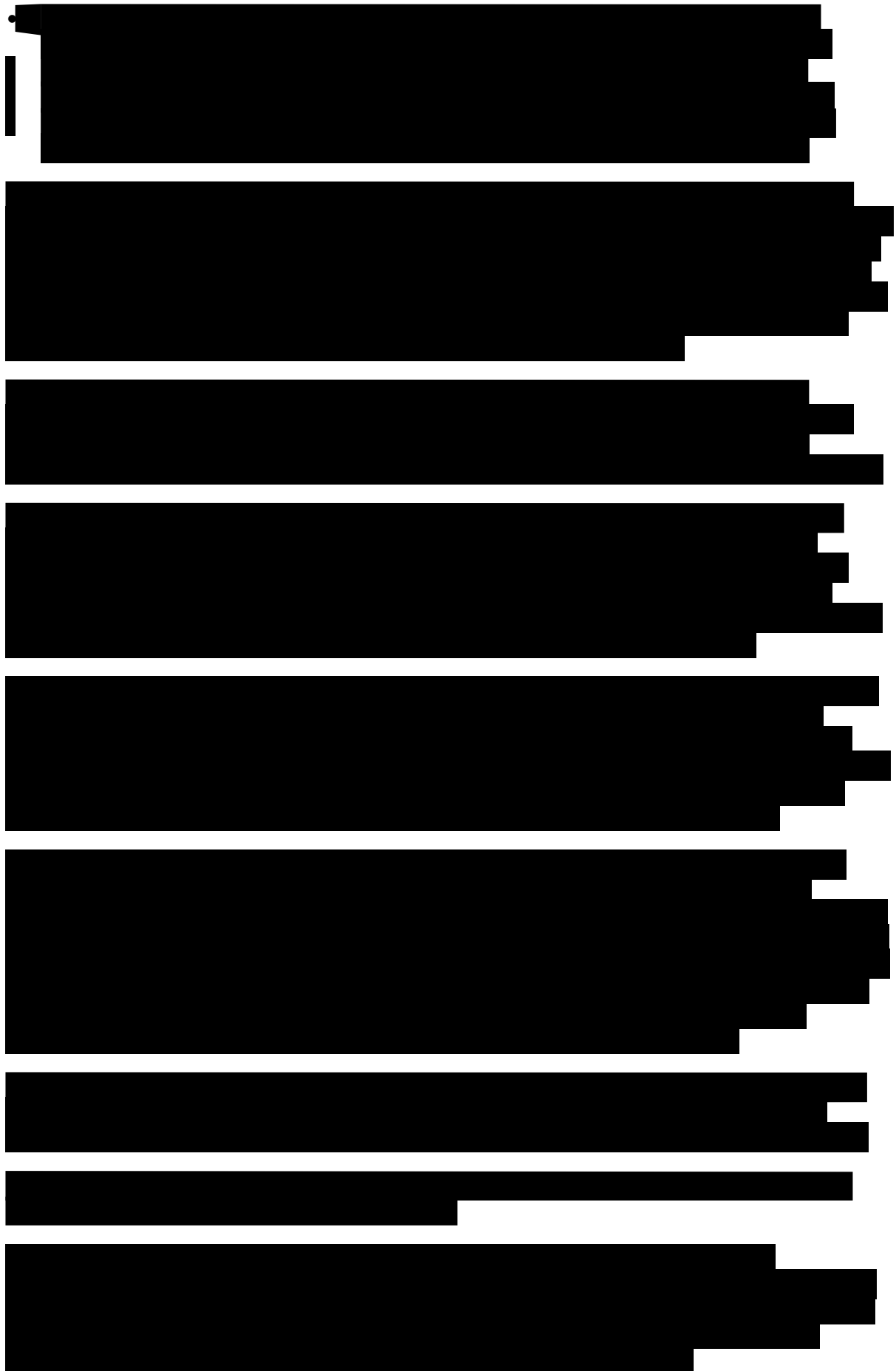
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SCHEDULE 4 – IMPLEMENTATION

1. INTRODUCTION

- 1.1 This Schedule defines the process for the preparation and implementation of the Outline Implementation Plan and Detailed Implementation Plan and describes the Parties' respective rights and obligations during the Implementation Period in respect of the transition of the Services to the Service Provider by the Service Commencement Date (Implementation).
- 1.2 The primary objective of Implementation is the successful transfer of the Services to the Service Provider such that the Service Provider commences delivery of the Services by the Service Commencement Date without deterioration in the levels of performance of the Services (or the equivalent received from the Former Service Provider).

2. OUTLINE IMPLEMENTATION PLAN

- 2.1 The Outline Implementation Plan is set out in Annex 1.
- 2.2 All changes to the Outline Implementation Plans shall be agreed between the Parties as a Change in accordance with the process described in clause F4 (Change).

3. APPROVAL OF THE DETAILED IMPLEMENTATION PLAN

- 3.1 The Service Provider shall submit a draft of the Detailed Implementation Plan to the Authority for Approval within 10 Working Days of the Commencement Date.
- 3.2 The draft Detailed Implementation Plan shall:
- (a) clearly outline all the Implementation Services to be delivered by the Service Provider following the Commencement Date;
 - (b) clearly outline the required roles and responsibilities of both Parties, including staffing requirements;
 - (c) incorporate the Service Commencement Date and the Service Provider's proposed timescales and methodology for completing the Implementation Services prior to the Service Commencement Date; and
- provide confidence to the Authority that the Service Provider will be ready to deliver the provision of the Operational Services on and from the Service Commencement Date.
- 3.3 Prior to the submission of the draft Detailed Implementation Plan to the Authority in accordance with Paragraph 3.1, the Authority may:
- (a) review any documentation produced by the Service Provider in relation to the development of the Detailed Implementation Plan; and
 - (b) require the Service Provider to include any reasonable changes or provisions in the Detailed Implementation Plan.
- 3.4 Following receipt of the draft Detailed Implementation Plan from the Service Provider, the Authority shall:
- (a) review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable; and
 - (b) notify the Service Provider in writing that it Approves or rejects the draft Detailed Implementation Plan no later than 20 Working Days after the date on which the draft Detailed Implementation Plan is first delivered to the Authority.
- 3.5 If the Authority rejects the draft Detailed Implementation Plan, the Service Provider shall revise the draft Detailed Implementation Plan and re-submit a revised draft Detailed Implementation

Plan to the Authority for Approval within 10 Working Days of the date of the Authority's notice of rejection.

- 3.6 If the Authority rejects the re-submitted draft Detailed Implementation Plan, the Service Provider's implementation team shall meet with the Authority's implementation team within 10 Working Days of the rejection for the purposes of agreeing the draft Detailed Implementation Plan.
- 3.7 If the draft Detailed Implementation Plan is not agreed within 5 Working Days of the meeting pursuant to paragraph 3.6, the matter shall be referred to the nominated representative of the Service Provider and the Operational Contract Manager on behalf of the Authority (or, if not available, their appointed deputies), who shall act reasonably and in good faith to agree the draft Detailed Implementation Plan as soon as reasonably practicable and in any event within 10 Working Days.
- 3.8 If the persons appointed under paragraph 3.7 are unable to agree the draft Detailed Implementation Plan within 5 Working Days of the date of the referral to them, the matter shall be referred to the Director of Contract Delivery of the Service Provider and Senior Responsible Officer on behalf of the Authority (or, if not available, their appointed deputies), who shall act reasonably and in good faith to agree the draft Detailed Implementation Plan as soon as reasonably practicable and in any event within 10 Working Days.
- 3.9 If the persons appointed under paragraph 3.8 are unable to agree the draft Detailed Implementation Plan within 5 Working Days of the date of the referral to them, the matter shall be resolved in accordance with clause 11.
- 3.10 Once Approved or agreed or determined in accordance with paragraphs 3.6 to 3.9, the draft Detailed Implementation Plan shall replace the Outline Implementation Plan from the date of the Authority's notice of Approval or the date on which the draft Detailed Implementation Plan is agreed or determined.

4. TERMINATION RIGHTS

- 4.1 The Authority may terminate the Contract under Clause H4 (Other Termination Grounds) if:
 - 4.1.1 the draft Detailed Implementation Plan is not Approved or otherwise agreed or determined 12 weeks prior to the Service Commencement Date; or
 - 4.1.2 in the Authority's reasonable opinion, the draft Detailed Implementation Plan is not likely to be Approved or otherwise agreed or determined in sufficient time to enable the Service Provider to be ready to commence delivery of the Services on the Service Commencement Date.

5. IMPLEMENTATION CHARGES

No charges, fees and/or other costs will be payable to the Service Provider by the Authority for the provision of the Implementation Services (including where additional Services are required during the Implementation period) and the Service Provider shall not seek to recover the same from any other Commissioning Body.

6. IMPLEMENTATION REQUIREMENTS

- 6.1 The Service Provider shall:
 - 6.1.1 provide the Implementation Services in accordance with the Implementation Plan and the Contract;
 - 6.1.2 not cause disruption to Authority and the other Commissioning Bodies during the Implementation Period;
 - 6.1.3 meet all the Acceptance Criteria by the Service Commencement Date; and

- 6.1.4 fully co-operate with the Authority, Commissioning Bodies, the Former Service Provider and the Other Service Providers in respect of Implementation during the Implementation Period.
- 6.2 Save as set out in the Implementation Plan, the Service Provider shall ensure that the provision of the Implementation Services shall not have any adverse effect on the continuity and quality of any services provided to it by the Former Service Provider.
- 6.3 Where the Service Provider becomes aware of a risk or issue relating to the Implementation Services, including an actual or anticipated delay to the completion of an Implementation Milestone or failure to meet the Acceptance Criteria, it shall immediately notify the Authority in writing.
- 6.4 As soon as reasonably practicable and in any event within 5 Working Days of a risk or issue being notified in accordance with Paragraph 6.3, the Service Provider shall provide the Authority with:
 - 6.4.1 a plan of action to mitigate any risks identified in accordance with Paragraph 6.3;
 - 6.4.2 a rigorous timetable for implementing the plan of action to resolve the risk or issue;
 - 6.4.3 an indication of whether any change to the Acceptance Criteria or Implementation Milestone (including any Deliverable relating to an Implementation Milestone) is required to mitigate the risk or resolve the issue and any details relating to such change; and
 - 6.4.4 a recommendation on whether or not escalation is required to the Senior Responsible Officer appointed on behalf of the Authority,and the risk or issue will immediately be added by the Service Provider to a risks and issues register and will be tracked there until closed.
- 6.5 Where the Service Provider considers that it may not achieve all Implementation Milestones by the Service Commencement Date, the Service Provider shall immediately notify the Authority in writing and, subject to Approval by the Authority, shall implement the Booking Service Contingency Plan.

7. ACCEPTANCE

- 7.1 The Acceptance Criteria at Annex 2 shall be achieved by the Service Provider where so confirmed by the Authority in accordance with this Paragraph 7.1:
 - 7.1.1 the Service Provider shall notify the Authority in writing when, in its opinion, an Acceptance Criterion has been achieved and shall provide to the Authority evidence of achievement as reasonably requested by the Authority;
 - 7.1.2 where an Acceptance Criterion comprises the completion (or part thereof) of a Deliverable and/or the Booking Service, the Service Provider shall allow the Authority to test the Deliverable and/or the Booking Service (as appropriate) at such time and location as agreed between the Parties and:
 - (a) the Authority may invite such third parties as it deems necessary to participate in the testing; and
 - (b) the Service Provider shall make available:
 - (i) such members of its Personnel; and
 - (ii) such documentation as may be necessary,to enable the proper completion of the testing;

- 7.1.3 the Authority will notify the Service Provider whether it accepts each Acceptance Criterion has been achieved within 3 Working Days of receipt of the notification pursuant to paragraph 7.1.1 save for where testing has taken place in accordance with paragraph 7.1.2 in which case it shall be within 3 Working Days of such testing;
- 7.1.4 if the Authority does not accept that the relevant Acceptance Criterion has been achieved, it shall include within its notification to the Service Provider the reasons for this and the Parties shall meet or attend a conference call within 2 Working Days to discuss the issue;
- 7.1.5 within 2 Working Days of the meeting held in accordance with Paragraph 7.1.4, the Service Provider shall submit a draft recovery plan to the Authority detailing:
 - (a) the activities it will undertake to meet the Acceptance Criterion; and
 - (b) any additional activities required to keep, or put back on track other dependant elements of Implementation impacted by the failure to meet the Acceptance Criterion;
- 7.1.6 the Authority will notify the Service Provider whether it accepts that recovery plan within 3 Working Days of receipt. Where the Authority:
 - (a) accepts the recovery plan, the Service Provider shall remedy the issues arising in accordance with the recovery plan; and
 - (b) does not accept the recovery plan, the matter shall be referred to the Senior Responsible Officer who shall seek to resolve the matter. If the Senior Responsible Officer cannot resolve the matter within 10 Working Days of it being referred to them, the issue shall be referred to the Dispute Resolution Procedure.
- 7.2 The Service Provider agrees that where specifically stated as part of the Acceptance Criteria, that Acceptance Criteria must be achieved in relation to each Commissioning Body and the Authority shall not confirm acceptance of such Acceptance Criteria in accordance with this Paragraph 7 until this condition has been satisfied (or waived in writing by the Authority).

8. BOOKINGS

The Service Provider shall accept Bookings after the Service Commencement Date other than if not required in accordance with this paragraph 8.

- 8.1 The Service Provider shall fulfil Bookings the details of which are notified by the Former Service Provider and transferred from the Former Service Provider and which are made by Commissioning Bodies with the Former Service Provider before the Service Commencement Date: (a) for Services to commence on or after the Service Commencement Date; and (b) for Services which are in progress as at the Service Commencement Date, provided in each case that the Authority shall procure that the Former Service Provider promptly notifies the Service Provider of and promptly transfers such Bookings to the Service Provider including Bookings which have been made prior to the Commencement Date for Services to commence on or after the Service Commencement Date.
- 8.2 Without prejudice to Paragraph 8.2, from and including Service Commencement Date the Service Provider shall accept and fulfil Bookings for Services to commence on or after the Service Commencement Date and for Services which are in progress as at the Service Commencement Date.
- 8.3 The Service Provider shall not accept Bookings for Services to commence before the Service Commencement Date, other than those which are transferred from the Former Service Provider to the Service Provider, even if (in either case) such Services continue on or after the Service Commencement Date.

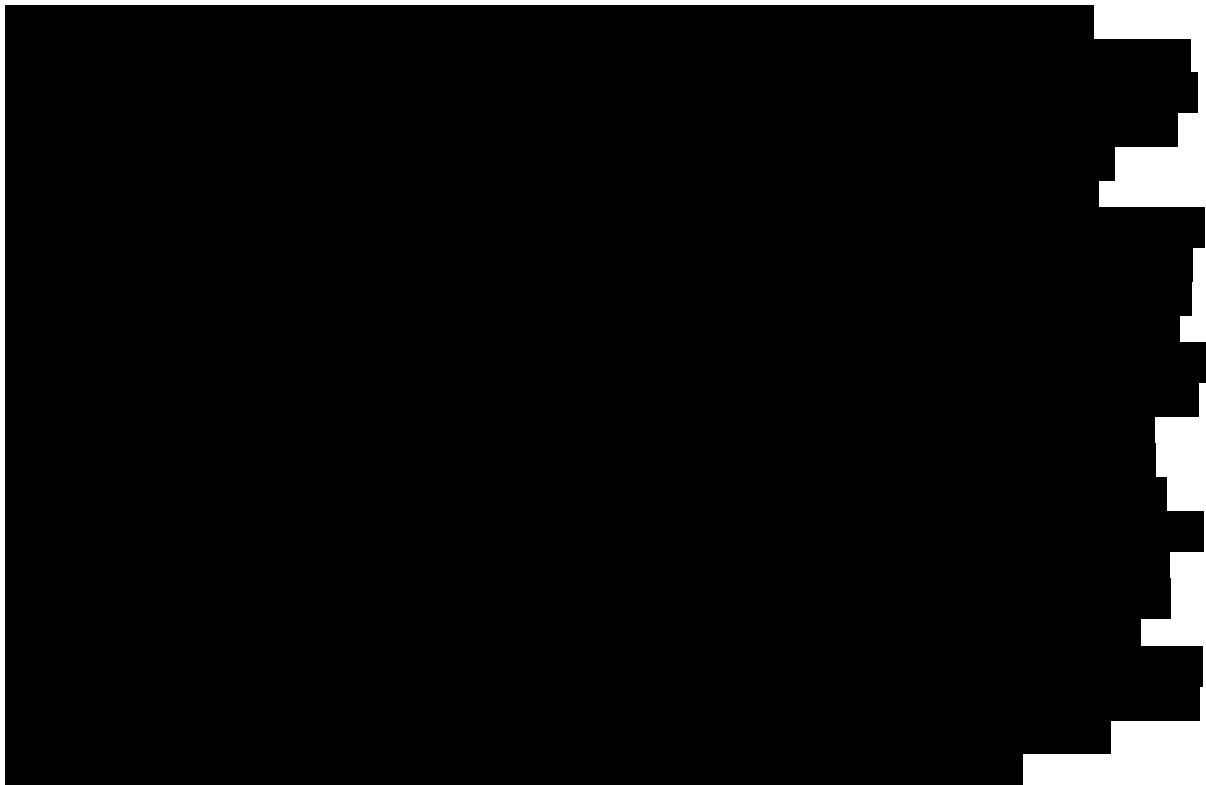
- 8.4 The Service Provider shall direct to the Former Service Provider a Commissioning Body which intends to make a booking for Services to commence before the Service Commencement Date.

ANNEX 1

OUTLINE IMPLEMENTATION PLAN



ITC2_Implementation
Plan_Gantt.pdf



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ANNEX 2

ACCEPTANCE CRITERIA

1. The Booking Service is live and able to take Assignments as per the Specification by the Service Commencement Date.
2. The Booking Service has been tested with personnel of the Commissioning Bodies with no key functionality failures (as stipulated below):
 - (a) all known Commissioning Body Premises have been uploaded onto the Booking Service;
 - (b) each Commissioning Body can make a Booking at all levels of complexity and by stating the deadline required;
 - (c) the Booking Service allows each Commissioning Body to amend or override user fields prior to a Booking being placed;
 - (d) each Commissioning Body can amend and cancel a Booking request via the Booking Service;
 - (e) each Commissioning Body can search the Booking Service for a Booking;
 - (f) each Commissioning Body can submit a complaint on the Booking Service and receive acknowledgement within 24 hours of submission;
 - (g) the Commissioning Body who made a Booking will receive notification of such Booking request and details of amendments. Details to include:
 - i. Date Booking is requested;
 - ii. Date Booking is required (Booked End Date);
 - iii. Language requested (if known);
 - iv. Name of Language Professional assigned (once assigned);
 - v. Current status of Booking, i.e, fulfilled, outstanding etc .
 - (h) the Booking Service can manage the level of Assignments expected as set out in the volumes data with no impact on the user experience.
 - (i) the Booking Service responds to user actions in line with standard user expectations of web portals and industry standard internet usage response times.
 - (i) the Booking Service is fully functioning on all Commissioning Body IT infrastructure,

provided that each Commissioning Body may confirm that, in respect its use of the Booking Service only, such functionality is not required. Where a Commissioning Body makes such a stipulation the Service Provider agrees this shall not affect its obligation to provide all necessary functionality to each and every other Commissioning Body.
3. Secure email system is fully functional between Commissioning Body and Service Provider and Service Provider and Language Professional (CJSM or agreed equivalent).
4. Relevant details of Language Professionals who are expected to work under the Contract but who are not already on the Register as at the Service Commencement Date have been submitted to the Quality Assurance Supplier.

5. All Language Professionals who attend Commissioning Body Premises have ID badges that provide the information required.
6. All Language Professionals have agreed in writing to adhere to the Authority Code of Conduct.
7. The Website is functioning in accordance with the Specification and is available for public access.
8. All Commissioning Bodies have access to the Customer Service Solution or telephone helpdesk and training materials.
9. Training has been delivered to each Commissioning Body in accordance with agreed training programme.
10. Management Information reports for all user fields have been confirmed as available and correct and reports can be downloaded by each Commissioning Body in accordance with their permissions.
11. All relevant financial codes have been inputted into the Booking Service and two trial runs of invoice creation and submission have been completed to the Authority's satisfaction.
12. The Booking Service and document repository have been accepted as meeting the requirements of Schedule 14 (Information Security).

SCHEDULE 5 – PRICING AND PAYMENT

Part 1 – Pricing

1. PRICING

- 1.1 The Service Provider shall in respect of Translation, Transcription and Translation & Transcription Services charge the Base Unit Price and if required in accordance with the Booking shall apply an Uplift to the Base Unit Price or, if two or more Uplifts are required, adjust the Base Unit Price by an aggregate of all applicable Uplifts as per the table below:

Type of Service	Price per	Base Unit Price (BUP)
Translation	Word (from Source Language)	
	Proofreading	
Transcription (English to English)	Minute of audio	
Translation & Transcription (Blended rate)	Minute of audio (from Source Language)	
	Type of Uplift	Percentage Uplift (%)
	Language Type	
	Rare Language	
	Urgency Uplift	
	UT4 (Long)	
	UT3(Standard)	
	UT2 (Short)	
	UT1 (Urgent)	
	Security Uplift	
	SL1 Baseline Personnel Security Standard (BPSS)	
	SL2 Counter Terrorism Check (CTC)	
	SL3 Security Check (SC)	
	SL4 Developed Vetting (DV)	
	Complexity Uplift	
	Standard	
	Technical	

- 1.2 The Service Provider shall, in respect of Alternative Formats, charge in accordance with the Base Unit Price set out in the table below:

Additional Services - Alternative Formats

Type of Service	Price per	Base Unit Price
Braille	A4 Page (from source document)	
<i>Braille Printing/Production</i>		-
Additional A4 Copies	Per A4 page	
Logo on Braille	Per A4 page	
Easy Read	A4 Page (from source document)	
Large Print	A4 Page (from source document)	
Text to Audio	A4 Page (from source document)	
Typesetting	A4 Page (from source document)	

- 1.3 Where a downgrade to the Urgency Level or Security Level has been Approved, the Service Provider shall amend the Uplift (s) accordingly when calculating the charges.
- 1.4 The Service Provider shall not apply an Urgency Level Uplift for Assignments delivered late, that is, an Assignment delivered after the Booked End Date or after a revised Booked End Date as a result of an Approved downgrade.

2. INDEXATION

The Base Unit Price shall be indexed in accordance with the Office for National Statistics Consumer Price Index on the second anniversary of the Service Commencement Date and on each anniversary of the Service Commencement Date thereafter.

3. ACCEPTANCE OF CHARGES

- 3.2 Within 24 hours of the completion of an Assignment, the Service Provider shall:
- 3.2.1 upload to the Booking Service and notify the Commissioning Body which requested the Booking (via the Booking Service or another appropriate electronic means):
- (a) confirmation of completion of the relevant Assignment;
 - (b) the number of words or number of minutes (as appropriate) arising from the Assignment; and
 - (c) confirm the charges for completion of the Assignment.
- 3.3 Within 5 Working Days the Commissioning Body may either approve the completion of an Assignment and the number of words and/or number of minutes (as appropriate) or notify the Service Provider that it disputes any or all of such information. Any such notification shall be delivered by the Commissioning Body to the Service Provider via the Booking Service.
- 3.4 Where a Commissioning Body does not give Approve or disputes the completion of an Assignment and/or the number of words and/or number of minutes (as appropriate), the matter shall be escalated to the Operational Contract Manager or Commissioning Body Representative, and if, not resolved, dealt with in accordance with the dispute resolution procedure at clause I1 (Dispute Resolution).
- 3.5 Approval of the completion of an Assignment and the number of words and/or number of minutes (as appropriate) by a Commissioning Body is without prejudice to its other rights and remedies including its right to dispute a Valid Invoice.

Part 2 – Payment

4. SERVICE PAYMENT

- 4.1 The Service Provider acknowledges that users of the Service include the Authority and Commissioning Bodies and, for the purposes of payment of the Service Payment only, each Commissioning Bodies shall receive its own Valid Invoice.
- 4.2 The Service Provider shall submit a Valid Invoice for all completed Assignments in the Month, accepted in accordance with paragraph 3 and charges applied in accordance with Part 1, to the relevant Commissioning Body Monthly in arrears. Such Valid Invoice shall be addressed in accordance with the instructions notified to the Service Provider by the relevant Commissioning Body from time to time.

- 4.3 During the Term, the Authority may direct the Service Provider to issue Valid Invoices in some manner other than as set out this paragraph 4 from time to time without requesting a Change to the Contract. The Service Provider agrees to effect such change at no cost to the Authority or any other Commissioning Body.
- 4.4 Subject to Paragraph 4.3, the Service Provider agrees that each Valid Invoice shall be raised as follows:
- 4.4.1 the Service Provider shall submit a Valid Invoice by the 5th Working Day of the following Month;
- 4.4.2 the Valid Invoice shall be in the format of a feeder file (a SOP File) that must conform to a series of specific formats so that the Service Provider can upload the SOP File to the Authority's financial system via a specified email address to enable processing by the Authority. The Authority shall provide the Service Provider with a template SOP File along with guidance on how to prepare the feeder file during Implementation, provide ongoing support during the Term and provide details of the relevant email addresses for submission of the SOP File;
- 4.4.3 the Service Provider shall be responsible for ensuring the accuracy of the SOP File and shall resubmit a SOP File if inaccurate or if the upload is unsuccessful. If a SOP File is incorrectly submitted, the Authority shall send a notification to the Service Provider with an error report containing details of each failure with an error code that can be crossed checked with an error code key; and
- 4.4.4 the Service Provider shall provide to the Authority an editable version of the backing information and calculations that formed the Valid Invoice in the form of Annex 1 (Performance Management Information) of Schedule 9 to allow for verification of the SOP File.

5. CREDIT NOTES

- 5.1. The calculation of Performance Credits in accordance with Schedule 6 (Performance) shall be subject to Approval, which shall be given or withheld in the Commercial and Contract Management Review Board meeting held the Month after the event giving rise to the Performance Credits occurred.
- 5.2. The Service Provider shall, in respect of Performance Credits, within 5 Working Days of the end of each Month issue a credit note to the Authority for the total value of the Performance Credits as Approved under Paragraph 5.1.
- 5.3. The Service Provider shall pay the amount of each credit note to the Authority in pounds sterling (£) by electronic transfer within 30 days of its date.
- 5.4. Where the Authority disputes the calculation of the Performance Credits then, without prejudice to its other rights and remedies, the matter shall be dealt with in accordance with the dispute resolution process at clause I1 (Dispute Resolution).

SCHEDULE 6 – PERFORMANCE

1. KEY PERFORMANCE INDICATORS (KPI) AND PERFORMANCE MEASURES

- 1.1 Annex 1 sets out the KPIs which are used to measure the performance of the Services. The KPI and Target Performance Level for each KPI are defined in Annex 1 of this Schedule.
- 1.2 The Service Provider shall meet or exceed the Target Performance Level in respect of each KPI and shall monitor its performance against each KPI.
- 1.3 Target Performance Levels are calculated in accordance with the “Performance Measure Calculation” column in Annex 1.
- 1.4 Not later than 10 Working Days following the end of each Month, the Service Provider shall provide to the Authority a report summarising its performance against the KPIs in the preceding Month in accordance with Annex 1 of Schedule 9. The reports shall be in such format as agreed between the Parties from time to time and shall include, as a minimum, the following information:
 - 1.4.1 for each KPI, actual performance achieved (**Achieved Performance Level**) over the relevant Month;
 - 1.4.2 a summary of all Moderate Performance Failures and Critical Performance Failures that occurred during the relevant Month; and
 - 1.4.3 for each KPI, Achieved Performance Level over the previous Months.
- 1.5 The Service Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Service Provider's performance of the Services against the applicable KPIs and Performance Measures at a level of detail sufficient to verify compliance with Annex 1.
- 1.6 The Service Provider shall provide any additional information requested by the Authority to evidence and verify the Service Provider's performance against KPIs.
- 1.7 For the avoidance of doubt, any delay by the Authority in exercising its rights and remedies under this Schedule 6 (including where such delay relates to the pending outcome of an investigation) shall not be construed as a waiver or prevent the Authority from exercising its rights or remedies later (with retrospective effect, where applicable).

2. PERFORMANCE CREDITS

The Parties agree that the Performance Credits are a reasonable method of price adjustment to reflect poor performance. Performance Credits are not an exclusive financial remedy for the Authority in respect of any failure to meet a KPI.

Performance Credits apply to a KPI if the Achieved Performance Level falls below the Target Performance Level in the relevant measurement period (a **Performance Failure**).

Following completion of the Initial Waiver Period, where the Service Provider fails to meet a Target Performance Level in respect of a KPI:

- 2.3.1 the number of Performance Points applicable to the relevant Performance Failure shall accrue according to the level of Performance Failure (%), as set out in the Performance Credits column of the table at Annex 1 of this Schedule 6;
- 2.3.2 Performance Credits corresponding to the number of Performance Points accrued in the relevant period are calculated in accordance with Paragraph 2.4; and
- 2.3.3 credit notes in respect of Performance Credits for Performance Failures shall be issued in accordance with Schedule 5.

Performance Credits in each Month shall be calculated in accordance with the following formula:

$$\text{Total Performance Points} \times (0.13 \% \times \text{MP}) = \text{Performance Credits (£)}$$

Total Performance Points is the total aggregate number of Performance Points incurred across all KPIs in relation to all Performance Failures in the relevant Month.

MP is the Monthly amount payable by the Commissioning Bodies under the Contract in the Month in which the Performance Failure occurred.

Worked Example:

In the following illustrative example, each KPI has the following Performance Credit regime:

KPI	1	2	3	4	5	6	Total
Target Performance Level (TPL)	96	99	95		99.6	100	
Achieved Performance Level (APL)	93.5	98.9	95		97.5	99	
Performance Failure Threshold	Critical	Moderate	Met	Met	Moderate	Moderate	
Performance Points	10	1	0	0	5	5	21

Monthly Payment: £200,000

$$21 \times (0.13 \% \times \pounds 200,000) = \pounds 5,460$$

In the event of a Performance Failure or repeated Performance Failures, the Service Provider shall comply with its obligations in clauses H2.1 to H2.7.

Annex 1

KPI Number	Key Performance Criterion	Key Performance Indicator Description	Target Performance Level (TPL)	Performance Measure Calculation	Moderate Performance Failure Threshold	Critical Performance Failure Threshold	Performance Credits	Reporting Period
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KPI 1	Delivery of Service	Delivery of Assignments as requested in the Booking and by the Booked End Time.	<p>96% of Assignments to be delivered as requested in the Booking by the Booked End Time.</p> <p>For the avoidance of doubt, a maximum 4% of Non-Fulfilment shall be acceptable, such as submission as of Assignment after Booked End Date or at an alternative Security Level.</p> <p>Assignments submitted after the original Booked End Date with approval for an Urgency Level downgrade in accordance with paragraphs 2.7 to 2.9 of the Specification shall not be reported as a failure to meet this TPL.</p>	<p>This shall be calculated by:</p> <p>the number of Assignments delivered as requested in the Booking</p> <p>expressed as a percentage of</p> <p>the total number of Assignments requested during the Month</p>	95.9% to 94%	Less than 94% in a monthly measurement period	<p>The following Performance Credits will be applied if performance fails to meet the required TPL in any monthly measurement period:</p> <p>1 Service Credit for a score of between 95% to 95.9%</p> <p>5 Service Credits for a score of between 94% to 94.9%</p> <p>10 Performance Credits for a score of below 94%</p>	Monthly
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KPI 2	Availability of Language Professionals	Completion of Assignments by Language Professional with the appropriate Qualification requirements.	<p>99% of Assignments to be delivered by Language Professional with the appropriate Qualification and experience level.</p> <p>For the avoidance of doubt, a maximum 1% of Assignment can be delivered by Language Professionals that do not meet the Qualification requirements in the Specification and Annex 4.</p> <p>If a Rare Language exemption has been authorised in accordance with Annex 4 of the Specification, the Assignment shall be deemed to be delivered by the appropriately qualified Language Professional i.e. the exemption</p>	<p>This shall be calculated by:</p> <p>the number of Assignments completed by Language Professionals with the appropriate Qualification requirements</p> <p>expressed as a percentage of</p> <p>the total number of Assignments requested during the Month.</p>	98.9% to 97%	Less than 97% in a monthly measurement period	<p>The following Performance Credits will be applied if performance fails to meet the required TPL in any monthly measurement period:</p> <p>1 Service Credit for a score of between 98% to 98.9%</p> <p>5 Service Credits for a score of between - 97% to 97.9%</p> <p>10 Performance Credits for a score of below 97%</p>	Monthly
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			shall not be reported as a failure to meet this TPL.					
KPI 3	Quality of Translations and Transcriptions	Assignments to meet the Technical Pass rate as assessed by the Quality Assurance Service Provider	<p>95% of Translation Assignments assessed over a 3-month period to meet the Technical Pass rate</p> <p>95% of Transcription Assignments assessed over a 3-month period to meet the Technical Pass rate</p> <p>Performance Credits for this KPI shall only be applied on a quarterly basis.</p>	This shall be calculated by the Quality Assurance Service Provider in accordance with the criteria set out in Annex 5 of Schedule 2 (Specification).	94.9% to 93%	Less than 93% in a monthly measurement period	<p>The following Performance Credits will be applied if performance fails to meet the required TPL in any quarterly measurement period:</p> <p>3 Service Credit for a score of between 94% to 94.9%</p> <p>15 Service Credits for a score of between 93% to 93.9%</p> <p>30 Performance Credits for a score of below 93%</p>	Quarterly

KPI 4	Quality of Translations and Transcriptions	Assignments to be delivered at the required quality levels in line with the Service Provider's quality management system	0.75% Bidder to propose a TPL based on the number or percentage of Assignments that must pass the Bidder's proposed quality thresholds that will be managed according to the Bidder's quality management system	This shall be calculated by: The number of complaints made in a Month expressed as a percentage of the total Bookings delivered in a Month	0.76% to 2%	Greater than 2%	The following Performance Credits will be applied if performance fails to meet the required TPL in any monthly measurement period: 1 Performance Credit for a score between 0.76% and 1.25% 5 Performance Credits for a score between 1.26% and 2% 10 Performance Credits for a score over 2%	Monthly
KPI 5	Availability of Booking Service	Availability of the Booking Service and Customer Service Solution	99.6% availability (at full functionality) of the Booking Service and Customer Service Solution.	This shall be calculated by: the number of minutes in the month that the Booking Service and Customer Service Solution is not available or not fully functional, less planned	99.5% to 97.6%	Less than 97.6% in a monthly measurement period	The following Performance Credits will be applied if performance fails to meet the required TPL in any monthly measurement period:	Monthly

				unavailability in that Month expressed as a percentage of the number of minutes in the Month (1440 x number of calendar days in the Month), less planned unavailability in that Month			1 Service Credit for a score of between 98.6% to 99.5% 5 Service Credits for a score of between – 97.6% to 98.5% 10 Performance Credits for a score of below 97.6%	
KPI 6	Complaint Reporting and Resolution	Timely resolution of queries and complaints	90% of queries and complaints to be resolved within 3 Working Days.	This shall be calculated by: the number queries and complaints resolved within 3 Working Days expressed as a percentage of the total number of queries and complaints received	89.9% to 80%	Less than 80% in a monthly measurement period	The following Performance Credits will be applied if performance fails to meet the required TPL in any monthly measurement period: 1 Service Credit for a score of between 85% to 89.9% 5 Service Credits for a score of	Monthly

							between - 80% to 84.9%	
							10 Performance Credits for a score of below 80%	

SCHEDULE 7 - PREMISES

ACCESS TO PREMISES

- 8.5 Where the Service Provider's Personnel are required to have a pass for admission to the Commissioning Body Premises the Commissioning Body shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued. Service Provider's Personnel who cannot produce a proper pass when required to do so by any of the Personnel of the relevant Commissioning Body, or who contravene any conditions on the basis of which a pass was issued, may be refused admission to the Commissioning Body Premises or required to leave, upon demand, if already there.
- 8.6 Each Commissioning Body may refuse to admit to, or to withdraw permission to remain on, any Commissioning Body Premises any member of the Service Provider's Personnel whose admission or continued presence would be, in the opinion of the relevant Commissioning Body, a risk to staff, security and/or property. The decision of the relevant Commissioning Body in the exercise of the right set out in this Paragraph 1.2 shall be conclusive and final.
- 8.7 The Service Provider shall promptly return any pass if at any time a Commissioning Body so requires or immediately if the person to whom the pass was issued ceases to be involved in the performance of the Contract. The Service Provider shall promptly return all passes on completion or earlier termination of the Contract.

COMPLIANCE WITH POLICIES

- 8.8 While on the Commissioning Body Premises, the Service Provider shall, and shall ensure that Service Provider Personnel shall, comply with all policies and standards that have been made available to the Service Provider and are applicable to the Commissioning Body Premises, including but not limited to those relating to health and safety, security, environmental and any other policies or standards specified by the relevant Commissioning Body. The relevant Commissioning Body shall provide copies of such policies and standards to the Service Provider on written request.

HEALTH AND SAFETY

- 8.9 The Service Provider shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of the Contract. Commissioning Bodies shall notify the Service Provider of any health and safety hazards which may exist or arise at the Commissioning Body Premises and/or which may affect the Service Provider in the performance of the Services.
- 8.10 The Service Provider shall notify the relevant Commissioning Body immediately if any incident occurs in the performance of the Services on the Commissioning Body Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 8.11 The Service Provider shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc., Act 1974, any other Law relating to health and safety, and any additional requirements to comply with National Pandemic guidelines which may apply to the Service Provider's Personnel and other persons working on the Commissioning Body Premises in the performance of the Contract.
- 8.12 The Service Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc., Act 1974) is made available to each Commissioning Body on request.

SECURITY

- 8.13 The Service Provider, including all the Service Provider's Personnel and Sub-Contractors engaged by the Service Provider, shall not, take any photographs on the Commissioning Body Premises unless the relevant Commissioning Body has given prior Approval and member of the Commissioning Bodies personnel is present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without the relevant Commissioning Body's Approval.
- 8.14 Each Commissioning Body may at any time carry out a search (which may include physical measures such as photographing and fingerprinting) of any Service Provider's Personnel and/or their vehicles at any Commissioning Body Premises, which shall be conducted in accordance with any rules and conditions applicable to the personnel of the relevant Commissioning Body, including in relation to prisons and other secure facilities the Prison Rules 1999 (as amended), the Young Offender Institution Rules 2000 (as amended), the Secure Training Centre Rules 1998 (as amended).
- 8.15 Service Provider Personnel attending a Prison may be subject to search at any time. Strip searches shall be carried out only on the specific authority of the Authority under the same rules and conditions applying to the Authority's personnel. The Service Provider is referred to Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 and Rule 75 of Part IV of the Young Offender Institution Rules 2000 as amended by the Young Offender Institution (Amendment) Rules 2005.
- 8.16 Searches shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority's personnel and/or visitors. The Service Provider is referred to Section 8 of the Prison Act 1952, Rule 64 of the Prison Rules 1999 and PSI 67/2011.
- 8.17 The Service Provider shall co-operate with any investigation relating to security which is carried out by a Commissioning Body or by any person who is responsible to a Commissioning Body for security matters, and when required by a Commissioning Body shall:
- take all reasonable measures to make any Service Provider's Personnel identified by a Commissioning Body available to be interviewed by the relevant Commissioning Body, or by a person who is responsible to the relevant Commissioning Body for security matters, for the purposes of the investigation. The Service Provider's Personnel shall have the right to be accompanied by and to be advised or represented by a third party whose attendance at the interview is acceptable, in the reasonable opinion to the relevant Commissioning Body; and
- subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind which may reasonably be required by a Commissioning Body or by a person who is responsible to the relevant Commissioning Body for security matters, for the purposes of the investigation. The relevant Commissioning Body shall have the right to retain any such material for use in connection with the investigation and, so far as possible, shall provide the Service Provider with a copy of any material retained.
- 8.18 Nothing in the Contract shall be deemed to provide any authorisation to the Service Provider in respect of any provision of the Offender Management Act 2007. The Service Provider in providing the Services will comply with the provisions of Prison Service Order 1100 as published by the Authority from time to time.
- 8.19 In providing the Services the Service Provider shall comply with PSI 10/2012 and other applicable provisions relating to security as published by the Authority from time to time.
- 8.20 Nothing in the Contract is deemed to provide any "authorisation" to the Service Provider in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 or other relevant legislation.

SCHEDULE 8 - GOVERNANCE

9. INTRODUCTION AND OBJECTIVES

- 9.1 This Schedule 8 sets out the arrangements agreed between the Parties for the management of their relationship and the relationship with the Quality Assurance Service Provider during the Term.
- 9.2 The objectives of the governance approach implemented by the Parties in this Schedule 8 include to:
- 1.2.1 establish and maintain trust between each of the Parties and the Quality Assurance Service Provider including by acting in an open, reliable and competent manner;
 - 1.2.2 maintain the involvement of the Authority's stakeholders throughout the Term;
 - 1.2.3 enable the Authority to communicate and the Service Provider to understand the Authority's changing objectives;
 - 1.2.4 manage change efficiently and in a cost effective and timely manner for the Authority; and
 - 1.2.5 identify early, avoid and/or promptly resolve any issues, problems or disputes that may arise between the Parties.

2. MANAGEMENT OF THE SERVICES

- 2.1 Within 10 Working Days of the Commencement Date, the Service Provider shall appoint an account management team who shall be responsible for ensuring the proper delivery of the Services. Each member of the account management team shall be a Key Personnel.

3. GOVERNANCE BOARDS

- 3.1 In accordance with this Schedule 8, the Parties will create and maintain for the Term the following boards on which the Parties shall be represented:
- 3.1.1 Contract Management Review Board (to review operational performance and commercial and contract management review);
 - 3.1.2 Strategic Board; and
 - 3.1.3 Quality Assurance Board,
- (together the **Governance Boards**).
- 3.2 At the discretion of the Authority, the Contract Management Review Board (to review operational performance and commercial and contract management review) may operate as joint or separate boards.
- 3.3 The Parties shall ensure the Governance Boards are established within 20 Working Days of the Commencement Date.
- 3.4 The Service Provider shall appoint a Service Provider Board Lead for each Board within 10 Working Days of the Commencement Date. The Service Provider may appoint a single Service Provider Board Lead to sit on all Governance Boards or a separate Service Provider Board Lead for each provided that the Service Provider Board Lead for the Strategic Board must be a senior member of its Personnel. Each Service Provider Board Lead shall be a Key Personnel.

- 3.5 An Authority Board Lead shall be appointed by the Authority for each respective Governance Board and shall be responsible for:
- 3.5.1 scheduling Board Meetings;
 - 3.5.2 setting and circulating the agenda for Board Meetings in advance of each meeting;
 - 3.5.3 chairing the respective Board Meetings;
 - 3.5.4 monitoring the progress of any follow up tasks and activities agreed to be carried out during Board Meetings; and
 - 3.5.5 ensuring that minutes for Board Meetings are recorded and disseminated electronically to all attendees of the meeting within 7 Working Days of the Board Meeting.

4. BOARD MEETINGS AND DECISIONS

- 4.1 The Governance Boards shall meet in accordance with the frequency set out in Annex 1 to this Schedule 8. In addition to those Board Meetings required by this Schedule 8, the Board Leads for each Governance Board may agree what additional meetings they wish to hold, if any, in order to discharge the responsibilities and purpose of the relevant Governance Board. The Board Leads will review the meetings schedule at least once each year.
- 4.2 Each Party shall ensure that its Board Members make all reasonable efforts to attend the respective Governance Boards at which that Board Member's attendance is required. If any Board Member is not able to attend a Board Meeting, that person shall ensure that:
- 4.2.1 a delegate attends the relevant Board Meeting in their place who is properly briefed and prepared; and
 - 4.2.2 that they are debriefed by such delegate following the Board Meeting.
- 4.3 Except as otherwise set out in this Paragraph 10, the Board Meetings shall be quorate as long as at least 2 representatives of each Party are present, which must include both Authority Board Lead and Service Provider Board Lead (or, in each case, his/her respective delegate). For the purposes of the Quality Assurance Board, at least 2 representatives of the Quality Assurance Service Provider must also be present.
- 4.4. During Implementation, the Parties shall finalise the format and structure of the Board Reports and Management Information (which must contain, at a minimum, the information detailed at Annex 1 of Schedule 9 (Management Information, Reports and Records)), each of which may be amended from time to time in accordance with Schedule 9 to be delivered by the Service Provider for the purposes of each Board Meeting.
- 4.5 The Service Provider Board Lead shall complete and deliver the relevant Board Report and Management Information to the Authority Board Lead no less than 10 Working Days prior to the Board Meeting to which the Board Reports relates, or on such other date as the Authority Board Lead may agree in writing.
- 4.6 The agenda of the respective Board Meetings shall be in accordance with the standing items set out in Annex 1 to this Schedule 8, together with any such additional items the Board Members may wish to raise.
- 4.7 Board Meetings may be conducted through electronic means without any necessity that all participants are physically present at a particular location.
- 4.8 Meetings of each Governance Board shall be minuted by the Authority Board Lead (or an Individual acting on their behalf) and agreed with the Service Provider Board Lead (such agreement not to be unreasonably withheld or delayed) before circulation to the attendees of

the Board Meeting in question. In the case of the Quality Assurance Board, the minutes shall also be agreed with the Quality Assurance Service Provider Board Lead.

- 4.9 The Parties shall use all reasonable endeavours to ensure that the Governance Boards make decisions through timely and effective communication and agreement to decisions shall not be unreasonably withheld by its Board Members. Each Party shall ensure that its Board Members have appropriate authority, skill and experience to make decisions and ensure the objectives of the respective Governance Boards are discharged.
- 4.10 Board Members may, with the consent of the Authority Board Lead (such consent not to be unreasonably withheld or delayed), invite other persons to attend meetings of that Governance Board but only Board Members have the authority to make decisions during the respective Board Meetings.
- 4.11 If either Party wishes to replace any of its appointed Board Members, it shall notify the other's Board Lead in writing of the proposed change which, in respect of the Service Provider's Board Members shall be subject to Approval (such Approval not to be unreasonably withheld or delayed).

5. CHANGE CONTROL IMPACT

To the extent that a decision made by a Governance Board has the effect of creating a Change, that Contract Change shall be managed in accordance with the clause F4 (Change).

6. GOVERNANCE BOARD PERFORMANCE MEASUREMENT

- 6.1 The Parties acknowledge that the successful operation of the governance procedures in the Contract is a key determining factor in the success of the Contract. Therefore, the operation of the governance procedures shall be managed as follows:
 - 6.1.1 each Governance Board shall be measured against its objectives set out in the Annex to this Schedule 8;
 - 6.1.2 if, in the opinion of the Strategic Board, either the Contract Management Board and/or Quality Assurance Board is failing to meet its objectives then the Strategic Board will require that the respective board makes appropriate changes to its ways of working as shall be confirmed by the Authority Board Lead of the Strategic Board in writing. Such requirements may include one or more of the following:
 - (a) the commitment of more resources to the activities of the relevant board;
 - (b) the prompt replacement of Board Members making up the relevant board who,
 - (c) in the reasonable opinion of the Strategic Board, have been under-performing or are otherwise unsuitable (for example due to a failure to properly accept accountability or responsibility);
 - (d) increasing the frequency of the Board Meetings or reporting requirements of the relevant board; and/or
 - (e) modification to the type and style of reports and associated metrics.

ANNEX 1

GOVERNANCE BOARDS

Strategic Board	
Authority Board Lead & Chair of Board	Senior Business Owner
Other Authority Board Members	<p>Head of Governance and Relationship Management, Custodial Contracts Group</p> <p>Other members of the Custodial Contracts Group (as appropriate)</p> <p>Head of Commercial and Contract Management – Contract Management</p> <p>Senior Commercial Manager</p> <p>Other members of Commercial and Contract Management (as appropriate)</p> <p>Members of the Commissioning Bodies</p>
Service Provider Board Lead	Account Director
Other Service Provider Board Members	Senior members of the Account Management Team
Quality Assurance Service Provider Board Lead	Account Director for Quality Assurance Service Provider
Quality Assurance Service Provider Board Members	Appropriate Personnel of Quality Assurance Service Provider
Frequency	Quarterly
Purpose	Provides a forum for strategic discussions between the senior management of both Parties
Standing Agenda	<p>Review of Board Report and action points arising</p> <p>Validate the service delivery model is being followed and continuously improved</p> <p>Review the nature and progress of the relationship between the Parties and other stakeholders and alignment with the Authority's strategy and any long-term plans</p> <p>Review the provision of the Services at a macro level</p> <p>Review issues escalated by the Commercial and Contract Management Review Board and Operational Performance Board</p> <p>Review the performance of the Commercial and Contract Management Review Board and Operational Performance Board</p>
Inputs	Performance reports set out at Annex 1 of Schedule 9.

Strategic Board	
	<p>Summary data from other meetings</p> <p>Escalation of issues unresolved from other meetings</p>
Outputs	Key decisions made at a strategic level
Board Reports	<p>Strategic Board report to include:</p> <p>Executive Summary – Highlighting key insights, thoughts for consideration and recommended actions</p> <p>Performance overview – A macro level view of Service Provider's performance in relation to the Contract</p> <p>Key accomplishments – A list of key accomplishments that the Service Provider and the Authority have delivered jointly during the past 6 Months</p> <p>Benefits realisation – Review of benefits and innovations realised, discuss highlights from the Social Value Report and the Continuous Improvement and Innovation Report.</p> <p>Change – to review any planned Contract Changes.</p> <p>Governance performance - A list of any issues associated with the governance framework that requires senior management involvement.</p>

Contract Management Review Board	
Authority Board Lead & Chair of the Board	Senior Commercial Manager.
Other Authority Board Members	<p>Senior Responsible Officer.</p> <p>Head of Governance and Relationship Management, Custodial Contracts Group</p> <p>Other members of the Custodial Contracts Group (as appropriate)</p> <p>Other members of Commercial and Contract Management (as appropriate)</p> <p>Members of the Commissioning Bodies</p>
Service Provider Board Lead	Account Director
Other Service Provider Board Members	Senior members of the Account Management Team
Frequency	Monthly
Purpose	To review the performance of the Services from an operational perspective (operational review) and contractual commitments and obligations of Service Provider to the Authority are being delivered including those in respect of the Service and financials (commercial and contract management review)

Contract Management Review Board	
Standing Agenda	<p>Review of Board Report and action points arising</p> <p>Operational Review</p> <p>Review the provision of the Services to ensure that they are being supplied in accordance with the Contract</p> <p>Review the operational dashboards</p> <p>Review opportunities to improve the Services so to make more efficient and effective, resilient and reliable</p> <p>Review the performance of the Service Provider against the KPIs and Commissioning Bodies' feedback</p> <p>Review the Service Provider's performance also against criteria such as Good Industry Practice, proactive, guiding, leading</p> <p>Discuss and agree a procedure to deal with any external factors impacting the Services in any material respect</p> <p>Monitor any key risks and/or issues in relation to the Services</p> <p>Review and attempt to resolve any issue the Authority may have in relation to the Services</p> <p>Review and attempt to resolve any operational issues in relation to the Services escalated by the other Commissioning Bodies</p> <p>Review any issues that need escalation to the Strategic Board</p> <p>Commercial and Contract Management Review</p> <p>Review the Service Provider's performance based on previous Month against KPIs and Commissioning Bodies' feedback</p> <p>Review the reasons for the award of any Performance Credits</p> <p>Review and make decisions based on the outcome of contract management reviews (problems, root cause analysis, etc.)</p> <p>Review Commissioning Bodies' use of the Services to ensure maximum operational effectiveness and value for money</p> <p>Review management of any Sub-Contractor performance issues</p> <p>Review financial model information and any proposed changes to the model. Also review and discuss variances to the model</p> <p>Review demand levels to ensure service capacity at all times</p>

Contract Management Review Board	
	<p>Review Contract to ensure it meets any evolving business needs based on any service discussions and any administrative procedures keeping the Contract up to date are being managed</p> <p>Review of any planned Contract Change</p> <p>Review any issues that need escalation to the Strategic Board</p>
Inputs	All reports set out at Annex 1 of Schedule 9
Outputs	<p>Key decisions around operational performance, items that need to be escalated</p> <p>Remedial actions for improving Service Provider performance under the Contract</p>
Board Reports	<p>Contract Management Review Board Report to include:</p> <p>Performance reporting – A dashboard of the Service Provider's performances against KPIs, broken down by category of spend in accordance with Annex 1 of Schedule 9. Operational dashboard for review based on KPIs and Authority metrics across Commissioning Bodies.</p> <p>Any underlying themes which are affecting the performance of the Services.</p> <p>Risks and Issue management – A table outlining any issues that have been raised by Commissioning Bodies. Issues that cannot be resolved between the Account Managers and the Commissioning Bodies.</p> <p>Service credit management – A financial breakdown of the Performance Credits to be issued by the Service Provider to the Authority for non-compliance with KPIs in accordance with Annex 1 of Schedule 9.</p> <p>Spend breakdown – Analysis of the costs incurred as a result of the provision of the Services broken down by each Commissioning Body.</p> <p>Benefits realisation – An analysis of the Continuous Improvement and Innovation Report on any continuous improvement / value enhancing initiatives and proposals for Innovation, and analysis of the Social Value Report.</p>

Quality Assurance Board	
Authority Board Lead & Chair of Board	Senior Responsible Officer or Head of Governance and Relationship Management, Custodial Contracts Group (as decided by the Authority from time to time).
Other Authority Board Members	<p>Other members of the Custodial Contracts Group (as appropriate)</p> <p>Commercial and Contract Management</p> <p>Members of the Commissioning Bodies</p>

Quality Assurance Board	
Service Provider Board Lead	Account Director
Other Service Provider Board Members	Senior members of the Account Management Team.
Quality Assurance Service Provider Board Lead	Account Director for Quality Assurance Service Provider.
Quality Assurance Service Provider Board Members	Appropriate Personnel of Quality Assurance Service Provider.
Frequency	Monthly for the first 6 Months following the Service Commencement Date and quarterly thereafter.
Purpose	Provides a forum for discussions between the Authority, the Service Provider and the Quality Assurance Service Provider.
Standing Agenda	<p>Review of Board Report and action points arising.</p> <p>Review the development and attendance of the Trainee Scheme to ensure it meets any evolving business needs.</p> <p>Review and make decisions based on the outcome of any Mystery Shopping Assessments and Spot Check Assessments.</p> <p>Review Commissioning Bodies' use of the Quality Assurance Services to ensure maximum operational effectiveness.</p> <p>Review supply and demand for Bookings.</p> <p>Review management of any performance issues with particular languages.</p> <p>Review of any planned Contract Changes which would have an impact on the Service Provider, Quality Assurance Service Provider and/or Commissioning Bodies.</p> <p>Review any issues that need escalation.</p>
Inputs	<p>Data relating to Mystery Shopping Assessments and Spot Check Assessments.</p> <p>Information relating to the Trainee Scheme.</p> <p>Supply and demand from Bookings.</p> <p>Summary data from other meetings.</p> <p>Escalation of issues unresolved from other meetings.</p>
Outputs	Key decisions made at a strategic level.

Quality Assurance Board	
Board Reports	<p>Quality Assurance Board report to include:</p> <p>Executive Summary – Highlighting key insights, thoughts for consideration and recommended actions.</p> <p>Trainee Scheme overview – A macro level view of the Trainee Scheme in relation to the Contract.</p> <p>Assessment Overview – a macro level view of the Mystery Shopping Assessments and Spot Check Assessments for the period.</p> <p>Key accomplishments – A list of key accomplishments that the Service Provider and the Authority have delivered jointly during the past 6 Months.</p> <p>Benefits realisation – Benefits of the relationship between the Service Provider and the Quality Assurance Service Provider.</p> <p>Change – to review any planned Contract Changes.</p> <p>Governance performance - A list of any issues associated with the governance framework that requires senior management involvement.</p>



SCHEDULE 9 – MANAGEMENT INFORMATION, REPORTS AND RECORDS

1. INTRODUCTION

- 1.1 This Schedule 9 sets out the Authority's requirements for the detail and provision of Management Information, reports, records and other information from the Service Provider, including the timing and process of delivery. It is without limitation to the Service Provider's obligation to promptly provide to the Authority any other information and/or reports required under this Contract or otherwise requested from time to time.

2. MANAGEMENT INFORMATION

- 2.1 The Service Provider shall provide to the Authority the Management Information in accordance with the timescales agreed during Implementation, and otherwise promptly, and in any event within 2 Working Days of a request.
- 2.2 The Authority may make reasonable changes to the format and frequency in which the Management Information must be provided through the Implementation Period and thereafter by giving the Service Provider 1 Months' written notice. Such changes may be made at the Authority's discretion and without the need to go through the Change Control Procedure. The Service Provider shall affect such changes (including any necessary changes to the reporting fields set out in the Booking Service) at no cost to the Authority or any other Commissioning Body.
- 2.3 The Service Provider shall prepare and issue performance Management Information reports in accordance with the spreadsheet at Annex 1 of this Schedule 9.

3. REPORTS

- 3.1 The Service Provider shall prepare and issue reports in accordance with the frequency and distribution list as set out in Annex 2 to this Schedule 9. The Parties shall agree in writing the format of the reports and any detail specifically required (other than that already set out in the Contract), such agreement not to be unreasonably withheld or delayed.
- 3.2 In addition to Paragraph 3.1, the Service Provider shall promptly and, in any event within 2 Working Days of request (and in the case of Paragraph 3.2.1, immediately upon becoming aware) provide to the Authority reports which set out:
- 3.2.1 areas of concern relating to the provision of the Services and of matters that may become of ministerial interest and/or may have media interest (whether relating to the Authority and/or any other Commissioning Body). This includes, but is not limited to, Parliamentary questions, FOIA requests and any other requests for information from third parties; and
- 3.2.2 information to fulfil the Authority's obligations to supply information for Parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and the Auditor General
- and in preparing such reports, the Service Provider shall include such information as the Authority may reasonably request.
- 3.3 The Parties may agree to incorporate a number of reports into a single report.

F3.4 The Supplier shall maintain documented Supplier Management processes which will be made available and periodically reviewed by the Authority.

F3.5 In advance of Sub-contracting its rights or obligations under the Contract, the Supplier shall:

- (a) Notify the proposed Sub-contractor of the Supplier's professional standards, code of conduct and service agreements.
- (b) Sign a bilateral contract with the proposed Sub-contractor on terms no less onerous than those contained in the Contract.
- (c) Ensure the proposed Sub-contractor is aware and compliant with the requirements set out in the Contract relating to, among other things, vetting, security, data protection complaints and onboarding processes.
- (d) Review previous work undertaken by the proposed Sub-contractor and ensure that the work produced was of a standard suitable under the terms of the Contract.
- (e) Ensure the proposed Sub-contractor is able to provide a service which meets the requirements of the Authority, including ensuring that the Sub-contractor can provide Language Professionals to provide Services in required languages, at required times of day.
- (f) Perform a credit check on the proposed Sub-contractor to identify any financial issues currently or historically experienced by the Sub-contractor or any related organisations.
- (g) Where appropriate, review publicly available information on Companies House to identify any concerns regarding the proposed Sub-contractor's liquidity or financial stability.
- (h) Conduct research into the proposed Sub-contractor's appearances in the media or social media to identify any potential reputational damage which could occur to the Authority or the Supplier.

3.6 During the period of the sub-contractor, the supplier shall

- (a) Undertake a quarterly review of the Sub-contract to ensure that the Sub-contractor is compliant with the Supplier's obligations under this Contract.
- (b) Undertake a quarterly audit of the Sub-contractor's systems and processes to ensure they are compliant with the Contract.
- (c) Review complaints received for work completed by the Sub-contractor and ensure appropriate action is taken to rectify failures in service or trends of poor service which are identified during this review.
- (d) Undertake regular social media monitoring to identify any negative statements made regarding the Sub-contractor.
- (e) Monitor the percentage of invoices paid by the Sub-contractor to those in their immediate supply chain for each of the two previous six-month reporting periods. This should include the percentage of invoices paid within each of the following categories:

1. within 30 days
2. in 31 to 60 days
3. in 61 days or more
4. due but not paid by the last date for payment under agreed contractual terms.

3.7 In the event of a conflict between the terms contained in paragraph F3.4 or F3.5 and any other clause in this contract, that other clause shall prevail.

- 3.4 The Authority may, from time to time, reasonably request the Service Provider produces reports outside of the frequency shown in Annex 2 to this Schedule 9 and/or produce reports other than those referred to in this Contract and the Service Provider shall provide such reports, at its cost, to the Authority in the timeframe requested by the Authority. The Authority shall act reasonably when making requests under this Paragraph 3.4.

4. RECORDS

- 4.1 The Service Provider shall keep full, true and accurate records, accounts, books, data, documents, equipment and other information and property relevant to the performance of the Services (whether in electronic format or otherwise) as may be reasonably required to show the Service Provider's compliance with its obligations under the Contract, the Services provided and the charges paid by the Commissioning Bodies (including those set out in Annex 3 to this Schedule 9 and otherwise required to be kept under the Contract) in accordance with the applicable Retention Period.
- 4.2 The Service Provider shall keep the records and accounts it maintains under the Contract in accordance with Good Industry Practice, in chronological order and in a form that is capable of audit.
- 4.3 The Service Provider shall comply with the Authority's reasonable instructions in respect of the retention of records and accounts under the Contract including those set out in Annex 4 and any other retention of records policy which the Authority may make available to the Service Provider at its discretion from time to time without the need to refer the matter to the Change Control Procedure. The Service Provider agrees to effect such change at no additional cost to the Authority or any other Commissioning Body.
- 4.4 Wherever practical, the Service Provider shall retain original records. True copies of the original records may be kept by the Service Provider where it is not practicable to retain original records.
- 4.5 if it is uncertain as to when records and other information should be deleted or disposed of in accordance with the Retention Period the Service Provider shall not delete or dispose of such information or records until it has consulted with the Commissioning Body to whom the information or records belong.
- 4.6 The Authority may amend the Retention Periods from time to time upon written notice to the Service Provider and without the need to refer the matter to the Change Control Procedure And the Service Provider shall effect such change at no additional cost to the Authority or any other Commissioning Body.

5. ACCESS

- 5.1 Upon request, the Service Provider shall promptly, and in any event within 2 Working Days of request:

5.1.1 make available to the Authority the Management Information, reports and records required under the Contract and all of the underlying data and documents that support any of them; and

5.1.2 answer any questions that the Authority may have in respect of the Management Information, reports and records made available under and/or generated in respect of the Contract.

ANNEX 1

MANAGEMENT INFORMATION

The Service Provider shall provide, at a minimum, the Management Information detailed in the Management Information spreadsheet which may be amended from time to time in accordance with paragraph 2.2.



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ANNEX 2

REPORTS

Report Name	Responsible Service Provider Personnel	Frequency and Date of Report	The Authority Distribution List
Strategic Board Report	Service Provider Board Lead	Quarterly - 10 Working Days before the relevant meeting	Authority Board Lead, Operational Contract Manager and Commercial Contract Manager
Contract Management Review (Operational and Commercial) Board Report including Monthly Management Information Report (Annex 1)	Service Provider Board Lead	Monthly - 10 Working Days before the relevant meeting	Authority Board Lead, Operational Contract Manager and Commercial Contract Manager
Continuous Improvement and Innovation Reports for each Governance Board	Service Provider Board Lead	Monthly - 10 Working Days before the relevant meeting	Authority Board Lead, Operational Contract Manager and Commercial Contract Manager
Social Value Report	Service Provider Board Lead	Not later than ten Working Days following the end of each quarter	Authority Board Lead, Operational Contract Manager and Commercial Contract Manager
KPI Calc T&T	Service Provider Board Lead	Monthly – Working Day 10	Upload to Sharfile
Payment Mechanism Checked Master Summary	Service Provider Invoice Team	Monthly – to accompany Invoices	CCMD Mailbox

ANNEX 3

RECORDS

Record	Description
Agreement	<p>The Contract and all amendments to it.</p> <p>All other documents which the Contract expressly requires to be prepared.</p> <p>Notices, reports and other documentation submitted in accordance with the Contract.</p>
Service Provider's Personnel	<p>Save in respect of Language Professionals, a list of all job titles, job descriptions and responsibilities assigned to the Personnel (including personnel of any Sub-Contractor), including whether such personnel are engaged on a full-time or part-time basis.</p> <p>Information that will enable the Authority, or such Other Service Provider on its behalf, to accurately maintain the Register.</p>
Service Provider's Key Personnel	Records relating to the appointment and succession of the Key Personnel.
Sub-Contracts	A list of all Sub-Contracts it has entered into in respect of the Contract, including details as to the rights to terminate, assign (including whether the Sub-Contract may be freely assigned to the Authority) and novate the Sub-Contract, potentially price-affecting terms and any other information reasonably required to understand the nature, scope and purpose of such Sub-Contracts and any potential risks to business continuity.
Assets and Intellectual Property	<p>A register which shall detail all Service Provider Assets (including Intellectual Property Rights) used or created by the Service Provider and/or its Personnel during the provision of the Services and:</p> <p>where the item or rights referred to belong or are subject to the rights of a third party then:</p> <p>the identity of such third party;</p> <p>details of the third party's rights;</p> <p>details of the terms upon which the item or right has been made available to the Service Provider (a copy of which may be disclosed to the Authority upon request); and</p> <p>any other information with the Authority should be made aware of in respect of such rights.</p> <p>and where the Service Provider Asset is or comprises software, whether:</p>

	<p>it is commercially available (from the Service Provider or a third party);</p> <p>not commercially available, but developed by the Service Provider or a third party specifically for use in the Services; or</p> <p>not commercially available and not developed by the Service Provider or a third party specifically for use in the Services.</p> <p>An inventory of all Commissioning Body Materials and Deliverables that are in the Service Provider's possession and/or under its control (or that of its Personnel).</p>
Premises	<p>A list of Service Provider's Premises used in the delivery of the Services and the premises of its Sub-Contractors who perform Services on behalf of the Service Provider, including:</p> <p>the address of the premises;</p> <p>a brief description of the location;</p> <p>the nature of the premises used in connection with the Services;</p> <p>the Services carried out at the location; and</p> <p>the hours of operation.</p>
Processes	<p>Details of all processes and procedures (manually and electronically managed) used in connection with the performance and delivery of the Services</p> <p>Details of the data structures in which the Commissioning Body Data is stored and processed.</p>
Performance	All performance statistics and details of any performance issues and complaints relating to the Services.
Operational Service Manuals	All operational manuals prepared by the Service Provider for the purpose of the provision of the Services.
Training	Details of all training materials used in connection with the performance and delivery of the Services.
Certification	All certificates, licences, registrations and warranties in each case obtained by the Service Provider in relation to the provision of the Services.
Change Control Procedure Documentation	<p>Documents submitted by the Service Provider pursuant to the Change Control Procedure.</p> <p>Evidence of all Contract Changes approved in accordance with the Change Control Procedure.</p>
Dispute Resolution	Documents submitted by the Service Provider following invocation of the Dispute Resolution Procedure by either Party.

Disposal Records	Documents that record the secure disposal of Commissioning Body Assets, Commissioning Body Materials and Deliverables, whether such disposal is effected by the Service Provider or its Personnel.
Change of Control	Documents evidencing any change in ownership or control of the Service Provider.
Financial Records	<p>The Open Book Data.</p> <p>Documents prepared by the Service Provider in support of claims for Service Payment including all invoices raised.</p> <p>Service Provider and its Sub-Contractors invoices and records related to applicable taxes.</p>
Legal	<p>Records required to be retained by the Service Provider by Law, including in relation to health and safety matters and health and safety files and all consents.</p> <p>A list of any on-going and/or threatened disputes in relation to the Services (whether in respect of the Service Provider or Service Provider Personnel)</p>
Security	All records concerning security incidents.
Risk	A register setting out all risk arising in connection of the Services.
Force Majeure	Documents prepared by the Service Provider or received by the Service Provider from a third party relating to a Force Majeure Event.

ANNEX 4

RETENTION

Description	Length of time to be retained	Specific Data Held	Why Held
All data relating to completed and uncompleted Bookings made through the Booking Service. To include any amendments or cancellations made to the original Booking and details of Language Professionals used including the use of part qualified Language Professionals.	2 years after the termination or expiry of Contract (whichever is earlier).	<p>All data relating to completed and uncompleted Bookings made through the Service Provider's Portal including but not limited to data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives. This shall include but not be limited to the following data fields:</p> <p>Commissioning Body name & address Booking number Booking Type Name of person who created booking Appointment type Language Original start date/ time Original end date/ time Actual start date/ time Actual end date/ time Contact Name Contact Number Information to Translator/Transcriber (may contain names) Commissioning Body email CC emails Ops Notes – will contain any detail regarding bookings in free text – could contain translator/transcriber or Commissioning Body names and contact details Venue name, address and contact details Appointment and case reference</p>	As requested in the Contract and for internal/ external audit purposes.

		Translator/transcriber P code and name [if applicable] Timesheet copies containing Commissioning Body and translator information [if applicable]	
All Bookings made for part qualified Language Professionals who are working towards the appropriate qualification.	2 years after the termination or expiry of the Contract (whichever is earlier).	As above	As requested in the Contract and for internal/ external audit purposes
All data relating to completed and uncompleted Bookings made through the telephone booking service helpdesk or Customer Service Solution. To include any amendments or cancellations made to the original Bookings and details of Language Professionals used.	2 years after the termination or expiry of Contract (whichever is earlier).	<p>All data relating to completed and uncompleted Bookings made through the telephone booking helpdesk or Customer Service Solution including but not limited to data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives. This shall include but not be limited to the following data fields:</p> <p>Service Provider's Call Log Commissioning Body name & address Booking number Booking Type Name of person who created booking Appointment type Language Original start date/ time Original end date/ time Actual start date/ time Actual end date/ time Contact Name Contact Number Information to translator/transcriber (may contain names) Commissioning Body email CC emails Ops Notes – will contain any detail regarding bookings in free text – could contain</p>	As requested in the Contract and for internal/ external audit purposes

		<p>translator/transcriber or Commissioning Body names and contact details</p> <p>Venue name, address and contact details</p> <p>Appointment and case reference</p> <p>Translator/transcriber P code and name</p> <p>Timesheet copies containing Commissioning Body and translator/transcriber info [if applicable]</p>	
All data relating to completed calls to Service Provider by the Authority.	2 years after the termination or expiry of Contract (whichever is earlier).	All data relating to completed calls to Service Provider by the Authority whether through the Service Provider's helpdesk or Customer Service Solution or any other calls including but not limited to data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives.	
Any video and telephone recordings as requested by the Authority or other Commissioning Bodies.	6 months after the return of the product to the Commissioning Body.	Calls recorded as requested – content of call is recorded and may contain reference to names, addresses and personal details.	As requested in the Contract and for internal/ external audit purposes
All complaints made in relation to the quality or standard of Translations and/or Transcriptions relating to Bookings, and any poor performance issues regarding a Language Professional. To include the escalation within its own organisation, engagement with the Quality Assurance Service Provider, responses provided, resolution, action taken and timescales taken for	6 months after the termination or expiry of Contract (whichever is earlier).	<p>All data relating to complaints including but not limited to data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives. This shall include but not be limited to the following data fields:</p> <p>All data held within the Service Provider's complaints management system or equivalent.</p> <p>All complaints logged on the Booking Service or Service Provider's complaints management system.</p>	<p>To keep an accurate record of the complaint handling process for root cause analysis and dispute resolution.</p> <p>Language Professional performance management.</p>

responding and resolving complaints.		<p>All complaints received via telephone and/or the helpdesk or Customer Service Solution.</p> <p>Emails to and from the complainant.</p> <p>Emails to and from the Language Professional.</p> <p>Quality review records from the Quality Assurance Service Provider including forms and Telephone recordings.</p> <p>Documented telephone and internal conversations to resolve the complaint, including outputs.</p> <p>Results of any internal investigations.</p>	
Written confirmation forms from all Language Professionals that they consent to their details and associated data is to be shared with the Commissioning Bodies and Quality Assurance Service Provider.	1 year after termination or expiry of Contract (whichever is earlier).	Any agreements signed by Language Professionals (this will be in the form of a report in some cases (existing Language Professionals)), as they will have signed it electronically in other cases it will be evidence through the Booking Service or alternative solution that they have agreed to it electronically (newly on boarded)	Will be held to allow the Service Provider to demonstrate their compliance to contract through audit
Confirmation of the Onboarding Process together with verification forms as evidence that checks have been completed to the required standard by all Language Professionals. To include explanations if requirements were not met.	1 year after termination or expiry of Contract (whichever is earlier).	<p>All data relating to the Onboarding Process including data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives including:</p> <p>BPSS check list, Curriculum Vitae, Qualifications, Security clearances where appropriate or Security Ref number, Identification documents, Right to work in the UK documents, National Insurance Numbers, Employer/Academic references, Contego I.D. verification output from software,</p>	Will be held to allow the Service Provider to demonstrate their compliance to contract through audit

		Language Professional photographs, tax returns, proof of address, Deed poll , marriage certificates, Bank details – sort code and account numbers, work history form. Copies of professional membership and any other documents that contain personal data provided as part of the Onboarding Process.	
Financial records and reports, including but not limited to Language Professionals' timesheets and all records of payments/credits and how these calculations were arrived at.	7 years from the date of the transaction	Language Professional payment records with Bank are kept on site, Payments from Commissioning Body including remittance advices and bank statements. Language Professional timesheets kept on system. These are all kept for 7 years as per the Service Provider's policy.	The Service Provider holds this information for proof of payments both sides, and for Audits from external and internal.
Records of disposal of records (DELETED RECORD)	2 years after the termination or expiry of Contract (whichever is earlier).	The Service Provider will issue a data portability / destruction certificate to the Commissioning Body when all data is transferred back to the Commissioning Body and/or destroyed in agreed timescales.	
Management Information outputs and reports	3 months after the termination or expiry of the Contract (whichever is earlier).	All data held in reports, records and management information as set out Schedule 9 of the Contract including but not limited data held on any of the Service Provider's servers or systems and/or manual download and/or derivatives.	As requested in the Contract and for internal/ external audit purposes
Archived data	In line with retention schedule as if data had not been archived.		
Central storage facility of all translations and transcriptions produced.	6 months after the termination or expiry of Contract (whichever is earlier).	All data relating to the Translations and Transcriptions produced including but not limited data held on any of the Service Provider's servers or systems and/or manual download and/or	As requested in the Contract and for internal/ external audit purposes.

	<p>N.B. A Language Professional must not retain any original documents received in hard copy from the Commissioning Body, all of which must be returned after the product has been translated or transcribed.</p> <p>N.B. A Language Professional must not retain any Commissioning Body Materials after an Assignment has been completed, all of which must be completed after the job has been completed.</p>	<p>derivatives. This shall include but not be limited to the following data:</p> <p>Transcription:</p> <ul style="list-style-type: none"> - MP3 or any other audio format recording of prisoner phone call (contains prisoner reference but no names and content of call) or any other format of source file. - Transcribed content of prisoner calls in target language (usually English) – may contain 3rd party names and details. - Commissioning Body contact name, email and telephone numbers. <p>Translation:</p> <ul style="list-style-type: none"> - Source documents (including but not limited to letters, leaflets, supporting case documents) – may contain names, addresses, email or postal addresses - Target documents (translations of the above containing the same data) - Commissioning Body contact name, email and telephone numbers. 	
Standard blank templates and forms are to be retained and re-used as and when necessary.	1 month after the termination or expiry of Contract (whichever is earlier).	Standard forms used by Commissioning Bodies – shall not contain any personal data in the template form.	To re-use whenever required by the relevant Commissioning Body in order to reduce overall translation cost.

SCHEDULE 10 - CHANGE CONTROL

1. GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE

- 1.1 This Schedule sets out the procedure for dealing with changes to the Contract.
- 1.2 The Parties shall deal with Contract Change as follows:
 - 1.2.1 either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 3;
 - 1.2.2 unless the Contract otherwise requires, the Service Provider shall assess and document the potential impact of a proposed Contract Change in accordance with Paragraph 4 before the Contract Change can be either approved or implemented;
 - 1.2.3 the Authority may request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 5;
 - 1.2.4 the Service Provider may reject a Change Request solely in the manner and circumstances set out in Paragraph 6;
 - 1.2.5 save as otherwise provided in the Contract, no proposed Contract Change shall be implemented by the Service Provider until a Contract Change Notice has been signed and issued by the Authority in accordance with Paragraph 5.2; and
 - 1.2.6 if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 7.
- 1.3 To the extent that any Contract Change requires testing and/or a programme for implementation, then the Parties shall specify the testing and/or programme for implementation required as part of the Contract Change Notice, and, where appropriate, the Contract Change Notice relating to such a Contract Change shall specify the milestones and milestone Date(s) in respect of such Contract Change for the purposes of such procedures.
- 1.4 Until a Contract Change Notice has been signed and issued by the Authority in accordance with Paragraph 5.2, then:
 - 1.4.1 unless the Authority expressly agrees (or requires) otherwise in writing, the Service Provider shall continue to supply the Services in accordance with the existing terms of the Contract as if the proposed Contract Change did not apply; and
 - 1.4.2 any discussions, negotiations or other communications which may take place between the Parties in connection with any proposed Contract Change, shall be without prejudice to each Party's other rights under the Contract.

2. COSTS

- 2.1 Subject to Paragraph 2.2:
 - 2.1.1 the costs of preparing each Change Request shall be borne by the Party making the Change Request; and
 - 2.1.2 the costs incurred by the Service Provider in undertaking an Impact Assessment shall be borne by the Service Provider.
- 2.2 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Service Provider shall be paid for by the Service Provider.

3. CHANGE REQUEST

- 3.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 of this Schedule 10 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.
- 3.2 The Service Provider shall prepare and provide to the Authority an Impact Assessment to the Authority as soon as is reasonably practicable but in any event within 10 Working Days of the date of issue of the Change Request.

4. IMPACT ASSESSMENT

- 4.1 Each Impact Assessment shall be completed accurately and comprehensively and shall include:
- 4.1.1 details of the proposed Contract Change including the reason for the Contract Change;
 - 4.1.2 details of the impact of the proposed Contract Change on the Services and the Service Provider's ability to meet its other obligations under the Contract;
 - 4.1.3 any variation to the terms of the Contract that will be required as a result of that impact;
 - 4.1.4 details of the cost of implementing the proposed Contract Change;
 - 4.1.5 details of the ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Service Payment, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
 - 4.1.6 a timetable for the implementation, together with any proposals for the testing of the Contract Change;
 - 4.1.7 details of how the proposed Contract Change will ensure compliance with any applicable Law; and
 - 4.1.8 such other information as the Authority may reasonably request in (or in response to) the Change Request.
- 4.2 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of the Impact Assessment is also subject to Clause D.
- 4.3 Subject to the provisions of Paragraph 4.4, the Authority shall review the Impact Assessment and respond to the Service Provider in accordance with Paragraph 5 within 15 Working Days of receiving the Impact Assessment.
- 4.4 If upon receipt of the Impact Assessment, the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, it shall notify the Service Provider of this fact and detail the further information that it requires. The Service Provider shall then re-issue the relevant Impact Assessment to the Authority within 10 Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 12 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.
- 4.5 Subject to Paragraph 5 and Clause I10, the Service Provider may only increase the Service Payment if it can demonstrate in the Impact Assessment to the Authority's satisfaction that the proposed Contract Change requires additional resource and, in such event any change to the Service Payment resulting from a Contract Change (whether the change will cause an increase

or decrease in the Service Payment) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services. The calculation of costs for the purpose of Paragraphs 4.1.4 and 4.1.5 shall:

- 13.1 be based on the Open Book Data;
- 13.2 include estimated volumes of each type of resource to be employed;
- 13.3 include full disclosure of any assumptions underlying such Impact Assessment; and
- 13.4 include details of any new Sub-contracts necessary to accomplish the Change.

5. AUTHORITY'S RIGHT OF APPROVAL

- 5.1 Within 15 Working Days of receiving the Impact Assessment from the Service Provider or within ten 10 Working Days of receiving the further information that it may request pursuant to Paragraph 4.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:
 - 5.1.1 approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in Paragraph 5.2;
 - 5.1.2 in its absolute discretion reject the Contract Change, in which case it shall notify the Service Provider of the rejection. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Service Provider as soon as is reasonably practicable following such rejection; or
 - 5.1.3 if it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Service Provider to modify the relevant document accordingly, in which event the Service Provider shall make such modifications within 5 Working Days of such request. Subject to Paragraph 4.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within 10 Working Days.
- 5.2 If the Authority approves the proposed Contract Change pursuant to Paragraph 5.1 and it has not been rejected by the Service Provider in accordance with Paragraph 6, then the Authority shall inform the Service Provider and, at the direction of the Authority, the Authority shall either arrange for electronic preparation and signature of the Contract Change Notice, or the Service Provider shall prepare 2 copies of a Contract Change Notice which it shall sign and deliver to the Authority for its signature. In the event of the latter, following receipt by the Authority of the Contract Change Notice, it shall sign both copies and return one copy to the Service Provider. On the Authority's signature the Contract Change Notice shall constitute (or, where the Authority has agreed to or required the implementation of a Change prior to signature of a Contract Change Notice, shall constitute confirmation of) a binding variation to the Contract.
- 5.3 If the Authority does not sign the Contract Change Notice within 10 Working Days, then the Service Provider may notify the Authority and if the Authority does not sign the Contract Change Notice within 5 Working Days of such notification, then the Service Provider may refer the matter to the Dispute Resolution Procedure.

6. SUPPLIER'S RIGHT OF APPROVAL

- 6.1 Following an Impact Assessment, if:
 - 6.1.1 the Service Provider reasonably believes that any proposed Contract Change which is requested by the Authority would:
 - i. materially and adversely affect the risks to the health and safety of any person; and/or

- ii. require the Services to be performed in a way that infringes any Law; and/or
- 6.1.2 the Service Provider demonstrates to the Authority's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and neither the Service Provider Solution nor the Services Description state that the Service Provider does have the technical capacity and flexibility required to implement the proposed Contract Change;

then the Service Provider may reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within 5 Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 3.2.

7. FAST-TRACK CHANGES

- 7.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

- 7.2 If:

- 7.2.1 the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 Month period; and
- 7.2.2 both Parties agree the value of the proposed Contract Change over the remaining Term does not exceed [REDACTED] and the proposed Contract Change is not significant (as determined by the Authority acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 3, 4, 5 and 6 but with reduced timescales, such that any period of 15 Working Days is reduced to 5 Working Days, any period of 10 Working Days is reduced to 2 Working Days and any period of 5 Working Days is reduced to one Working Day.

- 7.3 The Parties may agree in writing to revise the parameters set out in Paragraph 7.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed 4 in a 12 Month period.

Annex 1

Contract Change Notice

(For completion by the Party requesting the Change)

Contract Title:	Party requesting Change:
Name of Service Provider:	
Change Request Number:	Proposed Change implementation date:
Full description of requested Change (including proposed changes to wording of the Contract where possible):	
Reasons for requested Change:	
Effect of requested Change	
Assumptions, dependencies, risks and mitigation (if any):	
Contract Change Notice prepared by (name):	
Signature:	
Date of Change Request:	

Annex 2

Contract Change Notice (“CCN”)

(For completion by the Authority once the Change has been agreed in principle by both Parties. Changes do not become effective until this form has been signed by both Parties.)

Contract Title:	Change requested by:
Name of Service Provider:	
Change Number:	
Date on which Change takes effect:	
Contract between: The [Secretary of State for Justice]/[The Lord Chancellor] [delete as applicable] and [insert name of Service Provider]	
It is agreed that the Contract is amended, in accordance with Regulation 72 of the Public Contracts Regulations 2015, as follows: [Insert details of the variation (including any change to the Price and deliverables/obligations) based on the information provided in the Contract Change Notice and any subsequent discussions/negotiations, cross referencing the wording of the original Contract, as previously changed (if applicable), where possible] Where significant changes have been made to the Contract, information previously published on Contracts Finder will be updated.	
Words and expressions in this CCN shall have the meanings given to them in the Contract. The Contract, including any previous CCNs, shall remain effective and unaltered except as amended by this CCN	
Signed for and on behalf of [the Secretary of State for Justice]/[the Lord Chancellor]	Signed for and on behalf of [insert name of Service Provider]
Signature	Signature
Name	Name
Title	Title
Date	Date

SCHEDULE 11 - INSURANCES

10. INTERPRETATION

- 10.1 In this Schedule 11 each obligation on the Service Provider to do or not to do an act shall include the obligation on the Service Provider to procure that each Language Professional and Sub-contractor shall do or not do such act (as appropriate) except that the Language Professionals will not have to comply with this Schedule 11 where the Insurances effected by the Service Provider extend cover to said Language Professionals.

11. OBLIGATION TO MAINTAIN INSURANCES

- 11.1 Without prejudice to its obligations to the Authority under the Contract, including its indemnity obligations for the periods specified in this Schedule 11 the Service Provider shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 to this Schedule 11 and any other insurances as may be required by Law (together the **Insurances**). The Service Provider shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.
- 11.2 The Insurances shall be maintained in accordance with Good Industry Practice and (as 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.
- 11.3 The Insurances shall be taken out and maintained with insurers who are:
- 11.3.1 of good financial standing;
 - 11.3.2 appropriately regulated; and
 - 11.3.3 of good repute in the international insurance market.
- 11.4 The Service Provider shall provide to the Authority on or before the Commencement Date and thereafter within 10 Working Days of written request from the Authority evidence of the Insurances in a form satisfactory to the Authority.
- 11.5 The Service Provider shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Commissioning Bodies shall be indemnified in respect of claims made against the relevant Commissioning Body in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Service Provider or any of the Service Provider's Affiliate is legally liable.

12. GENERAL OBLIGATIONS

- 12.1 Without limiting the other provisions of the Contract, the Service Provider shall:
- 12.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Services 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;
 - 12.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Service Provider is or becomes aware; and
 - 12.1.3 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.

13. FAILURE TO INSURE

- 13.1 The Service Provider and its Affiliates 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.
- 13.2 Where the Service Provider has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect, following written notice to the Service Provider, to purchase the relevant Insurances, and the Authority may recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Service Provider.

14. EVIDENCE OF INSURANCES

- 14.1 The Service Provider shall on or before the Commencement Date and within 15 Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Service Provider of any of its liabilities and obligations under the Contract.

15. AGGREGATE LIMIT OF INDEMNITY

- 15.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":
- 15.1.1 if a claim or claims which do not relate to the Contract are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party, is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Service Provider shall immediately submit to the Authority:
- (a) details of the policy concerned; and
 - (b) its proposed solution for maintaining the minimum limit of indemnity specified; and
- 15.1.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to the Contract are paid by insurers, the Service Provider shall:
- (a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to the Contract; or
 - (b) if the Service Provider is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Authority full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

16. CANCELLATION

- 16.1 Subject to Paragraph 7.2, the Service Provider shall notify the Authority in writing at least 5 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 16.2 Without prejudice to the Service Provider's obligations under Paragraph 4, Paragraph 7.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

17. INSURANCE CLAIMS

- 17.1 The Service Provider shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or the Contract for which it may be entitled to claim under any of the Insurances. If the Authority receives a claim relating to or arising out of the Services and/or the Contract, the Service Provider shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- 17.2 Except where the Authority is the claimant party, the Service Provider shall give the Authority notice within 20 Working Days after any insurance claim in excess of £10,000 (ten thousand pounds) relating to or arising out of the provision of the Services or the 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 Authority) full details of the incident giving rise to the claim.
- 17.3 Where any Insurance requires payment of a premium, the Service Provider shall be liable for and shall promptly pay such premium.
- 17.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Service Provider shall be liable for such excess or deductible. The Service Provider shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX 1

REQUIRED INSURANCES

18. INSURED AND LIMIT OF INDEMNITY

- 18.1 The Service Provider to maintain cover with a limit of indemnity no less than £10,000,000 (ten million pounds) in respect of any one occurrence with the number of occurrences being unlimited in any annual policy period and in respect of products and pollution liability, not less than £10,000,000 (ten million pounds) in any one occurrence and in the aggregate per annum.
- 18.2 Except where the Service Provider has effected Third Party Public and Products Liability Insurance which extends to Language Professionals, the Service Provider to ensure that each and every Language Professional maintains cover with a limit of indemnity no less than £1,000,000 (one million pounds) in respect of any one occurrence with the number of occurrences being unlimited in any annual policy period and in the annual aggregate in respect of products and pollution liability.

19. INTEREST

- 19.1 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:
- 19.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and
- 19.1.2 loss of or damage to property;
- happening during the period of insurance (as specified in Paragraph 4) and arising out of or in connection with the provision of the Services and in connection with the Contract.

20. TERRITORIAL LIMITS

- 20.1 Worldwide including USA and Canada

21. PERIOD OF INSURANCE

- 21.1 From the date of the Contract for the Term and renewable on an annual basis unless agreed otherwise by the Authority in writing.

22. COVER FEATURES AND EXTENSIONS

- 22.1 Indemnity to principals clause.

23. PRINCIPAL EXCLUSIONS

- 23.1 War and related perils.
- 23.2 Nuclear and radioactive risks.
- 23.3 Liability for death, illness, disease or bodily injury sustained by employees of the insured during the course of their employment.
- 23.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable law in respect of such vehicles.
- 23.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured.

23.6 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.

23.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.

23.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

24. MAXIMUM DEDUCTIBLE THRESHOLD

24.1 Not to exceed £5,000 (five thousand pounds) for each and every third-party property damage claim (personal injury claims to be paid in full).

PART B: PROFESSIONAL INDEMNITY INSURANCE

25. INSURED AND LIMIT OF INDEMNITY

25.1 The Service Provider to maintain cover with a limit of no less than £5,000,000 (five million pounds) in respect of any one claim and in the aggregate per annum.

25.2 Except where the Service Provider has effected Professional Indemnity Insurance which extends to Language Professionals, the Service Provider shall procure that each and every Language Professional maintains cover with a limit of indemnity no less than £1,000,000 (one million pounds) in respect of any one claim and in the aggregate per annum.

26. INTEREST

26.1 To indemnify the insured for all sums which the Insured shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specified in Paragraph 11) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

27. TERRITORIAL LIMITS

27.1 Worldwide including USA and Canada

28. PERIOD OF INSURANCE

28.1 From the Commencement Date and renewable on an annual basis unless agreed otherwise by the Authority in writing: (a) throughout the Term; and (b) for 6 years thereafter.

29. COVER FEATURES AND EXTENSIONS

29.1 Retroactive cover to apply to any claims made policy wording in respect of the Contract or retroactive date to be no later than the Commencement Date.

29.2 Loss of documents.

29.3 Defamation.

30. PRINCIPAL EXCLUSIONS

30.1 War and related perils.

30.2 Nuclear and radioactive risks.

31. MAXIMUM DEDUCTIBLE THRESHOLD

31.1 Not to exceed £10,000 (ten thousand pounds) for each and every claim.

PART C: UNITED KINGDOM COMPULSORY INSURANCES

32. UNITED KINGDOM COMPULSORY INSURANCES

The Service Provider shall meet its insurance obligations under applicable law in full, including, UK employers' liability insurance and motor third party liability.

SCHEDULE 12 – NOT USED

SCHEDULE 13 – EXIT

33. INTRODUCTION

- 33.1 This Schedule, together with any approved Exit Plan, sets out the Parties' respective obligations and responsibilities with regard to the transfer of the Services from the Service Provider to the Commissioning Bodies and/or Replacement Service Provider(s).
- 33.2 The Parties agree the primary objective of this Schedule, together with any approved Exit Plan, is to ensure the smooth and efficient transfer of the Services (whether in whole or in a number of parts) to the Commissioning Bodies and/or Replacement Service Provider(s).
- 33.3 The Service Provider acknowledges and agrees that, upon termination or expiry, the Services may transfer to any or all of the Commissioning Bodies and/or Replacement Service Provider(s).

34. EXIT RESOURCING

- 34.1 In readiness of the commencement of the Exit Period:
- 34.1.1 each Party shall appoint a suitably skilled and experienced member of personnel (an **Exit Manager**) who shall be responsible for co-ordinating and managing all aspects of each Party's obligations under the approved Exit Plan. In respect of the Service Provider's Exit Manager, such individual shall be a member of Key Personnel; and
- 34.1.2 the Service Provider shall procure that its Exit Manager shall be assisted by an appropriately skilled member of Service Provider Personnel (the **Exit Team**) who shall assist in all aspects of the Service Provider's responsibilities and obligations with regard to the approved Exit Plan, each of whom shall be considered a member of Key Personnel.

35. CHARGES FOR EXIT SERVICES

- 35.1 The Parties agree that no charges, fees and/or other costs shall be payable to the Service Provider by the Authority for the provision of the Exit Services (including where such additional Exit Services are required during the Exit Period), nor shall the Service Provider seek to recover any of the same from the other Commissioning Bodies and/or Replacement Service Providers.

36. EXIT GOVERNANCE

- 36.1 During the Exit Period, the Service Provider shall ensure that its necessary Service Provider Personnel attend the governance meetings described in this Paragraph 4.
- 36.2 The Authority may change the attendees and the frequency of any of the governance meetings set out in this Paragraph 4 at any point during the Exit Period by notifying the Service Provider in writing.
- 36.3 The exit project board:
- 36.3.1 shall be attended by:
- (a) each Party's respective Exit Manager;
- (b) each Party's senior account director responsible for exit; and

- (c) any other representatives or other third party's the Authority may wish to invite, including senior representatives of the other Commissioning Bodies and Replacement Service Provider(s).
- 36.3.2 shall meet within 1 week of the commencement of the Exit Period and monthly thereafter during the Exit Period at dates and times to be agreed between the Parties;
- 36.3.3 shall:
 - (a) monitor and oversee the Exit Services;
 - (b) review risks and issues and associated remediation and mitigation plans escalated to it from the exit working group;
 - (c) consider requests by the Service Provider to amend the Exit Plan(s) (whether in draft or in final form) and refer such requests to the Authority for Approval; and
 - (d) have reported to it by the Service Provider achievement of the Exit Milestones.
- 36.4 The exit working group:
 - 36.4.1 shall be attended by:
 - (a) each Party's Exit Manager and appropriate members of the Exit Team;
 - (b) a representative(s) from each Commissioning Body; and
 - (c) a representative(s) of any Replacement Service Provider(s).
 - 36.4.2 shall meet within 1 week of the commencement of the Exit Period and weekly thereafter during the Exit Period at dates and times to be agreed by the Authority;
 - 36.4.3 shall review:
 - (a) progress against the Exit Plan and Exit Milestones;
 - (b) consider risks and issues notified to it by either Party; and
 - (c) consider remediation and mitigation plans to address such risks and issues and, as appropriate, escalate such matters to the transition management board.

37. DRAFT EXIT PLAN

- 37.1 The Service Provider shall, within the first 6 Months of the Commencement Date, prepare a detailed draft Exit Plan in respect of the transfer of the Services to the Commissioning Bodies and/or Replacement Service Provider(s) for Approval (such Approval not to be unreasonably withheld or delayed).
- 37.2 The draft Exit Plan shall include as a minimum:
 - 37.2.1 an outline timetable to ensure the orderly transfer of the Services, including anticipated Exit Milestones;
 - 37.2.2 a description of the anticipated Exit Services the Service Provider shall provide to ensure the orderly transfer of the Services to the Commissioning Bodies and/or Replacement Service Provider(s), including details of the processes,

documentation, data transfer, systems migration and security related issues in respect of and arising as a result of the transfer;

- 37.2.3 in addition to that which is set out in Paragraph 5, a list of the types of information the Service Provider shall provide during the Exit Period with an indicative timetable of when such information will be provided; and
 - 37.2.4 details of which of the Service Provider's Personnel will or may transfer to any of the Commissioning Bodies and/or any Replacement Service Provider(s), including an indicative timetable for the provision of information relating to Service Provider's Personnel engaged in providing the Services.
- 37.3 As soon as reasonably practicable after the Service Provider submits the draft Exit Plan to the Authority and in any event (unless otherwise agreed by the Parties) within 15 Working Days, the Parties shall meet in order to review the draft Exit Plan with a view to the Authority approving its contents (such Approval not to be unreasonably withheld or delayed).
- 37.4 If the Authority does not approve the draft Exit Plan, the Service Provider shall amend the draft Exit Plan to take account of any reasonable suggestions made by the Authority and, subject to Paragraph 5.5, this Paragraph 5.4 together with Paragraph 5.3 shall be repeated until the Parties agree to the draft Exit Plan.
- 37.5 The process set out in Paragraph 5.3 and 5.4 shall not be repeated any more than 3 times. If the draft Exit Plan is not Approved in such time-scale or the draft Exit Plan has not been Approved within 8 Months of the Commencement Date, the matter shall be referred to the Dispute Resolution Procedure.
- 37.6 Following Approval of the draft Exit Plan, the Service Provider shall, throughout the Term, review the draft Exit Plan to identify any changes which may be needed to reflect the then current nature of the Services. Any changes required to the draft Exit Plan prior to the commencement of the Exit Period must be approved via the Change Control Procedure as a Contract Change.

38. FINALISATION OF EXIT PLAN

- 38.1 Within 5 Working Days following the commencement of the Exit Period (or each Exit Period if the Contract is terminated in part), or such other date the Parties may agree in writing, the Service Provider shall deliver to the Authority for Approval a detailed Exit Plan in final form that could be implemented immediately for the orderly, timely and efficient transfer of the Services (or part thereof) from the Service Provider to the Commissioning Bodies and/or the Replacement Service Provider(s).
- 38.2 The proposed final draft Exit Plan will be based on the approved draft Exit Plan that has been prepared and maintained under Paragraph 5, revised so that it reflects the particular requirements of the circumstances of the exit in question, including where only part of the Services are expiring or are being terminated.
- 38.3 The Authority shall provide, and shall direct the other Commissioning Bodies and any Replacement Service Provider(s) to provide, any necessary information that the Service Provider may reasonably request in order to enable the Service Provider to finalise the Exit Plan.
- 38.4 As soon as reasonably practicable after the Service Provider has submitted the proposed final draft Exit Plan to the Authority and, in any event, (unless otherwise agreed by the Parties) no later than 10 Working Days after its submission, the Parties shall meet to review the final draft Exit Plan.
- 38.5 The Authority may invite other Commissioning Bodies and any Replacement Service Provider(s) to join the meeting held in accordance with Paragraph 6.4 and the Service

Provider shall actively participate and co-operate with the Commissioning Bodies and any Replacement Service Provider(s) during such meeting(s). The Service Provider shall promptly amend the proposed final draft Exit Plan to take account of any reasonable suggestions made by the Authority, other Commissioning Bodies and/or any Replacement Service Provider(s) and re-submit the proposed final Exit Plan to the Authority for Approval within 2 Working Days (or such other period as the Parties may agree in writing) of that meeting.

- 38.6 If the Authority is unable to approve the proposed final draft Exit Plan within 20 Working Days of the date on which it was initially submitted to the Authority, the matter shall be referred to the Dispute Resolution Procedure. Until the agreement of the final draft Exit Plan, the Service Provider shall provide the Exit Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).
- 38.7 In addition to those requirements set out in Paragraph 5.2, the final draft Exit Plan (or each final draft Exit Plan in the case the Services are expiring or being terminated in part) shall include:
- 38.7.1 where only part of the Services is being terminated or expiring, a description of those Services;
 - 38.7.2 the anticipated length of the Exit Period (which shall not exceed 12 Months from commencement of the Exit Period);
 - 38.7.3 the timetable for the transfer of the Services (or part thereof), including the Exit Milestones;
 - 38.7.4 details of the Exit Services the Service Provider shall provide;
 - 38.7.5 details of the information and documentation to be provided by the Service Provider to the Commissioning Bodies and any Replacement Service Provider(s) enable the successful transfer of the Services;
 - 38.7.6 the Deliverables arising from and in respect of the Exit Services;
 - 38.7.7 an impact assessment setting out the impact of:
 - (a) the expiry or termination of the part of the Services on any remaining Services; and
 - (b) the Exit Services upon the Services,
 - 38.7.8 details of and roles and responsibilities in respect of Service Provider's Personnel that will perform the Exit Services (including those who will act as Key Personnel);
 - 38.7.9 a timetable for the provision by the Service Provider of information on any of the Service Provider Personnel who are in-scope to transfer with Services (or part thereof);
 - 38.7.10 details of any tasks to be performed by the Authority, other Commissioning Bodies, Replacement Service Provider(s) and/or any Other Service Providers which are reasonably necessary in order for Service Provider to perform its own obligations in respect of the Exit Services;
 - 38.7.11 the arrangements for the provision of reports detailing progress towards completion of all tasks comprising the Exit Services by reference to the Exit Milestones and any other timetables set out in the Exit Plan;

- 38.7.12 the arrangements for the transfer of the Commissioning Body Materials and Deliverables to each Commissioning Body (as appropriate) and/or (if so directed) the Replacement Service Provider(s);
 - 38.7.13 a register of risks which may arise during the provision of the Exit Services and an explanation as to how those risks shall be mitigated;
 - 38.7.14 details as to how the Authority may verify completion of the Exit Services; and
 - 38.7.15 details explaining the process of knowledge transfer to the Commissioning Bodies and any Replacement Service Provider(s).
- 38.8 Where the Services subject to the Exit Plan are to be transitioned to Replacement Service Provider(s), if the Replacement Service Provider(s) are not appointed by the time that the Exit Plan is approved by the Authority, upon the appointment of the Replacement Service Provider(s), then the Parties, other necessary Commissioning Bodies and the Replacement Service Provider(s) shall promptly meet to review the approved Exit Plan so the Authority may approve in writing any changes that are required to the Exit Plan, having regards to the methods, process and strategy to be used by the Replacement Service Provider for the transfer of responsibility of the Services.
- 38.9 Following Approval of the Exit Plan, the Service Provider shall, throughout the Exit Period, review the Exit Plan so to identify any changes which may be needed to reflect the then-current nature of the Exit Services and the Commissioning Bodies' own plans with regard to the transition of the Services (or part thereof) to the Commissioning Bodies and/or the Replacement Service Providers. Any changes required to the Exit Plan must be promptly submitted, via the exit project board, to the Authority for Approval (and not via the Change Control Procedure).

INFORMATION

- 39.1 The Service Provider shall promptly, and in any event within 2 weeks of Approval of each Exit Plan, provide to the Authority (in such format as the it may reasonably require) an up-to-date set of the records compiled by the Service Provider under the Contract and all other information necessary to enable an orderly, timely and efficient transfer of the Services (or part thereof) to the Commissioning Bodies and/or a Replacement Supplier(s), including those records maintained in accordance with Schedule 9 and a list of current work in progress, which contains:
- 39.1.1 a full and accurate description of the work;
 - 39.1.2 all project records and status reports;
 - 39.1.3 full and accurate details of uncompleted work and Deliverables; and
 - 39.1.4 an accurate estimate of the time to be taken to complete the uncompleted work and Deliverables.
- 39.2 During the Exit Period, the Service Provider shall promptly update the Authority and, where so directed, any Replacement Service Providers, on any changes to the information which has been provided to the Authority and/or any Replacement Service Provider(s) in accordance with this Paragraph 7.

40. EXIT SERVICES

- 40.1 During the Exit Period, the Service Provider shall:
- 40.1.1 provide Exit Services to the Authority in accordance with the approved Exit Plan and the Contract;

- 40.1.2 continue to provide the Services to the Authority in accordance with the Contract, save to extent the Parties expressly agree otherwise in the approved Exit Plan; and
- 40.1.3 achieve each Exit Milestone by the associated Exit Milestone Date.
- 40.2 Subject to Paragraph 8.1.2, the Service Provider shall ensure that the provision of Exit Services will not have any adverse effect on the continuity and quality of any other Services provided by the Service Provider during the Exit Period.
- 40.3 The Service Provider shall maintain all documents relating to the Exit Plan, including:
 - 40.3.1 documents which track progress against the Exit Milestones; and
 - 40.3.2 a register of risks and issues relating to the Exit Services.
- 40.4 Where the Service Provider becomes aware of risk or issue relating to the Exit Services, including an actual or anticipated delay to the completion of an Exit Milestone, it shall immediately notify the Authority in writing.
- 40.5 As soon as reasonably practicable and in any event within 5 Working Days following a risk or issue being notified in accordance with Paragraph 8.4, the Service Provider shall provide the Authority with:
 - 40.5.1 a plan of action to mitigate any risks or issues identified in accordance with Paragraph 8.4;
 - 40.5.2 a rigorous timetable for implementing the plan of action to resolve the risk or issue;
 - 40.5.3 an indication on whether any change to the Exit Milestones or associated Exit Milestone Dates is required to mitigate the risk or resolve the issue and any details relating to such change; and
 - 40.5.4 a recommendation on whether or not escalation is required to the exit project board.
- 40.6 During the Exit Period, the Service Provider shall not, without Approval embark on any actions in respect of the Services that fall outside the ordinary course of business.
- 40.7 In addition to those Exit Services set out in the Approved Exit Plan, the Service Provider shall, to the extent applicable to the Services the Exit Plan is in respect of:
 - 40.7.1 provide to the Commissioning Bodies and Other Service Providers any reasonable assistance requested to allow the Services to continue without interruption following the termination or expiry of the Contract (whether in whole or in part) and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Commissioning Bodies and/or any Replacement Service Providers;
 - 40.7.2 provide knowledge transfer to the Commissioning Bodies and the Replacement Service Provider(s) as reasonably required relating to the processes and procedures used by the Service Provider in performing the Services and, any other information, procedures, methods, tools and systems and knowledge sharing which would enable the Commissioning Bodies and any Replacement Service Provider(s) to operate and deliver services similar to the Services, subject to such terms as agreed between the Parties in the approved Exit Plan as to the scope of the knowledge transfer that is to take place, when it is to occur and which Service Provider Personnel are to be involved;
 - 40.7.3 provide clarification on any matter or issue upon which clarification is reasonably requested by the Commissioning Bodies and/or any Replacement Service Provider(s) or proposed replacement supplier(s); and

- 40.7.4 allow the Commissioning Bodies and any Replacement Service Provider(s)' personnel to shadow the Service Provider's Personnel.
- 40.8 At the end of the Exit Period (or earlier if this does not adversely affect the performance or receipt of the Services and the Exit Services):
- 40.8.1 the Service Provider shall and shall procure Service Provider Personnel shall:
- (a) promptly return all the Commissioning Body Materials and Confidential Information of the Commissioning Bodies (and all copies thereof) which the Service Provider and/or Service Provider Personnel have acquired under or as a result of the Contract to the relevant Commissioning Body or (if so directed) to any other third party in the format and media requested;
 - (b) deliver the Deliverables (and all copies thereof) to the Authority or (if so directed by the Authority) to any other third party in the format and media requested;
 - (c) destroy all information, data and records it is required to retain under the Contract upon the earlier of:
 - (i) the expiry of the applicable Retention Period;
 - (ii) the written request of the Authority,
 and thereafter, certify that it and Service Provider Personnel have done so; and
 - (d) vacate the Commissioning Bodies' Premises.
- 40.9 If the approved Exit Plan only relates to partial termination of the Services, the obligations set out in Paragraph 8.8 shall only apply to the extent necessary to ensure the proper and orderly return of each Party's property in respect of those Services then being terminated.
- 40.10 In satisfying Paragraph 8.8.1, the Service Provider shall ensure the integrity and security of the subject matter being returned and shall return such items in the format reasonably requested.

41. POST EXIT ASSISTANCE

- 41.1 Following the Exit Period, the Service Provider shall provide to the Commissioning Bodies and any Replacement Service Provider(s), at no cost, reasonable access to:
- 41.1.1 such information and documentation relating to the Services that is in it or Service Provider Personnel's possession or control, including the right to take reasonable copies of that material; and
 - 41.1.2 such members of the Service Provider's Personnel who have been involved in the provision or management of the Services.

42. SUCCESSION

- 42.1 Where used in this Paragraph 10, "Information" means any written or oral information which is material in detail or in substance and which describes the nature of any of the Services or the method by which those Services are performed.
- 42.2 On written notice of the Authority of the fact that the Authority is evaluating its options to terminate the Contract (whether in whole or in part) or, in any event, in readiness of expiry of the Contract including where the Authority proposes to re-tender the Services or any part of

the Services (the **Tender Process**), the Service Provider shall provide to the Authority such Information and other co-operation regarding the provision of the Services (as and when reasonably requested by the Authority) as would be reasonably necessary for the Authority and any other competent third party to:

- 42.2.1 in respect of the Authority, evaluate its options for termination and any re-procurement of the Services;
 - 42.2.2 prepare an informed, non-qualified offer for those Services; and
 - 42.2.3 not be disadvantaged compared to the Service Provider (if the Service Provider is invited or eligible to participate in any Tender Process) in respect of access to information regarding the Services and the manner in which such requirements are met at the time of the Tender Process.
- 42.3 The Service Provider shall provide such Information as soon as reasonably possible following a request by the Authority and in any event within 5 Working Days of such request.
- 42.4 The Service Provider shall provide all reasonable assistance in connection with any due diligence exercises to be carried out by any potential Replacement Service Provider(s).
- 42.5 The lists and information to be compiled and/or provided pursuant to this Paragraph 10 may be used by the Authority for its, or any potential Replacement Service Provider(s), information and may be disclosed by the Authority to potential Replacement Service Provider(s) and other third parties as part of its Tender Process, provided that the Authority agrees, where reasonably necessary, it shall use its reasonable endeavours to procure such third party's agreement in respect of confidentiality).

SCHEDULE 14 - INFORMATION SECURITY

1.0 DEFINITIONS

In this Schedule, the following definitions shall apply:

“Application programming interface (API)” In general terms, it is a set of clearly defined methods of communication among various components.

“Data Destruction” Data destruction is the process of erasing or otherwise destroying data or information whether in physical form (such as printed paper) or stored on virtual/electronic or physical mediums such as, but not limited to, tapes and hard disks; the purpose is to render data completely irretrievable and inaccessible, and therefore void.

“Incident Report” A formal document outlining a series of events and/or statements in relation to a Security Incident. The document includes, but is not limited to, coverage of the timeline of the incident, commencing with initial awareness, and concluding at the later of remediation or incident closure; contact details for all actors, stakeholders, and interested parties (including police and police reference numbers, etc.); any geographic details (location of affected devices, etc.); a list of all losses or exposures (data files lost or compromised, etc.); a detailed account of all remedial activity taken; a detailed account of planned remedial activity, with an associated timeline; an assessment of the root cause or causes; an assessment of incident severity; an assessment of consequences; and any other supporting documentation and technical evidence not already addressed.

“(NCSC)” The [National Cyber Security Centre](#), is the UK’s authority on cyber security.

“Processing / Process” means any operation or set of operations which is performed on data or on sets of data, whether or not by automated means, such as 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.

“Security Incident” The deliberate, accidental or inadvertent access of a system by an unauthorised person, or unauthorised alteration of a system's functionality.

2.0 PURPOSE

- 2.1 This Schedule 14 sets out the obligations of the Parties in relation to information assurance and security, including those which the Service Provider must comply with in delivering the Services under the Contract.
- 2.2 This Schedule conveys the spirit and principles of the minimum information security requirements required of the Service Provider by the Authority while the Service Provider, its Sub-Contractors, Sub-processors and supply-chain are in possession of, or maintains access to, Authority Data, information or systems.
- 2.3 Due to the constant nature of evolving informational risk threats, these requirements convey principles in lieu of an exhaustive and complete description of all possible definable requirements. The Service Provider is required to create and maintain a proportional and holistic approach to information security in order to appropriately safeguard Commissioning Body Materials, including Service Provider generated data or information, in relation to the fulfilment of this Agreement.
- 2.4 The Service Provider shall continuously review and improve its approach to information security and any products or services supplied, maintained or monitored as part of this contract, to ensure any associated controls or defences are appropriate, modern, current and proportional, in order to adequately protect and assure data or information at any point in time.
- 2.5 The Service Provider shall take all reasonable measures to ensure it (and any Sub-contractors and Sub-Processors) creates and maintains an adequate information security posture, fully compliant with this schedule.

3.0 GOVERNANCE

- 3.1 The Service Provider shall create as required prior to the processing of Authority Data, and thereafter maintain, an adequate and robust information security governance regime.
- 3.2 The Service Provider shall prepare and submit to the Authority for approval in accordance with Paragraph 3.5 within 30 Working Days of the Commencement Date, a fully developed, complete and up-to-date plan for the management of information security ("**Information Security Management Plan**") which shall comply with the requirements of Paragraph 3.5 and ISO/IEC 27001 certification (and any agreed equivalent replacement certification) recognised by the British Standards Institution.
- 3.3 The Service Provider shall have in place and shall maintain Cyber Essentials Plus (or any agreed equivalent replacement certification) throughout the Term and thereafter for as long as the Service Provider holds or processes any Commissioning Body Materials where a directly comparable and verifiable compliance regime (such as suitably scoped ISO27001 compliance, supported by suitably scoped and qualified independent technical validations and associated remediations) are not held.
- 3.4 The Service Provider shall achieve Cyber Essentials Plus and ISO 27001 certification within 10 months of the Service Commencement Date.

- 3.5 The Service Provider shall schedule, chair and administer a monthly Security Working Group (SWG) with attendance from the Authority to monitor progression of required certifications (3.3 & 3.5). The SWG is responsible for providing assurance to the Authority on all aspects of Information Security, both governance and operational, with regard to the processing, transmission and storage of Commissioning Body information assets by the Service Provider.
- 3.6The Service Provider shall provide the Authority with evidence:
- 3.6.1 of certification before the Service Provider accesses the ICT Environment and receives, stores, processes or manages any Authority Data; and
 - 3.6.2 that such certification remains valid and is kept up to date while the Service Provider (as applicable) continues to access the ICT Environment and receives, stores, processes or manages any Authority Data during the Term.
- 3.7The Parties acknowledge that the purpose of the Information Security Management Plan is to ensure a mature, modern and holistic organisational approach to security under which the specific requirements of this Agreement will be met.
- 3.8The Information Security Management Plan shall:
- 3.8.1comply with the ISO/IEC 27001 and ISO/IEC 27002 certifications (or any agreed equivalent replacement certifications) recognised by the British Standards Institution;
 - 3.8.2identify the necessary delegated organisational roles and the individuals filling those roles, defined for those responsible for ensuring this Schedule is complied with by the Service Provider, and the Service Provider shall update the Authority within 24 hours of any change;
 - 3.8.3detail the process for managing any security risks from Sub-contractors and third parties authorised by the Authority with access to the Services, processes associated with the delivery of the Services, the Commissioning Body Premises, the Premises, the Service Provider System, the Authority System (to extent that it is under the control of the Service Provider) and any technology (IT), Information and data (including the Authority Confidential Information and the Authority Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Services. This shall include SLAs, Mean Times To Recover, Patching schedules and responses to notifications of vulnerabilities;
 - 3.8.4unless otherwise specified by the Authority in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Commissioning Body Premises, the Premises, the Service Provider System, the Authority System (to the extent that it is under the control of the Service Provider) and any IT, Information and data (including the Authority Confidential Information and the Authority Data) to the extent used by the Authority or the Service Provider in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
 - 3.8.5set out the security measures to be implemented and maintained by the Service Provider in relation to all aspects of the Services and all processes associated with the delivery of

the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Schedule;

3.8.6 demonstrate that the Service Provider Solution has minimised the Authority and Service Provider effort required to comply with this Schedule through consideration of available, appropriate and practicable commodity services (for example, the use of commodity 'platform as a service' offerings from the UK HMG Crown Commercial Services G-Cloud catalogue) see Annex B;

3.8.7 be structured in accordance with ISO/IEC 27001 and ISO/IEC 27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and

3.8.8 be written in plain English; in language which is readily comprehensible to the staff of the Service Provider and the Authority engaged in the Services and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

3.9 The Authority shall review the proposed Information Security Management Plan submitted pursuant to paragraph 3.8 and shall, within 15 Working Days of its receipt notify the Service Provider as to whether it has been approved. If the Information Security Management Plan submitted to the Authority pursuant to Paragraph 3.8 is approved by the Authority, it shall be adopted by the Service Provider immediately and thereafter operated and maintained in accordance with this Schedule.

3.10 If the Information Security Management Plan is not approved by the Authority, the Service Provider shall, at the Service Provider's expense amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval.

3.11 The Parties shall use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first re-submission to the Authority.

3.12 If the Authority does not approve the Information Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure (11).

3.13 No approval to be given by the Authority pursuant to this Paragraph 3.13 may be unreasonably withheld or delayed. However, any failure to approve the Information Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 3.8 shall be deemed to be reasonable.

3.14 Approval by the Authority of the Information Security Management Plan pursuant to Paragraph 3.6 or of any change or amendment to the Information Security Management Plan shall not relieve the Service Provider of its obligations under this Schedule.

3.15 The Information Security Management Plan and ISO/IEC 27001 certification (and any agreed equivalent replacement certification) must have an adequate scope to encompass all possible methods, locations and personnel that may be utilised in the processing of Commissioning Body Materials.

3.16The Information Security Management Plan scope must include applicable Authority security policies including, but not limited to: malware policies, software patching policies and password standards.

3.17The Information Security Management Plan and ISO/IEC 27001 certification (and any agreed equivalent replacement certification) must be evidenced to the Authority on demand, including but not limited to, statements of scope and applicability, risk management plans and documentation and any other related artefacts.

3.18The Service Provider shall ensure there is always a dedicated named person in a full-time role from the Service Provider, who is accountable for the Service Provider's information risk and security management and the Service Provider should notify the Authority of any change within 24 hours. The named individual must be trained and empowered to take action necessary to safeguard the Authority's data without undue recourse to others.

3.19The Service Provider shall appoint an ICT system manager or security manager in a full-time role (who can be the same person referred to at Paragraph 3.18), who is responsible for the provision of technical, personnel, process and physical security aspects for the Service Provider's system, such individual shall be a member of Key Personnel.

3.20The Authority retains rights to audit (in accordance with the provisions of this Agreement) the Service Provider's information security posture at any time and the Service Provider will provide relevant certifications, information, data and artefacts applicable to the same on demand, including but not limited to, physical access for the purposes of audit to locations used to process Authority data subject to scheduling and adequate notice periods being provided by the Authority to the Service Provider.

3.21Security must be embedded in all service management processes and tools, including but not limited to, change management, incident management, and other service management artefacts as described within ISO/IEC 20000 (and any agreed equivalent replacement certification).

3.22The Service Provider's organisation, including but not limited to, Systems and personnel used or involved in the fulfilment this Agreement, shall adhere to all applicable Laws or Regulation, including but not limited to, the Official Secrets Act (1989) and Data Protection Legislation and comply with the relevant provisions of this Agreement.

3.23Service Provider Systems shall notify all users to read and accept the terms and conditions of the System, upon system registration, authentication or re-validation.

3.25The Information Security Management Plan shall be fully reviewed and updated by the Service Provider at least annually to reflect:

3.25.1emerging changes in Good Industry Practice;

3.25.2any change or proposed change to the IT Environment, the Services and/or associated processes;

3.25.3any new perceived or changed security threats; and

3.25.4any reasonable change in requirement requested by the Authority.

3.26 The Service Provider shall provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the Information Security Management Plan at no additional cost to the Authority.

3.27 Subject to Paragraph 3.25, any change which the Service Provider proposes to make to the Information Security Management Plan (as a result of a review carried out pursuant to Paragraph 3.22, an Authority request or otherwise) shall be subject to the Change Control Procedure and shall not be implemented until approved in writing by the Authority.

3.28 The Authority may, where it is reasonable to do so, approve and require changes or amendments to the Information Security Management Plan to be implemented on timescales faster than set out in the Change Control Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Change Control Procedure (set out in Schedule 10 of the Contract) for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Agreement.

3.29 The Service Provider shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Service Provider ceases to be compliant with the certification requirements in this Schedule 14 and, on request from the Authority, shall:

3.29.1 immediately cease access to and use of Information Assets and/or Authority Data; and

3.29.2 promptly return, destroy and/or erase any Authority Data in accordance with the Baseline Security Requirements and failure to comply with this obligation is a material Default.

4.0 ASSURANCE

4.1 The Service Provider shall comply with the UK Government Security Classifications Policy in order to recognise government classification and handling markings and ensure the appropriate level of information security and information management required by the same.

4.2 The Service Provider shall ensure that any technology developed or utilised for fulfilment of this Agreement, will be developed, reviewed and where appropriate proportionally remediated, in line with Good Industry Practice including professional certified independent technical security testing (such as Green Light CHECK Scheme) or as approved by the Authority against application source code and associated underlying infrastructure, and where possible utilise and align with the Open Standards for Government.

4.3 Upon request from the Authority the Service Provider shall provide sufficient design documentation detailing the security architecture of its information system and data transfer mechanism to support the assurance that it is appropriate, secure and complies with the Authority's requirements.

4.4 Professional certified independent technical security testing must include, but not be limited to, the Open Web Application Security Project (OWASP) 'Top 10'.

4.5 The Service Provider may not utilise Commissioning Body Materials or Authority Systems for purposes other than those permitted by this Agreement and take all proportional measures to ensure the same.

4.6 The Service Provider shall not store or Process any Commissioning Body Materials outside of the United Kingdom without the prior written consent of the Authority.

4.7 The Service Provider shall review and appropriately consider and integrate into their Services the list of standards and guidance location(s) detailed in Annex A.

5.0 ACCESS, AUTHORISATION, AUTHENTICATION AND AUDIT

5.1 The Service Provider Systems, including those controlling access to physical locations, shall have auditable authorisation, authentication and access control based on least privilege, and aligned appropriately to the business and individual user requirements.

5.2 The Service Provider Systems shall ensure logical separation between purposes and zones of trust, for example, establishing and enforcing logical delineation between Service Provider Systems involved in the delivery of the Services and development environments used to iterate and improve the Service Provider Systems involved in the delivery of the Services. Such separation shall include, but not be limited to, the unique credentials and the prohibition of the use of Commissioning Body Materials for non-service fulfilment (for example, testing) purposes unless authorised in advance by the Authority in writing.

5.3 The Service Provider's access to the Authority Systems shall be limited to only Systems, services and Service Provider Personnel directly required for the performance of the Services in accordance with the terms of the Contract.

5.4 Where Service Provider access to Authority Systems uses or depends upon API credentials (such as providing a token or other credential for use during authentication, authorisations, or access control to an API endpoint), Service Provider shall use industry standard password protection practices, including practices designed to maintain the confidentiality and integrity of passwords when they are assigned and distributed and during storage.

6.0 SECURITY AND INFORMATION ASSURANCE – PHYSICAL AND ENVIRONMENTAL CONTROLS

6.1 The Service Provider's systems shall securely store and process all Commissioning Body Materials and Deliverables at least to a standard required at the Government Security Classification OFFICIAL.

6.2 The Service Provider's systems shall be protected by appropriate people, process, technology and physical security controls as part of a 'defence-in-depth' approach.

6.3 The Service Provider's systems should securely identify and authenticate users before allowing them to access it.

6.4 Where there are aspects of data aggregation, additional controls may be required above the level of the HMG Baseline Controls in accordance with HMG (Security Policy Framework) and NCSC.

6.5 The Service Provider shall ensure that any electronic transfer of Commissioning Body Materials and Deliverables:

6.5.1 protects the confidentiality of the Commissioning Body Materials and Deliverables during transfer through encryption

6.5.2 maintains the integrity of the Commissioning Body Materials and Deliverables during both transfer and loading into the receiving system through suitable technical controls; and

6.5.3 prevents repudiation of receipt through accounting and auditing.

6.6 The Service Provider shall ensure that all OFFICIAL information is afforded physical protection from internal, external and environment threats commensurate with the Commissioning Bodies' business value of the OFFICIAL information.

6.7 All physical components of the Service Provider's systems should be kept in secure accommodation which conforms to HMG (Security Policy Framework) NCSC.

6.8 All handling of physical media holding Security Classified (OFFICIAL) Data shall be done in accordance with HMG/NCSC Standards and Guidance (Security Policy Framework), as set out in 6.1 and Annex A of this Schedule 14, or equivalent Good Industry Practice.

7.0 RISK ASSESSMENT & MANAGEMENT

7.1 The Service Provider shall undertake risk assessment(s) of any component, including but not limited to systems, services, personnel, physical locations and supply chain (including all Sub-contractors and Sub-Processors), utilised or otherwise involved in the provision of the Services.

7.2 Holistic risk assessment(s) must support the Service Provider's Information Security Management System and proactively recommend appropriate additional controls to be proportionally implemented to continuously refresh and improve the Service Provider's information security regime.

7.3 The Service Provider shall disclose risk assessment findings on request to the Authority.

8.0 AWARENESS & TRAINING

8.1 Service Provider Personnel shall be provided with adequate and relevant security-related education, training and awareness and include, but not be limited to, technical, physical and procedural security.

8.2 Education, training and awareness courses or certifications must be completed by all Service Provider Personnel utilised in the direct or indirect performance of the Services at least once in every year of the Term.

8.3 In particular, awareness and training materials must include and address items found or highlighted in the risk assessments (Paragraph 7.0) carried out with regard to the Service Provider's provision of Services.

8.4 Procedures should be in place to ensure the Service Provider's Personnel who have access to Commissioning Body Data are aware of their responsibilities when handling the Commissioning Body Data and the system used to process it. These will be detailed within the Service Providers SOP documents (Security Operating Process and Security Operating Procedures).

9.0 PERSONNEL SECURITY

9.1 The Service Provider warrants that all Service Provider Personnel are assured to the UK Government Baseline Personnel Security Standard (BPSS) prior to the ability to directly, or indirectly, access or influence Authority Systems or Commissioning Body Materials.

9.2 The Service Provider must ensure that any delivery partners or third party service providers are subject to the same security arrangements and meet the same personnel controls and security requirements that are expected of the Service Provider.

9.3 Additional Service Provider Personnel clearances or vetting may be required and will be determined and notified by the Authority on a case-by-case basis from time-to-time.

9.4 The cost of additional Service Provider Personnel clearances or vetting is the responsibility of the Service Provider and the sponsorship for the same is the responsibility of the Authority.

9.5 The Service Provider shall ensure that any Sub-contractors comply with the provisions of this Schedule 14 during the provision of the Services, and as may be stated in any data sharing agreement where one is issued by the Authority.

10.0 TECHNICAL SECURITY

10.1 The Service Provider warrants that all Service Provider Systems or Authority Systems utilised directly, or indirectly in the performance of the Services are configured and maintained in accordance with corresponding vendor best practices or as superseded by Good Industry Practice, including but not limited to vulnerability and patch management through an aggressive and timely patching regime and security-related change control to avoid regression or introduction of negative security changes.

10.2 The Service Provider shall continuously review technical security measures to ensure any appropriate, applicable and proportional changes are applied in response to, and in accordance with, changes to government and industry guidance.

10.3 Technical Security Standards, policies and guidance should align to NCSC publications and guidance wherever possible. The Authority may request information on, and audit, the same. This includes but is not limited to;

10.3.1 protecting external connections to the internet.

10.3.2 protection from malicious code.

- 10.4 The Service Provider must ensure technical solutions and services adopt and fully comply with modern connectivity and cryptographic standards after applicable guidance and standards have been updated, including but not limited to, implementing iterations to in-transit encryption such as Transport Layer Security (TLS) and Internet Protocol Security (IPSec) and at-rest encryption.
- 10.5 The Service Provider's systems must provide network controls to authenticate internal and external users prior to communicating to prevent unauthorised users gaining access to the Service Provider's System.
- 10.6 The import and export of Commissioning Body Materials and Deliverables from the systems must be strictly controlled and recorded / audited.
- 10.7 The Service Provider's systems must enforce the principle of 'least privilege' and only grant users the minimum necessary permission to access information / access the service.
- 10.8 The Service Provider's systems must enforce robust role-based access control mechanisms to prevent unauthorised access to Commissioning Body Materials and Deliverables.
- 10.9 An IT Health Check must be conducted on the Service Provider's system on an annual basis with the initial ITHC being carried out within 3 months from the Service Commencement Date. This must be conducted by an independent CHECK Green scheme qualified company if and as required by the Authority and subject to agreement on its scope between the Assurer/cyber consultant.
- 10.9.1 promptly, following receipt of each IT Health Check report, give the Authority a copy of the IT Health Check report;
 - 10.9.2 if the IT Health Check report identifies any vulnerabilities:
 - 10.9.3 how the vulnerability will be remedied;
 - 10.9.4 the date by which the vulnerability will be remedied;
 - 10.9.5 the tests which the Service Provider shall perform or procure to be performed (which may, at the Authority's discretion, include a further IT Health Check) to confirm that the vulnerability has been remedied;
 - 10.9.6 comply with the Vulnerability Correction Plan; and
 - 10.9.7 conduct such further Security Tests as are required by the Vulnerability Correction Plan.
- 10.10 Technical vulnerabilities of the Service Provider's systems which are identified during the assurance process must be resolved effectively and must be recorded on the system risk register and tracked through the assurance process where applicable.
- 10.11 Users must be automatically logged out of the Service Provider's system if an account / session is inactive for more than 15 minutes. The Service Provider shall provide to the Authority sufficient design documentation detailing the security architecture of their information system and data transfer mechanism to support the Authority's assurance that the Service Provider's systems are appropriate and secure, and comply with the Authority's requirements.

- 10.12 The Service Provider's system must provide network controls to authenticate users prior to communicating to prevent unauthorised users gaining access to services and information.
- 10.13 The Service Provider's system shall provide internal processing controls between security domains to prevent the high domain exporting unauthorised Commissioning Body Materials and Deliverables to the low domain if the solution requires passing data between different security domains.

11.0 OPERATIONAL SECURITY & INCIDENT MANAGEMENT

- 11.1 The Service Provider shall, at the Authority's request, deliver all or specified logs from systems they control, that contain Authority data, to a location specified by the Authority in as near real time as the system can achieve. These logs must not be altered or filtered any more than is necessary in order to extract them to the Authority's designated location.
- 11.2 The Service Provider shall have a robust testing strategy, including regular Vulnerability Assessments and Penetration Tests. The outcomes of these tests, insofar as they apply to systems containing the Authority's data, must be shared with the Authority and taken into account when implementing and updating the information security management plan.
- 11.3 The Service Provider shall conduct continuous vulnerability, security, penetration testing. The findings are used to produce, and implement, security improvement plans to address fully any issues raised by the same.
- 11.4 Information security related monitoring shall be carried out in line with modern best practices and as required by both risk assessment findings and the Service Provider's Information Security Management System.
- 11.5 The Service Provider shall create and maintain adequate forensic readiness capability to facilitate independent review(s) of information security events or incidents. Such readiness must include, but not be limited to, granular access control data, technical network traffic data and a detailed timeline of system or user events per security event or incident.
- 11.6 The Service Provider shall inform the Authority if there is reasonable suspicion and/or confirmation of a negative security event or data breach that directly or indirectly processes Authority Material or Authority Systems, within 24 (twenty-four) hours of awareness.
- 11.7 The Service Provider shall inform the Authority HMPPS Information Security Group of a press release or Service Provider notification of a vulnerability within 24 hours.
- 11.8 The Service Provider shall provide the Authority with an Incident Report following remediation to any Security Incident demonstrating timescales of events from detection through to recovery.

12.0 DATA DESTRUCTION

12.1 The Service Provider shall:

12.1.1 carry out any secure destruction of Information Assets and/or Authority Data at Service Provider sites which are included within the scope of an existing certificate of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved; and

12.1.2 certify as compliant with the NCSC Service Requirement Sanitisation Standard or equivalent unless otherwise Approved.

12.2 The Service Provider shall provide the Authority with evidence of its compliance with the requirements set out in this Paragraph 12.2 before the Service Provider may carry out the secure destruction of any Information Assets and/or Authority Data.

12.3 The Service Provider shall ensure that Data Destruction has been adequately completed at the natural end and/or termination of the Contract and/or end of Term as per Schedule 9.

12.4 The Service Provider shall take all reasonable commercial measures to ensure Data Destruction is an irrevocable action to prevent the reconstitution of data from any individual or aggregate source, including archives, backups or 'cloud' storage:

12.4.1 through the revocation or otherwise destruction of decryption keys and/or decryption mechanisms in order to render data inaccessible or otherwise void through the use of modern cryptography;

12.4.2 data overwriting methods consisting of at least 3 complete overwrite passes of random data;

12.4.3 paper cross-shredding methods to satisfy at least the DIN 66399 Level 4 standard with a maximum cross cut particle surface area 160 (one hundred and sixty) millimetres squared with a maximum strip width of 6 millimetres;and/or;

12.4.4 in alignment with methods described in Schedule 9.

12.5 The Service Provider shall notify the Authority when data destruction has taken place, including the final date by which such destruction shall be complete in the case of scheduled data destruction or natural data management lifecycles such as through automated backup or disaster recovery systems.

12.6 Where data cannot be immediately destroyed, access control methods shall be put in place to limit completely any ability for data Retrieval or Processing until data destruction is completed.

12.7 The Service Provider shall provide evidence of data destruction on request from the Authority, including but not limited to, copies of third-party data destruction certificates, copies of internal policy and process documents in relation to data management and data destruction.

12.8 The Service Provider shall notify the Authority within 24 hours of identification of unsuccessful or incomplete data destruction.

13.0 BUSINESS CONTINUITY

- 13.1 The Service Provider shall appropriately backup and/or archive Authority Data and any data arising from the Services at least once every 24 hours.
- 13.2 The Service Provider shall ensure that any data backup or archiving locations meet the information security requirements of the original data source, system or service.
- 13.3 The Service Provider shall ensure that the backup systems and resulting backup data copies are adequately resistant from tamper, corruption or otherwise negative influence, such as (but not limited to) virulent malware manipulating both source and backup data copies in the same event.
- 13.4 The Service Provider shall, not less than quarterly, test and assure that backup and archival systems are viable, including but not limited to, a data and system restoration test to validate that restoration of the backup and archival systems are fully functional as designed and required by the Service Provider's business continuity policies and plans. The Service Provider shall verify that no back-up is retained for longer than 'X'.

The list below is a non-exhaustive list of standards and guidance location(s) the Service Provider is required to review and appropriately consider and integrate into its Services. This list is supplementary to, or may be superseded by, other published commercial best practices / guidance's, NCSC guidance or Authority guidance / instructions. This list is correct at the time of the Commencement Date and may be revised from time to time.

Guidance & Policies	Location
Ministry of Justice Data Sharing Principles	link
Ministry of Justice Security Guidance	link
APIs and System Integration Standard	link
Email security Standard	link
Digital Service Standard	link
Open Standards for Government	link
UK HMG Technology Code of Practice	link
Minimum Cyber Security Standard	link
ISO/IEC 20000	link
ISO/IEC 27001	link
ISO/IEC 27002	link
Cyber Essentials [Plus]	link
National Cyber Security Centre (guidance)	link
National Cyber Security Centre (risk management)	link
National Cyber Security Centre (CHECK scheme)	link
National Cyber Security Centre (end-user device reset procedures)	link
National Cyber Security Centre (secure sanitisation of storage media)	link
National Cyber Security Centre (Cloud Security Principle 2: Asset Protection and Resilience - Data Destruction)	link
Payment Card Industry Data Security Standard (Data Destruction)	link
Government Security Classifications	link
Security Policy Framework	link

Annex B: Cloud Security Principles

Where any aspect of the Services rely on a cloud hosted system and/or is provided through 'G-Cloud', and/or the HMG Digital Marketplace (<https://www.gov.uk/digital-marketplace>), the Service Provider shall apply the HMG Cloud Security Guidance and the Cloud Security Principles (**Cloud Security Principles**) as a source of security guidance and requirements (<https://www.gov.uk/government/collections/cloud-security-guidance>).

The Cloud Security Principles require the Service Provider to demonstrate how it will comply with the following fourteen requirements or to indicate why they may not be applicable:

Data in transit protection	Data transiting networks should be adequately protected against tampering and eavesdropping via a combination of network protection and encryption.
Asset protection and resilience	Data and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure.
Separation between consumers	Separation should exist between different consumers of the service to prevent one malicious or compromised consumer from affecting the service or data of another.
Governance framework	The Service Provider should have a security governance framework that coordinates and directs their overall approach to the management of the service and information within it.
Operational security	The Service Provider should have processes and procedures in place to ensure the operational security of the service.
Personnel security	Service Provider's staff should be subject to personnel security screening and security education for their role.
Secure development	Services should be designed and developed to identify and mitigate threats to their security.
Supply chain security	The Service Provider should ensure that its supply chain satisfactorily supports all of the security principles that the services claim to implement.
Secure consumer management	Consumers should be provided with the tools required to help them securely manage their service.
Identity and authentication	Access to all service interfaces (for consumers and providers) should be constrained to authenticated and authorised individuals.
External interface protection	All external or less trusted interfaces of the service should be identified and have appropriate protections to defend against attacks through them.
Secure service administration	The methods used by the Service Provider's administrators to manage the operational service should be designed to mitigate any risk of exploitation that could undermine the security of the services.
Audit information provision to consumers	Consumers should be provided with the audit records they need to monitor access to the service and the data held within it.
Secure use of the service by the consumer	Consumers have certain responsibilities when using a cloud service in order for this use to remain secure, and for their data to be adequately protected.

SCHEDULE 15 – COMMERCIALLY SENSITIVE INFORMATION

1. Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to the FOIA and/or EIRs, as further set out in clause D6 (Freedom of Information).
2. In this Schedule the Parties have sought to identify the Service Provider's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
3. 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.
4. Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.










SERVICE PROVIDER'S COMMERCIALLY SENSITIVE INFORMATION			DATE	DURATION OF CONFIDENTIALITY
Service Solution –	Schedule 3		20 April 2021	For the duration of the Contract and for a period of one year after the expiration of the Contract.
Pricing –	Schedule 5		20 April 2021	For the duration of the Contract and for a period of one year after the expiration of the Contract.

SCHEDULE 16 – REGISTER

QA Linguist reference number	Supplier Linguist Code	Linguist First Name	Linguist Surname	Linguist Phone No	Linguist Email	Linguist Address	Linguist Postcode	Linguist Gender	Linguist Date of Birth	Worktype and qualificatio n standard	Source language	Target language	Security level	Security expiry date	Experience/ qualification /professional membership	Details
ABA-XLS- MML	P190543 9	Jo	Bloggs	7777666 541	jo.bloggs@gmail.com	1 Durham road	E12 6UH	M	01/01/ 1970	Translation Transcriptio n - alternative	English	Spanis h	S1 (Basic Clearanc e)	07/04/20 21	Professional Membership	NRPSI
ABA-XLS- MML	P190543 9	Jo	Bloggs	7777666 541	jo.bloggs@gmail.com	1 Durham road	E12 6UH	M	01/01/ 1970		Spanis h	English	S1 (Basic Clearanc e)	07/04/20 21	Qualification	DPSI Spanish

SCHEDULE 17 - KEY PERSONNEL

Name	Key Role	Responsibility / Authorities	Period which they will be a member of Key Personnel (indicative only)	Phone / Email
[REDACTED]	[REDACTED]	Board Executive Sponsor for the Contract and accountable for the delivery of the Contract.	Ongoing	[REDACTED]
[REDACTED]	[REDACTED]	<u>Board Executive Sponsor for the Contract and accountable for the delivery of the Contract.</u>	Ongoing	[REDACTED]
[REDACTED]	[REDACTED]	Overall responsibility for Supplier's finance department and the Supplier's review and management of the Contract's financials.	Ongoing	[REDACTED]
[REDACTED]	[REDACTED]	Overall responsibility for Supplier's technology department. Escalation and line management for the Technology Programme and Change Manager and Technology Development Manager.	Ongoing	[REDACTED]
[REDACTED]	[REDACTED]	Primary point of contact and will oversee and own the management and delivery of all aspects of the Contract liaising with all internal personnel and key client counterparts to deliver the Contract. Assumes the role of Exit Manager in the event of termination or exit.	Ongoing	[REDACTED]

		<u>Responsible for managing all operational staff contributing to delivery of the contract.</u> <u>Escalation and line management of all operational staff.</u>	<u>Ongoing</u>	
		<u>Responsible for managing linguist recruitment and engagement for the contract.</u> <u>Escalation and line management of linguist recruitment staff.</u>	<u>Ongoing</u>	
		<u>Responsible for maintenance of the Supplier's system and the delivery of any new approved system functionality.</u>	<u>Ongoing</u>	

SCHEDULE 18 - TUPE SCHEDULE

1. INTERPRETATION

- 1.1 Where a provision in this Schedule 18 imposes an obligation on the Service Provider to provide an indemnity, undertaking or warranty, the Service Provider shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Service Provider, Replacement Service Provider or Replacement Service Provider Sub-Contractor, as the case may be.

2. DEFINITIONS

- 2.1 In this Schedule, the following definitions shall apply:

“Acquired Rights Directive” means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time.

“Relevant Transfer” means a transfer of employment to which TUPE applies.

“Relevant Transfer Date” means in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place.

“Replacement Service Provider Sub-Contractor” means a sub-contractor of the Replacement Service Provider to whom the Transferring Service Provider Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor).

“Service Transfer” means any transfer of the Services (or any part of the Services), for whatever reason, from the Service Provider or any Sub-Contractor to a Replacement Service Provider or any Replacement Service Provider Sub-Contractor.

“Service Transfer Date” means the date of a Service Transfer.

“Staffing Information” means in relation to all persons identified on the Service Provider’s Provisional Service Provider Personnel List or Service Provider’s Final Service Provider Personnel List, as the case may be, such information at the Authority may reasonably request (subject to all applicable provisions of Data Protection Legislation), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;

- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in regulation 11 of TUPE.

“Service Provider’s Final Service Provider Personnel List” means a list provided by the Service Provider of all the Service Provider’s Personnel who will transfer under TUPE on the Relevant Transfer Date.

“Service Provider’s Provisional Service Provider Personnel List” means a list prepared and updated by the Service Provider of all of the Service Provider’s Personnel who are engaged in or wholly or mainly 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 Service Provider.

“Transferring Former Service Provider Employees” means in relation to a Former Service Provider, those employees of the Former Service Provider to whom TUPE will apply on the Relevant Transfer Date.

“Transferring Service Provider Employees” means those employees of the Service Provider and/or Sub-Contractors to whom TUPE will apply on the Service Transfer Date.

Part A

Transferring Former Service Provider Employees at commencement of Services

1. RELEVANT TRANSFERS

- 1.1 The Authority and the Service Provider 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 Service Provider Employees; and

1.1.2 as a result of the operation of TUPE, the contracts of employment between each Former Service Provider and the Transferring Former Service Provider Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of TUPE) shall have effect on and from the Relevant Transfer Date as if originally made between the Service Provider and each such Transferring Former Service Provider Employee.

- 1.2 The Authority shall procure that the Former Service Provider shall comply with all its obligations under TUPE and shall perform and discharge and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Service Provider 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 Service Provider shall make, and the Authority shall procure that each Former Service Provider makes, any necessary apportionments in respect of any periodic payments made between: (i) the Former Service Provider and/or its Sub-Contractor (as appropriate); and (ii) the 2.

2. FORMER SERVICE PROVIDER INDEMNITIES

- 2.1 Subject to Paragraph 2.2, the Authority shall procure that each Former Service Provider shall indemnify the Service Provider and any Sub-Contractor against any Employee Liabilities in respect of any Transferring Former Service Provider Employee (or, where applicable any employee representative as defined in TUPE) arising from or as a result of:
- 2.1.1 any act or omission by the Former Service Provider occurring before, on or after the Relevant Transfer Date;
- 2.1.2 the breach or non-observance by the Former Service Provider arising on or before the Relevant Transfer Date of:
- (a) any collective agreement applicable to the Transferring Former Service Provider Employees; and/or
- (b) any custom or practice with a trade union or staff association in respect of any Transferring Former Service Provider Employees which the Former Service Provider is contractually bound to honour;
- 2.1.3 any claim by any trade union or other body or person representing any Transferring Former Service Provider Employees arising from or connected with any failure by the Former Service Provider 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 Service Provider 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 Service Provider Employee and in respect of whom it is later alleged or determined that the TUPE applied so as to transfer

his/her employment from the Former Service Provider to the Service Provider to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Relevant Transfer Date;

- 2.1.5 a failure of the Former Service Provider 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 Service Provider Employees in respect of the period up 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 Service Provider other than a Transferring Former Service Provider Employee for whom it is alleged the Authority and/or Service Provider and/or a Sub-Contractor may be liable by virtue of this Agreement and/or TUPE and/or the Acquired Rights Directive; and
- 2.1.7 any claim made by or in respect of a Transferring Former Service Provider Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Former Service Provider Employee relating to any act or omission of the Former Service Provider in relation to its obligations under regulation 13 of TUPE, except to the extent that the liability arises from the failure by the Authority and/or Service Provider and/or any Sub-contractor to comply with regulation 13(4) of TUPE.
- 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 Service Provider or any Sub-contractor 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 Service Provider Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Service Provider or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2 arising from the failure by the Service Provider and/or any Sub-Contractor to comply with its obligations under TUPE.
- 2.3 If any person who is not a Transferring Former Service Provider Employee claims, or it is determined in relation to any person who is not a Transferring Former Service Provider Employee, that his/her contract of employment has been transferred from a Former Service Provider to the Service Provider and/or Sub-Contractor pursuant to TUPE or the Acquired Rights Directive then:
 - 2.3.1 the Service Provider shall, or shall procure that any Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Former Service Provider; and
 - 2.3.2 the Former Service Provider may offer employment to such person within 15 Working Days of the notification by the Service Provider and/or a Sub-Contractor or take such other reasonable steps as the Former Service Provider considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Service Provider, the Service Provider shall, or shall procure that the Sub-Contractor shall (as appropriate), immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
 - 2.5.1 no such offer of employment has been made;

2.5.2 such offer has been made but not accepted; or

2.5.3 the situation has not otherwise been resolved,

the Authority shall advise the Service Provider and/or Sub-Contractor as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Service Provider and/or Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall procure that the Former Service Provider indemnifies the Service Provider and/or any Sub-Contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Service Provider takes, and procures that the Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

2.7.1 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,

in any case in relation to any alleged act or omission of the Service Provider and/or any Sub-Contractor; or

(b) any claim that the termination of employment was unfair because the Service Provider and/or any Sub-Contractor (as appropriate) neglected to follow a fair dismissal procedure; and

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Service Provider and/or any Sub-Contractor (as appropriate) to the Former Service Provider within 6 Months of the date of this Contract.

2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Service Provider nor dismissed by the Service Provider and/or any Sub-Contractor within the time scales set out in Paragraph 2.5, such person shall be treated as a Transferring Former Service Provider Employee and the Service Provider shall, or shall procure that any Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

3. SERVICE PROVIDER INDEMNITIES AND OBLIGATIONS

3.1 Subject to Paragraph 3.2, the Service Provider shall indemnify on its own behalf and on behalf of any Sub-Contractor the Former Service Provider against any Employee Liabilities in respect of any Transferring Former Service Provider Employee (or, where applicable any employee representative of any Transferring Former Service Provider Employee as defined in TUPE) arising from or as a result of:

3.1.1 any act or omission by the Service Provider or any Sub-Contractor whether occurring before, on or after the Relevant Transfer Date;

3.1.2 the breach or non-observance by the Service Provider or any Sub-Contractor on or after the Relevant Transfer Date of:

- (a) any collective agreement applicable to the Transferring Former Service Provider Employee; and/or
 - (b) any custom or practice in respect of any Transferring Former Service Provider Employees which the Service Provider or any Sub-Contractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Service Provider Employees arising from or connected with any failure by the Service Provider or a Sub-Contractor 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 Service Provider or a Sub-Contractor to make changes to the terms and conditions of employment or working conditions of any Transferring Former Service Provider Employees to their material detriment on or after their transfer to the Service Provider or a Sub-Contractor (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 Service Provider Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of TUPE) 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 Service Provider or a Sub-Contractor to, or in respect of, any Transferring Former Service Provider Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Former Service Provider 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 Service Provider 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 Service Provider Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Former Service Provider to the Service Provider or a Sub-Contractor, 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 Service Provider or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Service Provider Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8 any claim made by or in respect of a Transferring Former Service Provider Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Former Service Provider Employee relating to any act or omission of the Service Provider or any Sub-Contractor in relation to obligations under regulation 13 of the TUPE.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Service Provider whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Service Providers failure to comply with its obligations under TUPE.
- 3.3 The Service Provider shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under TUPE (including without limitation its obligation to inform and consult in accordance with regulation 13 of TUPE) and shall perform and discharge, and shall

procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Service Provider 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 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 Service Provider and the Former Service Provider.

4. INFORMATION

The Service Provider shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and/or at the Authority's direction, the Former Service Provider, in writing such information as is necessary to enable the Authority and/or the Former Service Provider to carry out their respective duties under regulation 13 of TUPE. The Authority shall procure that the Former Service Provider shall promptly provide to the Service Provider and each Sub-Contractor in writing such information as is necessary to enable the Service Provider and each Sub-Contractor to carry out their respective duties under regulation 13 of TUPE.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

5.1 The Service Provider shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Service Provider 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 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;

5.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or

5.1.4 the New Fair Deal

to the extent that such requirements apply to the relevant Transferring Former Service Provider Employee.

5.2 Any changes embodied in 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 Change procedure set out in clause F4.

6. PROCUREMENT OBLIGATIONS

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

7. PENSIONS

- 7.1 The Service Provider shall, and shall procure that each Sub-contractor shall, comply with the requirements of Part 1 of the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

Part B

Employment exit provisions

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Service Provider agrees that within 20 Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Authority 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 this Contract;
 - 1.1.3 the date which is 12 Months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 Month period),
- it shall provide in a suitably anonymised format so as to comply with Data protection Legislation, the Service Provider's Provisional Service Provider Personnel List, together with the Staffing Information in relation to the Service Provider's Provisional Service Provider Personnel List and it shall provide an updated Service Provider's Provisional Service Provider Personnel List at such intervals as are reasonably requested by the Authority.
- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Service Provider shall provide to the Authority or at the direction of the Authority to any Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor:
- 1.2.1 the Service Provider's Final Service Provider Personnel List, which shall identify which of the Service Provider's Personnel are Transferring Service Provider Employees; and
 - 1.2.2 the Staffing Information in relation to the Service Provider's Final Service Provider Personnel List (insofar as such information has not previously been provided).
- 1.3 The Authority shall be permitted to use and disclose information provided by the Service Provider under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor.
- 1.4 The Service Provider warrants, for the benefit of the Authority, any Replacement Service Provider, and any Replacement Service Provider Sub-Contractor 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 Paragraph 1.1.1, 1.1.2 and 1.1.3, the Service Provider agrees, that it shall not, and agrees to procure that each Replacement Service Provider Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Service Provider's Provisional Service Provider Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any of the Service Provider's Personnel listed on the Service Provider Provisional Service Provider Personnel 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 he/she replaces;

1.5.2 make, promise, propose or permit any material changes to the terms and conditions of employment of the Service Provider's Personnel (including any payments connected with the termination of employment);

1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Service Provider's Personnel save for fulfilling assignments and projects previously scheduled and agreed;

1.5.4 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 Service Provider's Provisional Service Provider Personnel List;

1.5.5 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); or

1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Service Provider's Provisional Service Provider Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Service Provider and any Replacement Service Provider Sub-Contractor of any notice to terminate employment given by the Service Provider or relevant Sub-Contractor or received from any persons listed on the Service Provider's Provisional Service Provider Personnel List regardless of when such notice takes effect.

1.6 The Service Provider shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:

1.6.1 the numbers of employees engaged in providing the Services;

1.6.2 the percentage of time spent by each employee engaged in providing the Services; and

1.6.3 a description of the nature of the work undertaken by each employee by location.

1.7 The Service Provider shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor to ensure the smooth transfer of the Transferring Service Provider 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 Service Provider Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Service Provider shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor (as appropriate), in respect of each person on the Service Provider's Final Service Provider Personnel List who is a Transferring Service Provider Employee:

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

1.7.2 details of cumulative pay for tax and pension purposes;

1.7.3 details of cumulative tax paid;

1.7.4 tax code;

1.7.5 details of any voluntary deductions from pay; and

1.7.6 bank/building society account details for payroll purposes.

2. TUPE EXIT PROVISIONS

- 2.1 The Authority and the Service Provider 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 Service Provider and/or a Replacement Service Provider Sub-Contractor. Such change in the identity of the Service Provider of such services may constitute a Relevant Transfer to which the TUPE and/or the Acquired Rights Directive will apply. The Authority and the Service Provider further agree that, as a result of the operation of the TUPE, where a Relevant Transfer occurs, the contracts of employment between the Service Provider and the Transferring Service Provider Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the TUPE) will have effect on and from the Service Transfer Date as if originally made between the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor (as the case may be) and each such Transferring Service Provider Employee.
- 2.2 The Service Provider shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Service Provider Employees arising under the TUPE in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Service Provider Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Service Provider and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor.
- 2.3 Subject to Paragraph 2.4, the Service Provider shall indemnify the Authority and/or the Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor against any Employee Liabilities in respect of any Transferring Service Provider Employee (or, where applicable any employee representative as defined in the TUPE) arising from or as a result of:
- 2.3.1 any act or omission of the Service Provider or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;
- 2.3.2 the breach or non-observance by the Service Provider or any Sub-Contractor occurring on or before the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Service Provider Employees; and/or
- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Service Provider Employees which the Service Provider or any Sub-Contractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Service Provider Employees arising from or connected with any failure by the Service Provider or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before 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 Service Provider 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 Service Transfer Date; and
- (b) in relation to any employee who is not a Transferring Service Provider Employee, and in respect of whom it is later alleged or determined that the TUPE applied so as to transfer his/her employment from the Service Provider to the Authority and/or Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

2.3.5 a failure of the Service Provider or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Service Provider Employees in respect of the period up to (and including) the Service Transfer Date;

2.3.6 any claim made by or in respect of any person employed or formerly employed by the Service Provider or any Sub-Contractor other than a Transferring Service Provider Employee for whom it is alleged the Authority and/or the Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor may be liable by virtue of the Contract and/or TUPE and/or the Acquired Rights Directive; and

2.3.7 any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Service Provider Employee relating to any act or omission of the Service Provider or any Sub-Contractor in relation to its obligations under regulation 13 of the TUPE, except to the extent that the liability arises from the failure by the Authority and/or Replacement Service Provider to comply with regulation 13(4) of the TUPE.

2.4 The indemnities 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 Service Provider and/or any Replacement Service Provider Sub-Contractor 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 Service Provider Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Service Provider and/or any Replacement Service Provider Sub-Contractor to occur in the period on or after the Service Transfer Date); or

2.4.2 arising from the Replacement Service Provider's failure, and/or sub-contractor of a Replacement Service Provider's failure, to comply with its obligations under TUPE.

2.5 If any person who is not a Transferring Service Provider Employee claims, or it is determined in relation to any person who is not a Transferring Service Provider Employee, that his/her contract of employment has been transferred from the Service Provider or any Sub-Contractor to the Replacement Service Provider and/or Replacement Sub-Contractor pursuant to TUPE or the Acquired Rights Directive, then:

2.5.1 the Authority shall procure that the Replacement Service Provider shall, or any Replacement Service Provider Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Service Provider; and

2.5.2 the Service Provider may offer (or may procure that a Sub-Contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Service Provider and/or any and/or Replacement Service Provider Sub-Contractor 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.

2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Service Provider or a Sub-Contractor, the Authority shall procure that the Replacement Service Provider shall, or procure that the Replacement Service Provider Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:

2.7.1 no such offer of employment has been made;

2.7.2 such offer has been made but not accepted; or

2.7.3 the situation has not otherwise been resolved

the Authority shall advise the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Service Provider shall indemnify the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Service Provider takes, or shall procure that the Replacement Service Provider Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

(iii) 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

(iv) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor; or

(b) any claim that the termination of employment was unfair because the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor to the Service Provider within six (6) Months of the Service Transfer Date.






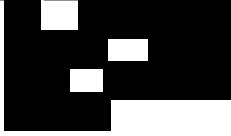
- 2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Service Provider or any Sub-Contractor nor dismissed by the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Service Provider Employee and the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor shall comply with such obligations as may be imposed upon it under applicable Law.
- 2.11 The Service Provider shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under TUPE and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Service Provider Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 2.11.1 the Service Provider and/or any Sub-Contractor; and
- 2.11.2 the Replacement Service Provider and/or the Replacement Service Provider Sub-Contractor.
- 2.12 The Service Provider shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and any Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor, in writing such information as is necessary to enable the Authority, the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor to carry out their respective duties under regulation 13 of TUPE. The Authority shall procure that the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor, shall promptly provide to the Service Provider and each Sub-Contractor in writing such information as is necessary to enable the Service Provider and each Sub-Contractor to carry out their respective duties under regulation 13 of TUPE.
- 2.13 Subject to Paragraph 2.14, the Authority shall procure that the Replacement Service Provider indemnifies the Service Provider on its own behalf and on behalf of any Sub-Contractor of the Replacement Service Provider and the Replacement Service Provider Sub-Contractor against any Employee Liabilities in respect of each Transferring Service Provider Employee (or, where applicable any employee representative (as defined in TUPE) of any Transferring Service Provider Employee) arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Service Provider and/or Replacement Service Provider Sub-Contractor;
- 2.13.2 the breach or non-observance by the Replacement Service Provider and/or the Replacement Service Provider Sub-Contractor on or after the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Service Provider Employees; and/or
- (b) any custom or practice in respect of any Transferring Service Provider Employees which the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor is contractually bound to honour;
- 2.13.3 any claim by any trade union or other body or person representing any Transferring Service Provider Employees arising from or connected with any failure by the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

- 2.13.4 any proposal by the Replacement Service Provider and/or a Replacement Service Provider Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Service Provider Employees on or after their transfer to the Replacement Service Provider or a Replacement Service Provider Sub-Contractor (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 Service Provider Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of TUPE) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.13.5 any statement communicated to or action undertaken by the Replacement Service Provider or a Replacement Service Provider Sub-Contractor to, or in respect of, any Transferring Service Provider Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Service Provider in writing;
- 2.13.6 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 Service Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Service Provider Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Service Provider or Sub-Contractor, to the Replacement Service Provider or a Replacement Service Provider Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7 a failure of the Replacement Service Provider or a Replacement Service Provider Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Service Provider Employees in respect of the period from (and including) the Service Transfer Date; and
- 2.13.8 any claim made by or in respect of a Transferring Service Provider Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Service Provider Employee relating to any act or omission of the Replacement Service Provider or a Replacement Service Provider Sub-Contractor in relation to obligations under regulation 13 of TUPE.

- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Service Provider and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Service Provider and/or any Sub-Contractor (as applicable) to comply with its obligations under TUPE.

SCHEDULE 19 - APPROVED SUB-CONTRACTORS

Company Name	Company number	Registered office address	Service Description	Key Role in Delivery
[REDACTED]	[REDACTED]	[REDACTED]	Provider of Welsh Language	Yes
[REDACTED]	[REDACTED]	[REDACTED]	Provider of Braille	Yes
[REDACTED]	[REDACTED]	[REDACTED]	Provider of Easy Read	Yes
[REDACTED]	[REDACTED]	[REDACTED]	Provider of English Transcription	Yes

			Provider of English Transcription	YES
			Provider of Easy Read	Yes

1.The Authority will consider additional sub-contractors to be approved for use throughout the duration of the contract.

1.1The Requests for additional sub-contractors will be reviewed by the authority, upon the receipt of the request.

1.1.1The request must be submitted, using the sub-contractor due diligence checklist.

SUB CONTRCATOR DUE DILIGENCE CHECKLIST

Sub-Contractor:

Company Number:

Address:

Category	SUB-CATERGORY	DETAIL OF CHECK	DATE COMPLETE	FREQUENCY
Contract	Qualifications			
	Audit			
	Performance			
	GDPR			
FINANACIAL	Financial Health			
ADVERSE MEDIA	CHECK 1			
	CHECK 2			
	CHECK 3			
	CHECK 4			
	CHECK 5			
ETHICAL	Modern Slavery			

DATA SECURITY	IT Security			
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Name.....

Signed.....

Date.....

SCHEDULE 20 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY

1 What the Authority expects from the Service Provider

- 1.1 The Service Provider and its Sub-Contractors shall comply with their legal obligations, in particular those set out in Part 1 of this Schedule 20, and shall meet the standards set out in the Supplier Code of Conduct published by the Government at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-3_Official_Sensitive_Service_Provider_Code_of_Conduct_September_2017.pdf

- 1.2 The Service Provider and its Sub-Contractors shall use reasonable endeavours to comply with the standards set out in Part 2 of this Schedule 20.

PART 1 Statutory Obligations

2 Equality and Accessibility

- 2.1 The Service Provider shall:

- (a) perform its obligations under the Contract in accordance with:
 - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
 - ii) the Authority's equality, diversity and inclusion policy as given to the Service Provider from time to time;
 - iii) any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

3 Modern Slavery

- 3.1 The Service Provider shall, and procure that each of its Sub-Contractors shall, comply with:
- (a) the MSA; and
 - (b) the Authority's anti-slavery policy as provided to the Service Provider from time to time ("**Anti-slavery Policy**").
- 3.2 The Service Provider shall:
- (a) implement due diligence procedures for its Sub-Contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
 - (b) respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
 - (c) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
 - (d) maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract;
 - (e) report the discovery or suspicion of any slavery or trafficking by it or its Sub-Contractors to the Authority and to the Modern Slavery Helpline; and
 - (f) implement a system of training for its employees to ensure compliance with the MSA.
- 3.3 The Service Provider represents, warrants and undertakes throughout the Term that:
- (a) it conducts its business in a manner consistent with all applicable laws, regulations and codes including the MSA and all analogous legislation in place in any part of the world;
 - (b) its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
 - (c) neither the Service Provider nor any of its Sub-Contractors, nor any other persons associated with it:
 - i) has been convicted of any offence involving slavery and trafficking; or
 - ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.
- 3.4 The Service Provider shall notify the Authority as soon as it becomes aware of:
- (a) any breach, or potential breach, of the Anti-Slavery Policy; or
 - (b) any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.

- 3.5 If the Service Provider notifies the Authority pursuant to paragraph 3.4 of this Schedule 20, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.
- 3.6 If the Service Provider is in Default under paragraphs 3.2 or 3.3 of this Schedule 20 the Authority may by notice:
- (a) require the Service Provider to remove from performance of the Contract any Sub-Contractor, Service Provider Personnel or other persons associated with it whose acts or omissions have caused the Default; or
 - (b) immediately terminate the Contract.

4 Income Security

- 4.1 The Service Provider shall:
- (a) ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
 - (b) provide all Service Provider Personnel with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
 - (c) not make deductions from pay:
 - (i) as a disciplinary measure;
 - (ii) except where permitted by Law and the terms of the employment contract; and
 - (iii) without express permission of the person concerned
 - (d) record all disciplinary measures taken against Service Provider Personnel.

5 Working Hours

- 5.1 The Service Provider shall ensure that:
- (a) the working hours of Service Provider Personnel comply with the Law, and any collective agreements;
 - (b) the working hours of Service Provider Personnel, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;
 - (c) overtime is used responsibly, considering:
 - (i) the extent;
 - (ii) frequency; and
 - (iii) hours worked;
 - (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.1 (e);

- (e) working hours do not exceed 60 hours in any seven-day period unless:
 - (i) it is allowed by Law;
 - (ii) it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;
 - (iii) appropriate safeguards are taken to protect the workers' health and safety; and
 - (iv) the Service Provider can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;
- (f) all Service Provider Personnel are provided with at least:
 - (i) 1 day off in every 7-day period; or
 - (ii) where allowed by Law, 2 days off in every 14-day period.

6 Right to Work

6.1 The Service Provider shall:

- (a) ensure that all Service Provider Personnel, are employed on the condition that they are permitted to work in the UK, and;
- (b) notify the Authority immediately if an employee is not permitted to work in the UK.

7 Health and Safety

7.1 The Service Provider shall perform its obligations under the Contract in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's Health and Safety Policy while at the Authority's Premises.

7.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Service Provider shall instruct Service Provider Personnel to adopt any necessary safety measures in order to manage the risk.

8. Welsh Language Requirements

8.1 The Service Provider shall comply with the Welsh Language Scheme in accordance with the Welsh Language Act 1993 where it provides the Services in Wales or to Welsh speakers in England, as if it were the Authority.

9 Fraud and Bribery

9.1 The Service Provider represents and warrants that neither it, nor to the best of its knowledge any Service Provider Personnel, have at any time prior to the Commencement Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

(b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act.

9.2 The Service Provider shall not during the Term:

(a) commit a Prohibited Act; and/or

(b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

9.3 The Service Provider shall, during the Term:

(a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

(b) have in place reasonable prevention measures (as defined in section 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Service Provider do not commit tax evasion facilitation offences as defined under that Act;

(c) keep appropriate records of its compliance with its obligations under paragraph 9.3 (a) and 9.3 (b) and make such records available to the Authority on request; and

(d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with section 47 of the Criminal Finances Act 2017

9.4 The Service Provider shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 9.1 and/or 9.2, or has reason to believe that it has or any of the Service Provider Personnel have:

(a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

(b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

(c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

9.5 If the Service Provider notifies the Authority pursuant to paragraph 9.4, the Service Provider shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.

9.6 If the Service Provider is in Default under paragraphs 9.1 and/or 9.2, the Authority may by notice:

- (a) require the Service Provider to remove from performance of the Contract any Service Provider Personnel whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

9.7 Any notice served by the Authority under paragraph 9.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

PART 2 Corporate Social Responsibility

10 Zero Hours Contracts

10.1 Any reference to zero hours contracts, for the purposes of the Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.

10.2 When offering zero hours contracts, the Service Provider shall consider and be clear in its communications with its employees and workers about:

- (a) whether an individual is an employee or worker and what statutory and other rights they have;
- (b) the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
- (c) how the individual's contract will terminate, for example, at the end of each work task or with notice given by either party.

11 Sustainability

11.1 The Service Provider shall:

- (a) comply with the applicable Government Buying Standards;
- (b) provide, from time to time, in a format reasonably required by the Authority, reports on the environmental effects of providing the Services;
- (c) maintain ISO 14001 or BS 8555 or an equivalent standard intended to manage its environmental responsibilities; and
- (b) perform its obligations under the Contract in a way that:
 - (i) supports the Authority's achievement of the Greening Government Commitments;
 - (ii) conserves energy, water, wood, paper and other resources;
 - (iii) reduces waste and avoids the use of ozone depleting substances; and
 - (iv) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

SCHEDULE 21 – BUSINESS CONTINUITY AND DISASTER RECOVERY

1. PURPOSE

- 1.1 This Schedule sets out the Authority's requirements for ensuring continuity of the business processes and operations supported by the Services in circumstances of disruption or failure, and for restoring the Services through business continuity and, as necessary, disaster recovery procedures. It also includes the requirement on the Service Provider to develop, review, test, change and maintain a BCDR Plan.

2. BCDR PLAN

- 2.1 Within 20 Working Days of the Commencement Date the Service Provider shall prepare and deliver to the Authority for its Approval, the BCDR Plan which shall detail the processes and arrangements that the Service Provider 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 Services; and
 - 2.1.2 the recovery of the Services in the event of a Disaster,
- 2.2 The BCDR Plan shall be divided into 3 parts:
- 2.2.1 Part A which shall set out general principles applicable to the BCDR Plan;
 - 2.2.2 Part B which shall relate to business continuity (the **Business Continuity Plan**); and
 - 2.2.3 Part C which shall relate to disaster recovery (the **Disaster Recovery Plan**); and

which shall, unless otherwise required by the Authority in writing, be based upon and be consistent with the provisions of Paragraphs 3, 4 and 5 of this Schedule 21 and cover all components of the Services.

- 2.3 Following receipt of the draft BCDR Plan from the Service Provider, the Authority shall:
- 2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
 - 2.3.2 notify the Service Provider in writing that it approves or rejects the draft BCDR Plan no later than 20 Working Days after the date on which the draft BCDR Plan is first delivered to the Authority.

- 2.4 If the Authority rejects the draft BCDR Plan:
- 2.4.1 it shall inform the Service Provider in writing of the reasons for rejection; and
 - 2.4.2 the Service Provider shall then revise the draft BCDR Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft BCDR Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 2.32.4 and this Paragraph 2.42.5 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A 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 affect the operation of the Services and any services provided to the Authority by Other Service Providers;
 - 3.1.3 contain an obligation upon the Service Provider to liaise with the Authority and (at the Authority's request) any Other Service Providers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Authority and any of its Other Service Providers in each case as notified to the Service Provider by the Authority 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 multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Authority;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the Services with the services provided by Other Service Providers; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) 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 (including roles and responsibilities) for the Service Provider (and any Sub-Contractors) and for the Authority;
 - 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 ensure that there is no data loss and to preserve data integrity;
 - 3.1.11 identify the responsibilities (if any) that the Authority 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 advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority's business continuity plans.

- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Services are provided in accordance with the Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Authority is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002 (as amended) and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the Services.
- 3.4 The Service Provider shall not be entitled to any relief from its obligations under the Key Performance Indicators or to any increase in the Service Payment to the extent that a Disaster occurs as a consequence of any breach by the Service Provider of this Contract.

4. PART B: BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Authority expressly states otherwise in writing:
 - 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and
 - 4.1.2 the steps to be taken by the Service Provider upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis 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 Services;
 - 4.2.2 set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps being the **Business Continuity Services**);
 - 4.2.3 specify any applicable KPI with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the KPI in respect of other Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. PART C: DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that if a Disaster occurs the Service Provider ensures continuity of the business operations of the Authority 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 Disaster Recovery Plan shall be invoked only if a Disaster occurs.
- 5.3 The Disaster Recovery Plan shall include:
 - 5.3.1 the technical design and build specification of the Disaster Recovery System;

- 5.3.2 details of the procedures and processes to be put in place by the Service Provider and any Sub-Contractors in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
- (a) data centre and disaster recovery site audits;
 - (b) backup methodology and details of the Service Provider's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- 5.3.3 any applicable KPI with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the KPI in respect of other Services during any period of invocation of the Disaster Recovery Plan;
- 5.3.4 details of how the Service Provider shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.3.5 access controls to any disaster recovery sites used by the Service Provider in relation to its obligations pursuant to this Schedule; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Service Provider shall review part or all of the BCDR Plan (and the risk analysis on which it is based):
- 6.1.1 at least once every 6 Months;
 - 6.1.2 within 3 Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 8; and
 - 6.1.3 where the Authority requests any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2) by notifying the Service Provider to such effect in writing, whereupon the Service Provider shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Service Provider shall provide an accurate written estimate of the total costs payable by the Authority for Approval. The costs of both Parties of any such additional reviews shall be met by the Authority except that the Service Provider shall not be entitled to charge the Authority for any costs that it may incur above any estimate without Approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services 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 Service Provider within the period required by the BCDR Plan or, if no such period is required, within such period as the Authority shall reasonably require. The Service Provider shall, within 20 Working Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a **Review Report**) setting out:

- 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the Services; and
 - 6.2.3 the Service Provider's proposals for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Service Provider can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party (the **Risk Profile Proposals**).
- 6.3 Following receipt of the Review Report and the Risk Profile Proposals, the Authority shall:
- 6.3.1 review and comment on the Review Report and the Risk Profile Proposals as soon as reasonably practicable; and
 - 6.3.2 notify the Service Provider in writing that it approves or rejects the Review Report and the Risk Profile Proposals no later than 20 Working Days after the date on which they are first delivered to the Authority.
- 6.4 If the Authority rejects the Review Report and/or the Risk Profile Proposals:
- 6.4.1 the Authority shall inform the Service Provider in writing of its reasons for its rejection; and
 - 6.4.2 the Service Provider shall then revise the Review Report and/or the Risk Profile Proposals as the case may be (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Risk Profile Proposals to the Authority for Approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 6.3 and this Paragraph 6.4 shall apply again to any resubmitted Review Report and Risk Profile Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 6.5 The Service Provider shall as soon as is reasonably practicable after receiving Approval of the Risk Profile Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Risk Profile Proposals. Any such change shall be at the Service Provider's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Service Provider shall test the BCDR Plan each year on the anniversary of the Commencement Date). Subject to Paragraph 7.2, the Authority may require the Service Provider to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Authority considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Service Provider written notice and the Service Provider shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Service Provider's costs of the additional test shall be borne by the Authority provided prior to starting such test, the Service Provider shall provide an accurate written estimate of the total costs payable by the Authority for

Approval save for when the BCDR Plan fails the additional test in which case the Service Provider's costs of that failed test shall be borne by the Service Provider.

- 7.3 The Service Provider shall undertake and manage testing of the BCDR Plan in full consultation with the Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority in this regard. Each test shall be carried out under the supervision of the Authority or its nominee.
- 7.4 The Service Provider shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is Approved. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 7.5 The Service Provider shall, within 20 Working Days of the conclusion of each test, provide to the Authority 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 Service Provider's proposals for remedying any such failures.
- 7.6 Following each test, the Service Provider shall take all reasonable measures requested by the Authority, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Service Provider, at no additional cost to the Authority, by the date reasonably required by the Authority and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Service Provider of any of its obligations under the Contract.
- 7.8 The Service Provider shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Authority.

8. INVOCATION OF THE BCDR PLAN

- 8.1 The Service Provider shall ensure that it is able to implement the BCDR Plan at any time in accordance with its terms.
- 8.2 In the event of a complete loss of service or in the event of a Disaster, the Service Provider shall immediately invoke the BCDR Plan (and shall inform the Authority promptly of such invocation) such that the provision of the Services is resumed within 2 hours. In all other instances the Service Provider shall only invoke or test the BCDR Plan with Approval.

SCHEDULE 22 – DATA PROCESSING

1. The contact details of the Authority's Data Protection Officer are: data.compliance@justice.gov.uk **or** Data Protection Officer, 102 Petty France, London, SW1H 9AJ.
2. The contact details of the Service Provider's Data Protection Officer are: [REDACTED]
[REDACTED]. Email: [REDACTED], Telephone: [REDACTED].
3. The Service Provider shall comply with any further written instructions with respect to processing by the Authority.
4. Any such further instructions shall be incorporated into this Schedule 22.

Description	Details
Subject matter of the processing	The processing of information about Language Professionals and the Authority Personnel is needed in order to ensure that the Service Provider can effectively deliver the Service to the Authority.
Duration of the processing	For the duration of the Term. The Service Provider shall not use, retain or process any Personal Data beyond this date without Approval, save for when the Service Provider is obliged to retain Personal Data by Law.
Nature and purposes of the processing	To complete Bookings made by the Authority staff for Translations and/or Transcription requests; to collect and maintain information on Language Professionals in accordance with Schedule 16 (the Register) for the purposes of fulfilling Bookings, the Onboarding Process, assessments and completion of Assignments.
Type of Personal Data being Processed	<p>Registration and Bookings: E.g. Language Professional name, gender, contact details, languages, qualifications, security clearance, right to work, references, work history, ID documents, redacted case references and staff names who made the booking.</p> <p>T&T Booking data: E.g. Language Professional identification details, name of the user (staff), place of work e.g. prison or court, email address, potentially sensitive and special categories of data shared in written or audio materials to be translated</p> <p>Financial Data: E.g. Language Professional financial data including bank details, invoices, completed bookings, value of bookings, details of payments made</p> <p>Quality Assurance data shared by the Service Provider: E.g. Registration and Booking data including Language Professional reference number, Language Professional name, contact details, security clearance, language, hours of experience, complexity level, professional memberships, completed bookings</p>

	<p>Quality Assurance data produced by The Language Shop: E.g. progress reports detailing Language Professional such as their technical result (pass/fail), whether the Language Professional is suitably qualified, resulting register status of Language Professional, assessment dates, overall assessment result, detailed assessment report from the assessor</p> <p>Training: E.g. Language Professional contact details, language, level of qualifications, performance/previous assessment results, location</p> <p>Complaints: E.g. emails to and from the complainant (staff or booking requester), emails to and from the Language Professional, documented telephone conversations to resolve the complaint, results of any investigations, quality review records from the Quality Assurance Supplier</p> <p>Audits: E.g. Registration and booking data, audit reports, extra ID documents where required such as physical copies of passports, certificates</p>
Categories of Data Subject	<ol style="list-style-type: none"> 1. The Authority personnel 2. Language Professional
<p>Plan for return and destruction of the data once the processing is complete</p> <p>Unless requirement under union or member state law to preserve that type of data</p>	<p>All data will be returned and destroyed in line with Schedule 9 (Management Information, Reports and Records)</p>

SCHEDULE 23 – FINANCIAL DISTRESS

1. DEFINITIONS

1.1. In this Schedule, the following definitions shall apply:

“Applicable Financial Indicators” means the financial indicators set out in paragraph 5.1 of this Schedule which are to apply to the Monitored Service Providers as set out in paragraph 5.2 of this Schedule;

“Board” means the Service Provider’s board of directors;

“Board Confirmation” means written confirmation from the Board in accordance with Paragraph 8 of this Schedule;

“FDE Group” means the financial distress event group comprising the Service Provider, Key Sub-contractors, the Monitored Service Providers and the Guarantor;

“Financial Indicators” in respect of the Service Provider, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at paragraph 5.1 of this Schedule; and in respect of each Monitored Service Provider, means those Applicable Financial Indicators;

“Financial Target Thresholds” means the target thresholds for each of the Financial Indicators set out at paragraph 5.1 of this Schedule;

“Guarantor” means the guarantor of the Service Provider’s obligations under the Contract if one is required by the Authority;

“Monitored Service Providers” means those entities specified at paragraph 5.2 of this Schedule;

2. WARRANTIES AND DUTY TO NOTIFY

2.1. The Service Provider warrants and represents to the Authority for the benefit of the Authority that as at the Commencement Date the financial position or, as appropriate, the financial performance of each of the Service Provider, Guarantor and Key Sub-contractors satisfies the Financial Target Thresholds.

2.2. The Service Provider shall:

- (a) monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds within 120 calendar days of the Service Provider’s accounting reference date each year; and
- (b) promptly notify (or shall procure that its auditors promptly notify) the Authority 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 Service Provider first becomes aware of the Financial

- Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).
- 2.3. Each report submitted by the Service Provider pursuant to paragraph 2.2(b) shall:
- (a) be a single report with separate sections for each of the FDE Group entities;
 - (b) contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
 - (c) include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - (d) be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
 - (e) include a history of the Financial Indicators reported by the Service Provider in graph form to enable the Authority to easily analyse and assess the trends in financial performance.

3. FINANCIAL DISTRESS EVENTS

- 3.1. The following shall be Financial Distress Events:
- (a) an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
 - (b) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;
 - (c) an FDE Group entity committing a material breach of covenant to its lenders;
 - (d) a Key Sub-contractor notifying the Authority that the Service Provider has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
 - (e) any of the following:
 - (i) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than [REDACTED] or obligations under a service contract with a total contract value greater than [REDACTED];
 - (ii) non-payment by an FDE Group entity of any financial indebtedness;
 - (iii) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
 - (iv) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or
 - (v) the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity; in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Contract; and
 - (f) any one of the Financial Indicators set out at Paragraph 5 for any of the FDE Group entities failing to meet the required Financial Target Threshold.
- 3.2. The Authority may undertake checks by credit rating services to assure itself of the financial viability of any FDE Group entity. Should a credit rating assessment identify concerns in relation to any FDE Group entity, the Authority may consider this to constitute a Financial Distress Event and shall inform the Service Provider of the occurrence of such a Financial Distress Event.

4. CONSEQUENCES OF FINANCIAL DISTRESS EVENTS

- 4.1. Immediately upon notification by the Service Provider of a Financial Distress Event (or if the Authority becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Service Provider, immediately upon bringing such event to the attention of the Service Provider), the Service Provider shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2. In the event of a late or non-payment of a Key Sub-contractor of the type referred to in Paragraph 3.1(d), the Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Service Provider 10 Working Days to:
- (a) rectify such late or non-payment; or
 - (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3. The Service Provider shall (and shall procure that any Monitored Service Provider, the Guarantor and/or any relevant Key Sub-contractor shall):
- (a) at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Service Provider in

- writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with the Contract; and
- (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with the Contract:
- (i) submit to the Authority for its approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may notify to the Service Provider in writing); and
 - (ii) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Service Provider, any Monitored Service Provider, Key Sub-contractors and/or the Guarantor as the Authority may reasonably require in order to understand the risk to the Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.
- 4.4. The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not approve the draft Financial Distress Remediation Plan, it shall inform the Service Provider of its reasons and the Service Provider shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be submitted to the Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Authority or referred to the dispute resolution procedure under Paragraph 4.5.
- 4.5. If the Authority considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Service Provider's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the dispute resolution procedure under clause I1.
- 4.6. Following Approval of the Financial Distress Remediation Plan, the Service Provider shall:
- (a) not less than fortnightly:
 - (i) review and make any updates to the Financial Distress Remediation Plan as the Service Provider may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with the Contract; and
 - (ii) provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Service Provider and/or the reasons why the Service Provider may have decided not to make any changes;
 - (b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6(a), submit an updated Financial Distress Remediation Plan to the Authority for its Approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and
 - (c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.
- 4.7. Where the Service Provider reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Service Provider shall be relieved of its obligations under Paragraph 4.6.
- 4.8. The Service Provider shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3(b)(ii) is available when required and on request from the Authority and within reasonable timescales. Such measures may include:
- (a) obtaining in advance written authority from Key Sub-contractors, the Monitored Service Providers and/or the Guarantor authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;
 - (b) agreeing in advance with the Authority, Key Sub-contractors, the Monitored Service Providers and/or the Guarantor a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;

- (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive information available to Authority nominated personnel through confidential arrangements, subject to their consent); and
- (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymization and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5. FINANCIAL INDICATORS

5.1. Subject to the calculation methodology set out at Annex 1 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:

Financial Indicator	Calculation ⁴	Financial Target Threshold:
1. Operating Margin	Operating Profit / Revenue	>2
2. Net Debt to EBITDA	Net Debt / EBITDA	>10%
3. Net Debt + Net Pension Deficit to EBITDA Ratio	(Net Debt + Net Pension Deficit)/ EBITDA	<2.5
4. Net Interest Paid Cover	EBIT / net interest paid	<4
5. Acid Ratio	(Current assets – inventories) / Current Liabilities	>4.5
6. Net Asset Value	Net Assets	>0
7. Group Exposure Ratio	Group Exposure / Gross Assets (Group Exposure = Balances owed by group undertakings + contingent liabilities assumed in support of group undertakings; Gross assets = fixed assets + current assets)	<25%
8. Qualified/ Unqualified accounts	Assessment on whether the Authority can place reliance on the provider's financial statements.	Unqualified opinion (qualified opinion, adverse opinion or disclaimer of opinion represents a Financial Distress Event)
9. Senior personnel involved with insolvency proceedings	Assessment of whether the provider's senior personnel are by law in a position to run the company and whether there is a risk of the company could be wound up.	Senior personnel must not be involved with insolvency proceeding (involvement represents a Financial Distress Event)

5.2. Monitored Service Providers

Monitored Service Provider	Applicable Financial Indicators [these are the Financial Indicators from the table at 5.1 which are to apply to the Monitored Service Providers]
thebigword Group Limited	

⁴ See Annex 1 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator

6. TERMINATION RIGHTS

- 6.1. The Authority may terminate the Contract under clause H2 (Default) if:
- (a) the Service Provider fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.2(b);
 - (b) the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
 - (c) the Service Provider fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.6(c).

7. NOT USED

8. BOARD CONFIRMATION

- 8.1. If the Contract has been specified as a Critical Service Contract under Paragraph 10.1 of Part 2 to Schedule 15 (Service Continuity Plan and Corporate Resolution Planning) then, subject to Paragraph 8.4 of this Schedule, the Service Provider shall within 120 calendar days of its accounting reference date each year or within 15 months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Authority in the form set out at Annex 2 of this Schedule, confirming that to the best of the Board's knowledge and belief, it is not aware of and has no knowledge:
- (a) that a Financial Distress Event has occurred since the later of the Commencement Date or the previous Board Confirmation or is subsisting; or
 - (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.
- 8.2. The Service Provider shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Service Provider Personnel and other persons as is reasonably necessary to understand and confirm the position.
- 8.3. In respect of the first Board Confirmation to be provided under the Contract, the Service Provider shall provide the Board Confirmation within 15 months of the Commencement Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
- 8.4. Where the Service Provider is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Service Provider to submit in place of the Board Confirmation, a statement from the Board to the Authority (and where the Service Provider is a Strategic Supplier, the Service Provider shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

ANNEX 1: CALCULATION METHODOLOGY FOR FINANCIAL INDICATORS

1. The Service Provider shall use the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

- 1.1. General methodology

- 1.1.1. Terminology: The terms referred to in this Annex are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).

- 1.1.2. Groups: Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.

- 1.1.3. Foreign currency conversion: Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant balance sheet date.

- 1.1.4. Treatment of non-underlying items: Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

- 1.2. Specific Methodology

Financial Indicator	Specific Methodology or Description
1. Operating Margin	Operating Profit / Revenue
2. Net Debt to EBITDA	<p>Net debt = bank overdrafts + loans and borrowings + finance leases + deferred consideration payable – cash and cash equivalents;</p> <p>EBITDA = operating profit + depreciation charge + amortisation charge</p>
3. Net Debt + Net Pension Deficit to EBITDA Ratio	<p>Net debt = bank overdrafts + loans and borrowings + finance leases + deferred consideration payable – cash and cash equivalents</p> <p>Net pension deficit = retirement benefit obligations – retirement benefit assets</p> <p>EBITDA = operating profit + depreciation charge + amortisation charge</p>
4. Net Interest Paid Cover	<p>EBIT = operating profit;</p> <p>Net interest paid = interest paid – interest received</p>
5. Acid Ratio	(Current assets – inventories) / Current Liabilities
6. Net Asset Value	Total assets – total liabilities
7. Group Exposure Ratio	<p>Group Exposure = Balances owed by group undertakings + contingent liabilities assumed in support of group undertakings;</p> <p>Gross assets = fixed assets + current assets</p>
8. Qualified/ Unqualified accounts	Assessment on whether the Authority can place reliance on the Service Provider's financial statements.
9. Senior personnel involved with insolvency proceedings	Assessment of whether the Service Provider's senior personnel are by law in a position to run the company and whether there is a risk of the company could be wound up.

ANNEX 2: BOARD CONFIRMATION

Service Provider Name:

Contract Reference Number:

The Board acknowledges the requirements set out at paragraph 8 of Schedule 14 (Financial Distress) and confirm that the Service Provider has exercised due care and diligence and made reasonable enquiry of all relevant staff and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

- a) that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Commencement Date or is subsisting; or
- b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.

On behalf of the Board of Directors:

Chair

Signed.....

Date

Director

Signed.....

Date