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Contract for the Provision of CRM Development, Application and Support Services

November 2017

FORM OF CONTRACT

PARTIES:

- (1) THE CARE QUALITY COMMISSION of 3rd Floor, 151 Buckingham Palace Road, London, SW1W 9SZ (the "Authority");

AND

- (2) INFOSYS LIMITED a company registered in India (with Corporate Identity Number L85110KA1981PLC013115) and whose registered office is at Electronics City, Hosur Road, Bangalore 560 100 India (with registered branch office in England under the United Kingdom company number FC020086) and located at Level 14, 10 Upper Bank St, Canary Wharf, London E14 5NP (the "Contractor")

(each a "Party" and together the "Parties").

WHEREAS

- i. This Contract is issued by the Authority in accordance with the VEAT Notice Reference 2017-23507 dated 07/09/2017.
- ii. The Contractor is an expert in the field of CRM Development, Application and Support services and experienced contractor to the Authority.
- iii. This Contract is for the provision of CRM Development, Application and Support services by the Contractor to the Authority and such other services as the Parties may from time to time agree under a Statement of Work.

NOW IT IS HEREBY AGREED as follows:

1. TERMS OF CONTRACT

- 1.1 The "Contract" comprises the following:

Part A - Contract Data

Part B - The Schedules

- Schedule 1 - Specification
- Schedule 2 – Service Levels
- Schedule 3 - Statement of Work (SOW)
- Schedule 4 - Contract Change Notice (CCN)
- Schedule 5 – Business Disaster Recovery Plan

PART C – TERMS AND CONDITIONS

1. CONTRACT START DATE, LENGTH AND METHODOLOGY
2. CONTRACTOR STAFF
3. SWAP-OUT


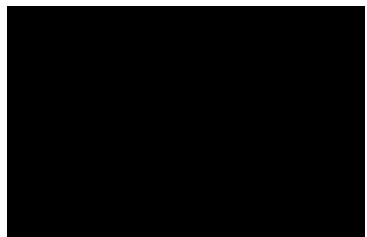
4. STAFF VETTING PROCEDURES
5. DUE DILIGENCE
6. WARRANTIES, REPRESENTATIONS AND ACCEPTANCE CRITERIA
7. BUSINESS CONTINUITY AND DISASTER RECOVERY
8. PAYMENT TERMS AND VAT
9. RECOVERY OF SUMS DUE AND RIGHT OF SET-OFF
10. INSURANCE
11. CONFIDENTIALITY
12. CONFLICT OF INTEREST
13. INTELLECTUAL PROPERTY RIGHTS
14. DATA PROTECTION AND DISCLOSURE
15. AUTHORITY DATA
16. DOCUMENT AND SOURCE CODE MANAGEMENT REPOSITORY
17. NOT USED
18. FREEDOM OF INFORMATION (FOI) REQUESTS
19. STANDARDS AND QUALITY
20. SECURITY
21. INCORPORATION OF TERMS
22. MANAGING DISPUTES
23. TERMINATION
24. CONSEQUENCES OF TERMINATION
25. CONTRACTOR'S STATUS
26. NOTICES
27. EXIT PLAN
28. HELP AT RETENDERING AND HANDOVER TO REPLACEMENT CONTRACTOR
29. CHANGES TO SERVICES
30. CONTRACT CHANGES
31. FORCE MAJEURE
32. ENTIRE AGREEMENT
33. LIABILITY AND WARRANTY
34. WAIVER AND CUMULATIVE REMEDIES
35. FRAUD
36. PREVENTION OF BRIBERY AND CORRUPTION
37. LEGISLATIVE CHANGE
38. PUBLICITY, BRANDING, MEDIA AND OFFICIAL ENQUIRIES
39. NON DISCRIMINATION
40. PREMISES
41. EQUIPMENT
42. SEVERABILITY
43. EMPLOYER LIABILITY INSURANCE
44. COMMUNICATION
45. RELATIONSHIP
46. VARIATION
47. NOT USED
48. SUB-CONTRACTING
49. ENVIRONMENTAL REQUIREMENTS
50. TRANSPARENCY AND ACCESS TO RECORDS
51. RIGHTS OF THIRD PARTIES
52. LAW AND JURISDICTION
53. DEFINED TERMS

- 1.1 The Contract Data (Part A), the Schedules (Part B) and the Terms and Conditions (Part C) together form a binding Contract.
- 1.2 The Contract starts on 01/11/2017 (the "**Commencement Date**") and ends on 31/10/2019 (the "**End Date**") (the "**Contract Period**") unless it is terminated early.

Part A - Contract Data

Authority	Care Quality Commission										
Contractor	Infosys Limited										
Contract/Project Ref.											
Contract title	CRM Development, Application and Support										
Contract description											
<u>Contract Period</u>	Two (2) Years										
Commencement Date	01/11/2017										
End Date	31/10/2019										
<u>Contract value</u>	£4,000,000 (estimated)										
Charging method	<table border="1"> <tr> <td>Capped time and materials (CTM)</td> <td></td> </tr> <tr> <td>Price per story</td> <td></td> </tr> <tr> <td>Time and materials (T&M)</td> <td>Y</td> </tr> <tr> <td>Fixed price</td> <td></td> </tr> <tr> <td>Other pricing method or a combination of pricing methods agreed by the parties</td> <td></td> </tr> </table>	Capped time and materials (CTM)		Price per story		Time and materials (T&M)	Y	Fixed price		Other pricing method or a combination of pricing methods agreed by the parties	
Capped time and materials (CTM)											
Price per story											
Time and materials (T&M)	Y										
Fixed price											
Other pricing method or a combination of pricing methods agreed by the parties											
Notice period for termination for convenience	90 Days										

Principle contact details

For the Authority:	Name:		----
	Title:		----
	Email:		----
For the Contractor:	Name:		----
	Title:		----
	Email:		----
	Phone:		----

Initial Term

Commencement Date: 01/11/2017

Authority contractual requirements

Services required: The provision of CRM Development, Application and Support.

Warranty period 90 days from the date of Authority acceptance of release.

Location: The Authority shall receive the Services primarily at the CQC premises in, Citygate, Gallowgate Newcastle upon Tyne NE1 4PA but may also require the services to be delivered at any of the Authority Premises set out in Annex 1 to Schedule 1 (Specification).

Staff vetting procedures: None (unless specified in a SOW)

Standards: Infosys is committed to adhere to IT standards recognised as IT industry best practices and will continue to adapt to the changing IT industry standards. In its delivery of the Services, Infosys shall adhere to the following IT standards:

1. TICKIT,
2. ISO/IEC 20000-1: 2011,
3. CMMI LEVEL 5,
4. ISO 22301:2012,
5. BS EN ISO 9001:2008,
6. ISO/IEC 27001: 2005

Limit on liability: As set out in Clause 33 of the Terms and Conditions (Part C).

Insurance: As set out in Clause 10 of the Terms and Conditions (Part C).

Contractor's information

Commercially sensitive information:

Financials – any information regarding Charges, Contractor's pricing mechanisms, charge rates, financial reports and invoices, and benchmarking arrangements and findings (whether financial or otherwise) and any contractual provisions related to indemnities and the limitation on liability under the Agreement	Ten (10) years
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Performance – information regarding service credits, liquidated damages, payments related to delays, any reports regarding performance in general and any claims for damages (whether on an indemnity basis or otherwise) made under the Agreement	Ten (10) years
Personnel - any information related to Contractor Personnel (including Key Personnel) and Sub-Contractors, and any contractual terms agreed in respect of personnel (including TUPE and Pension arrangements and terms);	Ten (10) years
Technical Specifications - any information related to Contractor's technical specifications and solutions including of hosting services and architectural design of the solution including hardware and software components	Ten (10) years
Security - any information and plans whether draft or otherwise regarding the Contractor's security arrangements	Ten (10) years
Plans - any information regarding Contractor's implementation, transition, exit plans, in final or draft form;	Ten (10) years
BCDR – any information and plans whether draft or otherwise regarding Contractor's business continuity and disaster recovery;	Ten (10) years
Insurance – any information related to Contractor's insurance policies, indemnity/insurance limits, details and arrangements;	Ten (10) years
Audits - any audit arrangements/contractual terms and information obtained as result of an audit; and	Ten (10) years

Subcontractors / Partners:

N/A

Contract Charges and payment

The method of payment for the Contract Charges

BACS

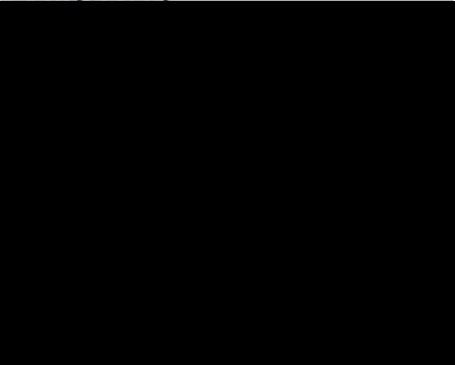
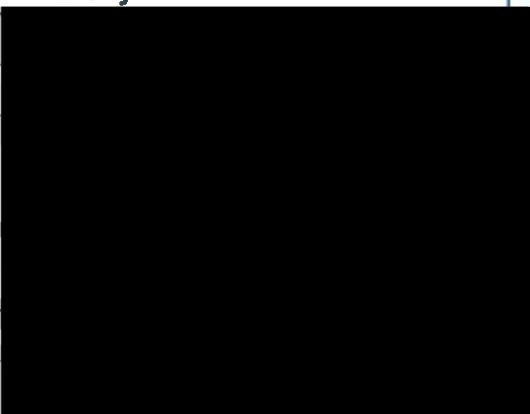
1. Formation of Contract

- 1.1 By signing and returning this Contract Data (Part A), the Contractor agrees to enter into a Contract with the Authority.
- 1.2 The Parties agree that they have read the Contract Data (Part A) and the Contract terms and by signing below agree to be bound by this Contract.
- 1.3 The Contract outlines the Deliverables of the agreement. The Contract Data outlines any amendment within the terms and conditions of the Contract and will supersede Part C in the event of a conflict.

2. Background to the Contract

- 2.1 The Contractor is a provider of ICT development services and undertook to provide such Services under the terms set out in this Contract.
- 2.2 The Authority enters into this Contract with the Contractor as detailed in the Contract Data for Services to the Contractor on the date stated in the Contract.
- 2.3 The Specification for the Services is set out in Schedule 1. The parties intend that this Contract will not itself oblige the Authority to buy or the Contractor to supply any additional services or Deliverables. Any additional instructions, obligations and requirements will only have contractual effect on the execution of a SOW.

SIGNED:

	Contractor:	Authority:
Name:		
Title:		
Signature:		
Date:		

Part B - The Schedules

Schedule 1 - Specification

Part A

1 Performance of the Services

1.1 During the Contract Period the Contractor shall provide the Services to the Authority from time to time in accordance with:

- (a) the applicable parts of this Schedule 1 (Specification);
- (b) the relevant Service Levels as set out in Schedule 2 (Service Levels); and
- (c) applicable legislation, including (but not limited to):
 - (i) Computer Misuse Act (1990)
 - (ii) Data Protection Act (1998)
 - (iii) Copyright Designs and Patents Act (1988)
 - (iv) Health and Safety legislation
 - (v) Human Rights Act (1998)
 - (vi) Regulation of Investigatory Powers Act (2000)
 - (vii) Freedom of Information Act (2000)
 - (viii) Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, Race Relations Act 1976 (Amendment) Regulations 2003,
 - (ix) Disability Discrimination Act 1995,
 - (x) Sex Discrimination Act 1975,
 - (xi) Equal Pay Act 1970,
 - (xii) Employment Equality (Sexual Orientation) Regulation 2003,
 - (xiii) Age Discrimination Act 2006
 - (xiv) Employment Equality (Age) Regulations 2006

In each case as amended or replaced from time to time.

2 Standard of the Services

2.1 The Contractor shall provide the Services in accordance with:

- (a) Good Industry Practice; and
- (b) the Contractor's own established procedures and practices (where the same do not conflict with the direct requirements of the Authority).

2.2 In its delivery of the Services, the Contractor shall employ such tools, accelerators and methodologies as it has available to seek to increase efficiency and reduce costs for the Authority.

2.3 Where the Contractor performs and/or delivers the Services from Authority Premises, the Contractor shall comply with the security policy of the Authority (as provided to the Contractor) and such other policies as may be notified to the Contractor by the Authority (as may be amended from time to time). Failure to comply with the Authority's policies and/or procedures shall entitle the Authority to require the Contractor to vacate the Authority's Premises.

2.4 Where the Contractor performs and/or delivers the Services at the Contractor Premises, the Contractor shall provide the security measures and safeguards to guard against the destruction, loss, unauthorised disclosure, breach of confidentiality, and/or alteration of any Authority property or Authority Data that is maintained and/or stored at the Contractor's facilities.

2.5 In the event that the Contractor fails to provide the Services or fails to comply with its obligations under the Contract, the Authority may, without prejudice to its other rights, require the Contractor to re-perform the Services or to comply with its obligations.

3 Service Elements

3.1 The Services shall comprise each of the following service elements:

- (a) Application Support Services as defined in and in accordance with paragraph 5 and the responsibility matrix set out in Part B of this Schedule 1 (Service Requirements);
- (b) Development Services as defined in and in accordance with paragraph 6 and the responsibility matrix set out in Part B of this Schedule 1 (Service Requirements);
- (c) back-up and data recovery in accordance with paragraph 7 of this Schedule 1 (Service Requirements);
- (d) service management as set out in paragraph 8 of this Schedule 1 (Service Requirements) and Schedule 6 (Governance); and

- (e) reporting in accordance with paragraph 9 of this Schedule 1 (Service Requirements);

4 Operations Manual

The Contractor shall produce within 3 months of the Commencement Date and shall maintain during the Contract Period a manual describing its operations in respect of each element of the Services in sufficient detail as would be required to allow an expert application support and development contractor to take over and manage the Services (the 'Operations Manual').

5 Application Support

5.1 Contractor shall provide Application support services as described in this paragraph 5 (**Application Support Services**) for the Applications set out in paragraph 5.2 below:

- (a) so as to ensure that the Applications are available and accessible for Authority Users during Core Hours; and
- (b) in accordance with service levels set out in Schedule 2 (Service Levels).

5.2 The Contractor shall support:

- (a) the Applications, including but not limited to:
 - (i) The Authority's CRM platform;
 - (ii) Modified and customised CRM forms and Interfaces;
 - (iii) Oracle Business Intelligence Enterprise Edition (OBIEE);
 - (iv) XML and other data transfer means; and
 - (v) all new developments that are deployed to the Applications will be in line with agreed processes set out in the relevant Statement of Work.
- (b) the Interfaces between CRM, OBIEE and the Authority's other systems, including but not limited to:
 - (i) data transfers between CRM and OBIEE;
 - (ii) scanning system;
 - (iii) the Authority's website;
 - (iv) on-line services site;
 - (v) the Authority's finance system;
 - (vi) the Authority's human resources system;

- (vii) the National Resource Planning System if and when this is developed;
 - (viii) custom web services;
 - (ix) XML data loads / exports;
 - (x) ESB connectors
 - (c) developments to Applications and/or Interfaces pursuant to the provision by the Contractor of the Development Services as set out in paragraph 6.
- 5.3 The Contractor shall ensure that during any period of downtime of any Application, an appropriate placeholder page specific to the site being accessed is displayed to all Authority Users confirming the URL, giving the appropriate helpdesk number, explaining the downtime reason and giving an estimated time for resolution of service.
- 5.4 The Contractor shall amend the placeholder page content upon request from nominated members of the Authority in a timely fashion.

Problem/Incident Management

- 5.5 The Contractor shall perform Incident Management to ITIL v3 standard. This includes ensuring that faults are corrected, preventing any recurrence of these faults, and the application of preventative maintenance to reduce the likelihood of these faults occurring in the first instance.
- 5.6 The Contractor shall also provide reactive fault diagnosis and proactive trend analysis to identify, record, report on and rectify root causes of Incidents and to prevent future Incidents and problems.
- 5.7 The Contractor shall provide support for any Incidents that arise from Release Management activities by the Authority and/or Third Party Providers on a reasonable endeavours basis.

Contractor Helpdesk

- 5.8 The Contractor shall provide support in respect of any Incident via a helpdesk (the 'Contractor Helpdesk'). The Contractor Helpdesk shall be available during Core Hours to deal with Incidents that are classified with a Severity Level of 2, 3 or 4. The Contractor shall provide support in respect of Incidents that are classified with a Severity Level of 1 on a 24 hours a day, 7 days a week and 365 days a year basis.
- 5.9 The Contractor Helpdesk shall provide:
- (a) support on-site for all Severity Levels of Incident during the hours of 08:00 to 18:30 on Working Days (the 'Core Hours'); and
 - (b) support off-site/on an on-call basis:

- (i) during the hours of 18:30 to 22:00 on Working Days in respect of all Severity Levels (at the Rates set out in the Order Form and the additional monthly charge set out in the Order Form (Part A)); and
 - (ii) Outside Core Hours in respect of Severity Level 1 Incidents at the increased rates as set out in the Order Form (Part A).
- 5.10 The Contractor shall resolve Incidents in accordance with the Service Levels set out in Schedule 2 (Service Levels).
- 5.11 Queries from Authority Users shall not be routed directly to the Contractor Helpdesk but shall instead be directed to the Authority's Service Desk. The Authority's Service Desk shall carry out an initial triage and diagnosis of the query and shall route Incidents which solely relate to the Services to the Contractor's Helpdesk.
- 5.12 Upon receipt of an Incident from the Authority Service Desk, which will include an indication of the Authority's view on its Severity Level (as defined in accordance with paragraph 5.13) and Likely Cause (as defined in accordance with paragraph 5.14), the Contractor shall categorise the Incident according to the information provided by the Authority Service Desk. Response and target fix times for the Contractor will be communicated to the Authority Service Desk once the Incident is logged and an Incident Reference Number is provided.
- 5.13 The Contractor shall match each Incident against the following definitions of severity (the 'Severity Level') as follows:
 - (a) Severity Level 1: Entire Application and/or Interface unavailable to all users and/or severe disruption to Authority's business;
 - (b) Severity Level 2: Specific modules of Application and/or Interface unavailable to all users and/or major disruption to Authority's business;
 - (c) Severity Level 3: Severe functionality defect and/or minor disruption to Authority's business;
 - (d) Severity Level 4: Minor functionality defect and/or minor disruption to Authority's business;
- 5.14 The Contractor shall also determine a likely cause of an Incident (the Likely Cause) when categorising and logging each Incident as follows:
 - (a) Application Issue – A fault in the configured System;
 - (b) Software Issue – A fault in the core application;
 - (c) OBIEE Application Issue;
 - (d) OBIEE Software Issue;

- (e) Infrastructure Issue – A fault in the underlying infrastructure.
 - (f) Any other fault, (in which case the Contractor shall inform the Authority that such Incident cannot be categorised as having a Likely Cause)
- 5.15 Where the Contractor disagrees with the Severity Level and/or Likely Cause specified by the Authority, the Contractor shall inform the Authority's service management team who shall have the final decision in categorising the Severity Level of the relevant Incident.
- 5.16 The Contractor shall provide layered support in respect of Incidents, with first line support dealing with initial referral of Incidents and routine support requests (including but not limited to Incident logging, routing and tracking, password resets, creation of new users, liaising with higher level support teams) and the highest level of support dealing with more complex support queries and/or Incidents such as build and testing of resolution procedures that have been subject to a root cause analysis and integration testing of resolutions.
- 5.17 Where an Incident is defined as being caused by an Infrastructure Issue, the Contractor shall refer such Incident back to the Authority Service Desk for referral (as necessary) to the relevant third party Infrastructure provider(s) and shall notifying the Authority service management team that it has taken such action.
- 5.18 The Contractor shall manage escalations through the Authority Service Desk according to the following table. For Severity Level 1 or 2 Incidents, or escalation of Incidents that have not been able to be resolved, calls will be escalated to the following members of staff in this order and within the specified timescales:

Service downtime that will impact Availability during Core Hours	Authority	Contractor
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6 Application Development

- 6.1 The Contractor shall provide development services for the on-going enhancement of the Applications in line with the Authority's evolving business requirement (the 'Development Services').

- 6.2 In respect of the Applications and the Interfaces, the Development Services shall include activities relating to:
- (a) design and development (including technical review of specifications);
 - (b) deployment (including but not limited to testing, user acceptance testing, training) to both pre-production and live environments;
 - (c) system testing and user acceptance testing support (including but not limited to fault triage, fault fixing); and
 - (d) post go-live (early life) support for developments and Releases.
- 6.3 The Authority shall issue a request to the Contractor where it requires the Contractor to carry out the additional Development Services in respect of an Application and/or Interface (a 'Development Request').
- 6.4 The standard Development Services shall be provided by the Contractor during the Core Hours on each Working Day.
- 6.5 As part of a Development Request the Authority shall provide the Contractor with its relevant business requirements and the functional specification for the required Development Services and shall indicate whether, as part of the relevant Development additional documentation (in addition to the standard documentation required pursuant to this Schedule) is required to be produced by the Contractor.
- 6.6 Unless otherwise agreed between the parties, the Contractor shall provide all Development Services in respect of Seibel CRM in accordance with agile methodology. Upon the receipt of an additional Development Request, the Contractor shall carry out a requirement analysis and shall scope the development work required in respect of the relevant Development Request. The Parties shall agree the contents of a Statement of Work for any additional Development Request to specify:
- (a) the timescale for completion of the relevant Development Services;
 - (b) an estimate cost for the relevant Development Services;
 - (c) the Deliverables (including but not limited to any documentation and or Application code) to be produced as part of the delivery of the relevant Development Services;
 - (d) any relevant Authority requirements in respect of the relevant Development Services; and

the Contractor shall provide the relevant Development Services in accordance with the terms of this Agreement and the applicable Statement of Work.

- 6.7 As part of the Development Services, the Authority may require the Contractor to perform Release Management. The Contractor shall adhere to the Authority's Release

Management process as communicated to the Contractor from time to time and shall complete Release Management activities on a time and materials basis in accordance with the rate card set out in Schedule 5 (Charges).

- 6.8 The Contractor shall provide technical documentation for all new Developments and for any changes made to any Application and/or Interface that would allow an expert in the relevant Application to which the Interface and/or Development relates to understand the way a particular change has been configured into the Application/Interface. Where the Authority explicitly requests that the Contractor produces a technical document for a change (e.g. as part of a Development Request), the Contractor shall incorporate this additional effort into the fee estimations provided to the Authority in order to produce the required documentation in conjunction with the relevant Development.

7 Backup

- 7.1 Where the Contractor carries out Development Services or any other Services and any information and/or data in respect of the same is not stored on the Authority System (including the Authority's Infrastructure) but is instead stored on the Contractor System, the Contractor shall ensure that it keeps and maintains accurate back-ups of such information and data in accordance with this paragraph 7 for use in the event of any data corruption.
- 7.2 Where this paragraph 7 is relevant, the Contractor shall ensure that it will be possible to restore the Applications to specific points in time based on the backup schedule. Retention periods for backups are:
- (a) Daily full back-up; retained for 1 month
 - (b) Weekly full back-up; retained for 1 month
 - (c) Monthly full back-up; retained for 12 months
- 7.3 The Contractor shall manage backup media and store it off-site, with media being removed from site at least once per day.

8 Service Management

- 8.1 The Contractor shall use reasonable endeavours when delivering the Services to achieve commercial efficiencies for the benefit of the Authority.
- 8.2 The Contractor shall use an estimated resource of 9 full time equivalent members of staff to deliver the Services. The parties expect to utilise 3 members of staff to deliver the Development Services, 5 members of staff to deliver the Application Support Services and 1 member of staff in respect of management of the Services. This split of resource is not fixed and resource shall be used flexibly in accordance with the Authority's needs and to deliver the Services in accordance with the Service Levels.

- 8.3 In the event of a catastrophic failure of the Authority's ICT Services, or any part thereof which affects the Contractor's delivery of the Services, the Contractor shall ensure that it has resources available to allow its staff to work out of the Contractor Premises in order to continue the provision of the Services in accordance with the relevant Service Levels, provided that the Authority shall (as far as it is able to) facilitate connectivity between the Authority System and the Contractor System.
- 8.4 The Contractor shall record and monitor the progress of Incidents and Changes.
- 8.5 The Contractor shall close Incidents which impacted availability after confirmation with the Authority Service Desk.
- 8.6 The Contractor shall review with the Authority all open incidents on a regular basis.
- 8.7 The Contractor shall maintain the Authority and Contractor contacts data (such as named callers, phone numbers and addresses).

9 Reporting

- 9.1 The Contractor shall provide reporting on the Services to include:

(a) weekly reports including:

- (i) SLA Performance (month to date)
- (ii) Number of Tickets Opened/ Closed
- (iii) Production Support Activities
- (iv) Effectiveness

(b) monthly reports including:

- (i) Incident Count
- (ii) Request Count
- (iii) SLA slippage analysis
- (iv) Trend Analysis by Tower/LOB/SOW/Application
- (v) Aging of tickets
- (vi) % Tickets resolved by Infosys (trend)
- (vii) Application Health
- (viii) Development Effort

(A) Estimate

- (B) Schedule
 - (C) Effort
 - (D) Effectiveness
 - (E) Schedule adherence
 - (F) Defect Injection
 - (ix) Deviations from initial volumetric assumptions
 - (x) Repeated failure trends
 - (xi) Achievements
 - (xii) Issues
- (c) quarterly reports including:
- (i) Tower level summary information to include:
 - (A) Incident volume trends
 - (B) system availability trends
 - (C) factors affecting system availability
 - (D) top 5 Incident root causes
 - (E) number of development requests
 - (F) Application health
 - (G) number of major production releases
 - (ii) contractual information
 - (A) fee at risk related
 - 1) SLA adherence and trends
 - 2) % of Incidents resolved by Contractor

Specification

Part B

1 Responsibility Matrix

1.1 The table below details the responsibility matrix for the Services.

1.2 Key:

- (a) P = Perform
- (b) A = Approve
- (c) C = Co-Operate
- (d) R = Make Recommendations
- (e) T = Trigger

Detailed Support	Services:	Application	Responsibility	
			Contractor	Authority
Incident diagnosis			P	
Incident allocation to Resolver Group				P
Resolution of Incidents in accordance with SLA			P	
Monitor and report on recurring Incidents on request			P	T

Detailed Development	Services:	Application	Responsibility	
			Contractor	Authority
Manage development of CRM and OBIEE application software			P	C
Deliver CRM & OBIEE release requirements			R	P
Transpose Authority requirements into development plan			P	T
Perform CRM and OBIEE development			P	
Perform UAT of release			C	P

Detailed Services: Application Development	Responsibility	
	Contractor	Authority
Manage release into Production	P	A
Perform release into Production	T/P	C

Annex 1

Authority Premises

CQC Head Office

151 Buckingham Palace Road
London
SW1W 9SZ

National Authority Service Centre & North East Region

National Authority Service Centre
Citygate
Gallowgate
Newcastle upon Tyne NE1 4PA

East Midlands and East Region

The Axis Building
Upper Parliament Street
Nottingham NG1 6LF

Note: The Mental Health Operations Team also works within this office.

North West Region

Guild Centre
Lord's Walk
Preston
Lancashire
PR1 1RA

South West Region

Fourth Floor
Colston 33
Colston Avenue
Bristol BS1 4UA

West Midlands Region

15th floor
McLaren Building
46 Priory Queensway
Dale End
Birmingham
B4 7LR

Yorkshire and Humberside region

St Paul's House
23 Park Square South
Leeds LS1 2ND

Schedule 2 – Service Levels

1 SCOPE

This Schedule 2 (Service Levels) sets out the Service Levels which the Contractor is required to achieve when delivering the Services, the mechanism by which the achievement of the Service Levels will be measured and monitored. This schedule comprises:

- 1.1 Part A: Service Levels;
- 1.2 Appendix to Part A - Service Levels and Severity Levels; and
- 1.3 Part B: Performance Monitoring.

PART A

Service Levels

1 OBJECTIVES

1. The objectives of the Service Levels and Service Credits are to:

- 1.1 ensure that the Services are of a consistently high quality and meet the requirements of the Authority;
- 1.2 provide a mechanism whereby the Authority can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the level of Service for which it has contracted to deliver; and
- 1.3 incentivise the Contractor to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

2 SERVICE LEVELS

- 2.1 The Appendix to this Part A of this schedule sets out Service Levels for the Application Support Services, the performance of which the parties have agreed to measure
- 2.2 The Contractor shall monitor its performance of each of the Services referred to in paragraph 2.1 by reference to the Service Level(s) for that Service and shall send the Authority a report detailing the level of service which was achieved in accordance with the provisions of Part B of this Schedule 2 (Service Levels).
- 2.3 The Contractor shall provide the Services in such a manner that the Service Level for each Service is achieved.
- 2.4 If the level of performance of the Contractor of any element of a Service during:
 - 2.4.1 a Service Period is below the Service Level in respect of each element of the Service, the appropriate number of Service Credits (if any) will accrue to the Contractor in respect of that element of the Service as is set out in paragraph 3 below; and
 - 2.4.2 two consecutive Service Periods is below the Service level in respect of each element of the Service, this shall constitute a Material Breach and the Authority shall be entitled to terminate this Agreement and/or seek damages in addition to any Service Points which have already been accrued by the Contractor and for which Service Credits are payable by the Contractor to the Authority.

3 SERVICE CREDITS

- 3.1 The Contractor shall deliver the Services in accordance with the Service Levels set out in Appendix A to this Part A of Schedule 2 (Service Levels) and shall monitor and report on its performance in accordance with its obligation under this Contract.

3.2 In the event that the Contractor fails to meet the Service Levels then the Authority shall be entitled to deduct from the Charges a Service Credit calculated in accordance with paragraph 4.1.2, which shall be capped each month at two percent (2%) of the monthly Charges in which the Service Level failure occurs.

4 REVIEW OF SERVICE LEVELS AND CREDITS

4.1 The parties shall review the performance of the delivery of the Services and, unless the parties agree otherwise:

4.1.1 the Service Levels set out in Appendix A to Part A of Schedule 3 (Service Levels) shall continue to apply to delivery of the Application Support Services;

4.1.2 subject to the cap set out in paragraph 3.2 above, the Authority shall be entitled to a Service Credit representing:

0.5% of the monthly Charges for each Severity Level 4 failure;

1.0% of the monthly Charges for each Severity Level 3 failure;

1.5% of the monthly Charges for each Severity Level 2 failure;

2.0% of the monthly Charges for each Severity Level 1 failure.

4.2 Any dispute regarding the application of paragraph 4.1 above shall be referred to the Service Review Meetings Governance meetings in accordance with Schedule 6 (Governance) and if still not resolved, shall be resolved in accordance with Clause 22 of Part C (Terms and Conditions) and until the matter is resolved, there shall be no Change to the terms of this Contract.

5 NATURE OF SERVICE CREDITS

The Contractor confirms that it has taken Service Credits into account in setting the level of the Charges. Both parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance and that they are not liquidated damages.

APPENDIX A TO PART A

1 SERVICE LEVELS

Application Support

- 1.1 The Contractor shall receive Incidents from the Authority Service Desk, and from automated system monitoring alerts.
- 1.2 Resolution Time is to restore Application functionality. The Contractor shall respond to Application related Incidents according to their Severity within the times stated in the following table:

Severity	Resolution Time	Resolution Time	Resolution Time
Severity Level 1	30 minutes	4 hours	24x7
Severity Level 2	1 hour	6 hours	During Core Hours
Severity Level 3	2 hours	1 Working Day	During Core Hours
Severity Level 4	1 Working Day	2 Working Days	During Core Hours

- 1.3 The coverage shall be provided by the Contractor in respect of Severity Levels 2 to 4 between the hours of 18:30 to 22:00 on each Working Day on an on-call basis.
- 1.4 The Resolution Time shown in the table above is the time between detection of the Incident by the Contractor or when an Incident is logged with the Contractor's Helpdesk and restoration of CRM and OBIEE functionality. For Severity 2, 3 or 4 Incidents the Resolution time will be measured only within the hours of Coverage (i.e, a Severity 2 raised at 9pm will have a target resolution time through to 2pm the following Working Day).

PART B

1 PERFORMANCE MONITORING

- 1.1 The Contractor shall provide reports to the Authority detailing a summary of the Services provided to the Authority during the relevant month in accordance with paragraph 9 of Part A, Schedule 1
- 1.2 In addition, the Contractor shall provide a report within 5 working days of all Severity 1 Incidents, as defined in Section 1.2 of Appendix A to Part A of this Schedule 2 (Service Levels). These reports will contain a detailed chronology of the period leading up to, during and following the incident to the point of service recovery; identification of the root cause of the incident and a description of the actions carried out (or a plan for the actions to be carried out) by the Contractor to prevent reoccurrence.

2 REPORTING OF INCIDENTS

- 2.1 The Authority Service Desk shall report all Incidents to the Contractors Helpdesk. The Authority may define members of the Contractor's staff as a resolver group within its own Authority Service Desk to facilitate the allocation to the Contractor of Incidents and the Contractor's logging of Incidents.
- 2.2 Where the Contractor is not specified as a resolver group within the Authority's own Authority Service Desk, the Contractor shall ensure that all Incidents are logged immediately on receipt of notification, on the Contractor's Incident Management tool.
- 2.3 Where the Contractor's Helpdesk receives more than one report of the Incident then all such reports shall be logged on the Contractor's Incident Management tool.
- 2.4 The Contractor shall ensure that, as a minimum, the following details are recorded by the Contractor in respect of each Incident provided such information has been provided by the Authority Service Desk at the time the Incident is being logged:
 - 2.4.1 a unique Incident number;
 - 2.4.2 the date and time the report is received at the Contractor's Helpdesk;
 - 2.4.3 the nature and location of the Incident;
 - 2.4.4 the person/organisation making the report;
 - 2.4.5 the severity level assigned to the Incident by the Contractor;
 - 2.4.6 an estimate of the number of Authority Users which are affected by the Incident;
 - 2.4.7 the action intended to be taken or which has been taken to rectify the Incident;
 - 2.4.8 details of any communication with the Authority's Representative in connection with the Incident;

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- 2.4.9 notes/comments regarding any mitigating circumstances with regard to the Incident;

3 PERFORMANCE MONITORING AND REVIEW

- 3.1 Within 10 Working Days of the end of each Service Period, the Contractor shall provide a Service Level Report to the Authority's Representative.
- 3.2 The Service Level Report shall contain, as a minimum, the following information in respect of the Service Period just ended:
- 3.2.1 the monitoring which has been performed in accordance with the Performance Monitoring System with a summary of any issues identified by such monitoring;
 - 3.2.2 for each Service Level, the actual performance achieved over the Service Period, and that achieved over the previous 3 Service Periods;
 - 3.2.3 a summary of all Incidents that occurred during the Service Period;
 - 3.2.4 the level of each Incident which occurred;
 - 3.2.5 which Incidents remain outstanding and progress in resolving them;
 - 3.2.6 for any Severity 1 Incident occurring in the Service Period, the cause of the fault and any action being taken to reduce the likelihood of recurrence;
 - 3.2.7 for any repeat Service Level failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.2.8 for any Incidents for which the Contractor believes excused performance should apply, the underlying cause and origin of such Incidents. The Contractor shall ensure that each such Performance Monitoring Report will be accompanied by appropriate data and information which substantiate the circumstances or events giving rise to the request for excused performance;
 - 3.2.9 (where relevant) the Service Credits to be applied in respect of that Service Period indicating the Incident(s) to which the Service Credits relate;
 - 3.2.10 a rolling total of the number of Incidents that have occurred and the amount of Service Credits that have been incurred by the Contractor over the past six months;
 - 3.2.11 relevant particulars of any aspects of the performance by the Contractor which fail to meet the requirements of the Contract; and
 - 3.2.12 such other details as the Authority may reasonably require from time to time as mutually agreed by the Parties.
- 3.3 The Service Level Report shall be reviewed and its contents agreed by the Parties at the Service Review Meeting.

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- 3.4 The parties shall attend Service Review Meetings on a monthly basis (unless otherwise agreed). The Service Review Meetings will be the forum for the review by the Contractor and the Authority of the Service Level Reports
 - 3.5 The Authority shall be entitled to raise any reasonable additional questions and/or request any further information regarding any Incident.
 - 3.6 The Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance by the Contractor and, where relevant, the calculations of the amount of Service Credits for any specified period.

4 RECORDS

- 4.1 The Contractor shall keep appropriate documents and records (e.g. help desk records, Service Level Reports, change records) in relation to the Services being delivered and the other requirements to be satisfied pursuant to this Contract. Without prejudice to the generality of the foregoing, the Contractor shall maintain accurate records of call histories in relation to the monitoring of the Services for a minimum of 12 months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Contractor referred to in this paragraph 4.1 shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.
- 4.2 In addition to the requirement in paragraph 4.1 of this Part B to maintain appropriate documents and records, the Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Contractor after the Commencement Date and the calculations of the amount of Service Credits for any specified period.

Schedule 3

Pro Forma Statement of Work (SOW), including pricing arrangements and Key Staff

SOW Details

Date of SOW:	<i>Please enter the first date (on site)</i>
SOW Reference:	
Authority:	<i>Care Quality Commission</i>
Contractor:	<i>Infosys Limited</i>
Release Type(s):	<i>Please enter here</i>
Phase(s) of Development:	<i>Choose an item</i>
Release Completion Date:	<i>Please enter the Release Completion Date</i>
Duration of SOW	<i>Please enter the number of days here</i>
Charging Method(s) for this Release:	<i>Choose an item</i>

3.1.1 The Parties will execute a SOW for each new project. Note that any ad-hoc Service requirements are to be treated as individual Releases in their own right (in addition to the releases at the delivery stage); and the Parties should execute a separate SOW in respect of each.

3.1.2 The rights, obligations and details agreed by the Parties and set out in this SOW apply only in relation to the Services that are to be delivered under this SOW and will not apply to any other SOW's executed or to be executed under this Contract unless otherwise agreed by the Parties.

Key Staff

3.2.1 The Parties agree that the Key Staff in respect of this Project are detailed in the table below.

3.2.2 Table of Key Staff:

Name	Role	Details

Deliverables

[To be added in agreement between the Authority and Contractor]

Contract Charges

[For each individual Statement of Work (SOW), the applicable Contract Charges in accordance with the charging method in the Contract Data (unless the Parties otherwise agree to a Fixed Charge as set out in paragraph 3.4.3 below).

Where the Contract Charges are calculated using the method set out in the Contract Data (Part A) the Contractor will provide a detailed breakdown of rates based on time and materials Charges, inclusive of expenses and exclusive of VAT, with sufficient detail to enable the Authority to verify the accuracy of the time and material Contract Charges incurred.

The detailed breakdown for the provision of Services during the term of the SOW will include (but will not be limited to):

- *a role description per Contractor Staff;*
- *a facilities description;*
- *the agreed relevant rate per day;*
- *any expenses charged per day, which are in line with the Authority's expenses policy (if applicable);*
- *the number of days, or pro rata for every part day, they will be actively providing the Services during the term of the SOW; and*
- *the total cost per role / facility*

The Contractor will also provide a summary which is to include:

- *Total estimated value of this SOW*
- *Estimated Overall Contract Charge*
- *Remainder of value under overall Contract Charge*
Where: Remainder of value under overall Contract Charge = overall Contract Charge - sum of total value of all SOWs invoiced
- *Whether there is any risk of exceeding Overall Contract Charge (and thereby requiring a Contract Change Note (CCN) to continue delivery of Services)*

If a capped or fixed price has been agreed for a SOW:

- *The Contractor will continue at its own cost and expense to provide the Services even where the agreed price has been exceeded; and*
- *The Authority will have no obligation or liability to pay for the cost of any Services delivered relating to this order after the agreed price has been exceeded;*
- *Should the requirements or deliverables change then the SOW will be reviewed and be subject to change control.*

Risks or contingencies will be included in the Charges. The Parties agree that the following assumptions, representations, risks and contingencies will apply in relation to the Charges: [to detail priced risks and contingencies in SOW]

Any changes to the Contractor Staff should be agreed with the Authority and covered by a separate SOW where it cannot be accommodated within an existing SOW.

Multiple SOWs can operate concurrently.

The Contractor will keep accurate records of the time spent by the Contractor staff in providing the services and will provide records to the Authority for inspection on request for Time and Materials activities]

Agreement of statement of works

BY SIGNING this SOW, the parties agree to be bound by the terms and conditions set out herein:

For and on behalf of the Contractor:

Name and title

Signature and date

_____X_____

For and on behalf of the Authority:

Name and title

Signature and date

_____X_____

[Note: If you exceed the overall Contract value and Contractor Staff are still required to deliver the services, then a contract change note (CCN) must be raised, explaining the reason(s) for the extension]

Schedule 4 - Contract Change Notice (CCN)

Contract Data reference for the Contract being varied:

BETWEEN:

Care Quality Commission ("the Authority")

and

Infosys Limited ("the Contractor")

1. The Contract is varied as follows and shall take effect on the date signed by both Parties:

Guidance Note: Insert full details of the change including:

Reason for the change;

Full Details of the proposed change;

Likely impact, if any, of the change on other aspects of the Contract;

2. Words and expressions in this Contract Change Notice shall have the meanings given to them in the Contract.
3. The Contract, including any previous changes shall remain effective and unaltered except as amended by this change.

Signed by an authorised signatory for and on behalf of the Authority

Signature: _____

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

Name: _____ [Click here to enter text](#)

Address: _____ [Click here to enter text.](#)

Signed by an authorised signatory to sign for and on behalf of the Contractor

Signature: _____

 X _____

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

Name: _____ [Click here to enter text.](#)

Address: _____ [Click here to enter text.](#)

Schedule 5- Business Disaster Recovery Plan

The Contractor will provide a Business Disaster Recovery Plan within 60 days of the Commencement Date.

Part C – Terms and conditions

1. CONTRACT START DATE, LENGTH AND METHODOLOGY

- 1.1 The Contractor will start providing the Services on the Service Commencement Date or otherwise in accordance with the dates specified in any Statement of Work (SOW).
- 1.2 Completion dates for any additional Deliverables will be set out in a SOW.
- 1.3 The term of this Contract will end on End Date.
- 1.4 The Contractor will plan on using an agile process, starting with user needs. The methodology will be outlined in the SOW. Waterfall methodology will only be used in exceptional circumstances, and where it can be shown to best meet user needs. Projects may need a combination of both waterfall and agile methods, playing to their respective strengths.

2. CONTRACTOR STAFF

- 2.1 The Contractor Staff will:
 - (i) fulfil all reasonable requests of the Authority;
 - (ii) apply all due skill, care and diligence to the provisions of the Services;
 - (iii) be appropriately experienced, qualified and trained to supply the Services;
 - (iv) respond to any enquiries about the Services as soon as reasonably possible; and
 - (v) complete any necessary vetting procedures specified by the Authority.
- 2.2 The Contractor will ensure that Key Staff are assigned to provide the Services for their Working Days (agreed between Contractor and Authority) and are not removed from the Services during the dates specified in the relevant SOW.
- 2.3 The Contractor will promptly replace any Key Staff that the Authority considers unsatisfactory at no extra charge. The Contractor will promptly replace anyone who resigns with someone who is acceptable to the Authority. If the Contractor cannot provide an acceptable replacement, the Authority may terminate this Contract subject to clause 23.
- 2.4 Contractor Staff will comply with Authority requirements for the conduct of staff when on Authority's premises.

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- 2.5 Where applicable, the Contractor will comply with the Authority's staff vetting procedures for all or part of the Contractor Staff.
 - 2.6 The Contractor will, on request, provide a copy of the contract of engagement (between the Contractor and contracted consultants) for every member of Contractor Staff made available to the Authority who is a non-payrolled consultant.

3. SWAP-OUT

- 3.1 Contractor Staff providing the Services may only be swapped out with the prior approval of the Authority (such approval not to be unreasonably withheld or delayed).

4. STAFF VETTING PROCEDURES

- 4.1 Where applicable, all Contractor Staff will need to be cleared to the level determined by the Authority and detailed in the relevant SOW prior to the commencement of work.
- 4.2 The Authority may stipulate differing clearance levels for different roles during this Contract period.
- 4.3 The Contractor will ensure that it complies with any additional staff vetting procedures as requested by the Authority.

5. DUE DILIGENCE

- 5.1 Both parties acknowledge that information will be needed to provide the Services throughout the term of this Contract. Both parties agree to share such information freely.
- 5.2 Further to 5.1, both Parties agree that when entering into a SOW, they:
 - 5.2.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party;
 - 5.2.2 are confident that they can fulfil their obligations according to the terms of the SOW;
 - 5.2.3 have raised all due diligence questions before the SOW; and
 - 5.2.4 have entered into the SOW relying on its own due diligence.

6. WARRANTIES, REPRESENTATIONS AND ACCEPTANCE CRITERIA

- 6.1 The Contractor will use the best applicable and available techniques and standards and will perform this Contract with all reasonable care, skill and diligence, and according to Good Industry Practice.
- 6.2 The Contractor warrants that all Contractor Staff assigned to the performance of the Services will have the necessary qualifications, skills and experience for the proper performance of the Services.
- 6.3 The Contractor represents and undertakes to the Authority that each Deliverable will meet the Authority's acceptance criteria for the Warranty Period, as defined in the relevant SOW.
- 6.4 The Contractor undertakes to maintain any interface and interoperability between third-party software or Services and software or Services developed by the Contractor.
- 6.5 The Contractor warrants that it has full capacity and authority and all necessary authorisations, consents, licences and permissions to perform this Contract.

7. BUSINESS CONTINUITY AND DISASTER RECOVERY

- 7.1 If required by the Authority, the Contractor will ensure a disaster recovery approach is captured in a clear disaster recovery plan. All Contractor Staff must also adhere to the Authority's business continuity and disaster recovery procedure as required in the delivery of the Services for this project.

8. PAYMENT TERMS AND VAT

- 8.1 The Authority will pay the Contractor within 30 days of receipt of a valid invoice submitted in accordance with this Contract.
- 8.2 The Contractor will ensure that each invoice contains the information specified by the Authority in the Contract Data and the relevant SOW.
- 8.3 The Contract Charges are deemed to include all Charges for payment processing. VAT will be added to all Contract Charges at the applicable rate on all invoices issued for payment by the Contractor.
- 8.4 All payments made by the Authority under this Contract shall be inclusive of VAT.

9. RECOVERY OF SUMS DUE AND RIGHT OF SET-OFF

- 9.1 If a Contractor owes money to the Authority or any Crown body, the Authority may request a credit note from the Contractor so that it can deduct that sum from the total due. The Contractor shall issue such credit note within 30 days of request from the Authority. The issue of a credit note shall be without prejudice to any dispute regarding the sums referred to therein.

10. INSURANCE

The Supplier will maintain the insurances required by the Authority including those set out in this clause.

10.1 Subcontractors

- 10.1.1 The Supplier will ensure that, during this Contract, Subcontractors hold third-party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £5,000,000.

10.2 Agents and professional consultants

- 10.2.1 The Supplier will also ensure that all agents and professional consultants involved in the supply of Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Contract, and for 6 years after the termination or expiry date to this Contract to which the insurance relates.

10.3 Supplier liabilities

- 10.3.1 Insurance will not relieve the Supplier of any liabilities under the Contract.
- 10.3.2 Without limiting the other provisions of the Contract, the Supplier will:
- (i) take all risk control measures relating to the Services as it would be reasonable to expect of a contractor acting in accordance with Good Industry Practice, including the investigation and reports of claims to insurers;
 - (ii) promptly notify the insurers in writing of any relevant material fact under any insurances of which the Supplier is, or becomes, aware; and
 - (iii) hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of placing cover representing any of the insurance to which it is a Party.

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- 10.3.3 The Supplier will not do or omit to do anything, which would entitle any insurer to refuse to pay any claim under any of the insurances.

10.4 Indemnity to principals

- 10.4.1 Where specifically outlined in this Contract, the Supplier will ensure that the third-party public and products liability policy will contain an 'indemnity to principals' clause under which the Authority will be compensated for both of the following claims against the Authority:

- (i) death or bodily injury; and
- (ii) third-party Property damage arising from connection with the Services and for which the Supplier is legally liable.

10.5 Cancelled, suspended, terminated or unrenewed policies

- 10.5.1 The Supplier will notify the Authority as soon as possible if the Supplier becomes aware that any of the insurance policies have been, or are due to be, cancelled, suspended, terminated or not renewed.

10.6 Premium, excess and deductible payments

- 10.6.1 Where any insurance requires payment of a premium, the Supplier will:

- (i) be liable for the premium; and
- (ii) pay such premium promptly.

- 10.6.2 Where any insurance is subject to an excess or deductible below the Supplier will be liable for it. The Supplier will not be entitled to recover any sum paid for insurance excess or any deductible from the Authority.

11. CONFIDENTIALITY

- 11.1 Except where disclosure is clearly permitted by this Contract, neither Party will disclose the other Party's Confidential Information without the relevant Party's prior written consent.

- 11.2 Disclosure of Confidential Information is permitted where information:

- (a) must be disclosed to comply with legal obligations placed on the Party making the disclosure;
- (b) belongs to the Party making the disclosure (who is not under any obligation of confidentiality) before its disclosure by the information owner;

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- (c) was obtained from a third party who is not under any obligation of confidentiality, before receiving it from the disclosing Party;
 - (d) is, or becomes, public knowledge, other than by breach of this clause or Contract;
 - (e) is independently developed without access to the other Party's Confidential Information; or
 - (f) is disclosed to obtain confidential legal professional advice.

11.3 The Authority may disclose the Contractor's Confidential Information:

- (a) to any central government body on the basis that the information may only be further disclosed to central government bodies;
- (b) to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees;
- (c) if the Authority (acting reasonably) deems disclosure necessary or appropriate while carrying out its public functions;
- (d) on a confidential basis to exercise its rights or comply with its obligations under this Contract; or
- (e) to a proposed transferee, assignee or novatee of, or successor in title to, the Authority.

11.4 References to disclosure on a confidential basis will mean disclosure subject to a confidentiality agreement or arrangement containing the same terms as those placed on the Authority under this clause.

11.5 The Contractor may only disclose the Authority's Confidential Information to Contractor Staff who are directly involved in the provision of the Services and who need to know the information to provide the Services. The Contractor will ensure that its Contractor Staff will comply with these obligations.

11.6 Either Party may use techniques, ideas or knowledge gained during this Contract unless the use of these things results in them disclosing the other Party's Confidential Information where such disclosure is not permitted by the Contract, or is an infringement of Intellectual Property Rights.

12. CONFLICT OF INTEREST

12.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Contractor Staff 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 Contractor and the duties owed to the

Authority under the provisions of the Contract. The Contractor will notify the Authority without delay giving full particulars of any such conflict of interest which may arise.

- 12.2 The Authority may terminate the Contract immediately by notice and/or take or require the Contractor 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 Contractor and the duties owed to the Authority under the provisions of the Contract. The actions of the Authority pursuant to this clause 12 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 Unless otherwise specified in this Contract:

- 13.1.1 the Authority will not have any right to the Intellectual Property Rights (IPRs) of the Contractor or its licensors, including the Contractor Background IPRs and any IPRs in the Contractor Software;

13.1.2 the Authority may publish any Deliverable that is software as open source if ;

13.1.2.1. the Authority has shared its guidelines on the format which the Contractor must comply to create open source publication;

13.2.3. the Contractor is allowed to run the source code pertaining to such open source publication through Blackduck (3rd party code compliance check) to ensure license compatibility;

13.2.3.3 No Contractor background IP or product has been authorised to be included in such open source publication.

- 13.1.3 the Contractor will not, without prior written approval from the Authority, include any Contractor Background IPR or third party IPR in any Deliverable in such a way to prevent its publication and failure to seek prior approval gives the Authority right and freedom to use all Deliverables;

13.1.4 the Contractor will not have any right to the Intellectual Property Rights of the Authority or its licensors, including:

- (i) the Authority Background IPRs;
- (ii) the Project-Specific IPRs; and

(iii) IPRs in the Authority Data.

- 13.2 Where either Party acquires, by operation of Law, right to IPRs that is inconsistent with the allocation of rights set out above, it will assign in writing such IPRs as it has acquired to the other Party on the request of the other Party (whenever the request is made).
- 13.3 Except where necessary for the performance of this Contract (and only where the Authority has given its prior approval), the Contractor will not use or disclose any of the Authority Background IPRs, Authority Data or the Project-Specific IPRs to or for the benefit of any third party.
- 13.4 The Contractor will not include any Contractor Background IPRs or third-party IPRs in any release or Deliverable that is to be assigned to the Authority under this Contract, without approval from the Authority.
- 13.5 The Contractor will grant the Authority (and any replacement Contractor) a perpetual, transferable, sub-licensable, non-exclusive, royalty-free licence to copy, modify, disclose and use the Contractor Background IPRs included within any Deliverable for any purpose connected with the receipt of the Services that is additional to the rights granted to the Authority under this Contract and to enable the Authority:
- 13.5.1 to receive the Services;
 - 13.5.2 to make use of the Services provided by the replacement Contractor;
and
 - 13.5.3 to use any Deliverables.
- 13.6 The Authority grants the Contractor a non-exclusive, non-assignable, royalty-free licence to use the Authority Background IPRs, the Authority Data and the Project-Specific IPRs during the term of this Contract for the sole purpose of enabling the Contractor to provide the Services.
- 13.7 The Authority gives no warranty as to the suitability of any IPRs licensed to the Contractor hereunder. Any such licence:
- 13.7.1 may include the right to grant sub-licences to Subcontractors engaged in providing any of the Services (or part thereof) provided that any such Subcontractor has entered into a confidentiality undertaking with the Contractor on the same terms as in clause 11 (Confidentiality) and that any such subcontracts will be non-transferable and personal to the relevant Subcontractor; and
 - 13.7.2 is granted solely to the extent necessary for the provision of the Services in accordance with this Contract. The Contractor will ensure that the Subcontractors do not use the licensed materials for any other purpose.

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- 13.8 At the end of the term of this Contract, the Authority grants to the Contractor a licence to use the Project-Specific IPRs (excluding any information which is the Authority's Confidential Information or which is subject to the Data Protection Act (DPA)) on the terms of the Open Government Licence v3.0.
- 13.9 Subject to the above paragraph, the Contractor will ensure that no unlicensed software or open source software (other than the open source software specified by the Authority) is interfaced with or embedded within any Authority Software or Deliverable.
- 13.10 Before using any third-party IPRs related to the supply of the Services, the Contractor will submit to the Authority for approval, all details of any third-party IPRs the Authority requests.
- 13.11 Where the Contractor is granted permission to use third-party IPRs in a request for approval, the Contractor will ensure that the owner of such third-party IPRs grants to the Authority a licence on the terms informed to the Authority in the request for approval.
- 13.12 If the third-party IPR is made available on terms equivalent to the Open Government Licence v3.0, the request for approval will be agreed and the Contractor will buy licences under these terms. If not, and the Authority rejects the Request for Approval, then this Contract will need to be varied in accordance with clause 29 'Changes to Services'.
- 13.13 The Contractor will, on written demand, fully indemnify the Authority losses which it may incur at any time as a result of any claim (whether actual alleged asserted and/or substantiated and including third party claims) that the rights granted to the Authority in accordance with this Contract or the performance by the Contractor of the provision of the Services or the possession or use by the Authority of the Services or Deliverables delivered by the Contractor, including the publication of any Deliverable that is software as open source, infringes or allegedly infringes a third party's Intellectual Property Rights (an 'IPR Claim').
- 13.14 Clause 13.13 will not apply if the IPR Claim arises from:
- (i) designs supplied by the Authority;
 - (ii) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of this Contract; or
 - (iii) other material provided by the Authority necessary for the provision of the Services.
- 13.15 The indemnity given in Clause 13.13 will be uncapped.
- 13.16 The Authority will notify the Contractor in writing of the IPR Claim made against the Authority and the Authority will not make any admissions which may be prejudicial to the defence or settlement of the IPR Claim. The Contractor will at its own
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expense conduct all negotiations and any litigation arising in connection with the IPR Claim provided always that the Contractor:

- 13.16.1 consults the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
- 13.16.2 takes due and proper account of the interests of the Authority;
- 13.16.3 considers and defends the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Authority into disrepute; and
- 13.16.4 does not settle or compromise the IPR Claim without the prior approval of the Authority (such decision not to be unreasonably withheld or delayed).

13.17 If an IPR Claim is made (or in the reasonable opinion of the Contractor is likely to be made) in connection with this Contract, the Contractor will, at the Contractor's own expense and subject to prompt approval of the Authority, use its best endeavours to:

- (i) modify the relevant part of the Services or Deliverables without reducing their functionality or performance, or substitute Services or Deliverables of equivalent functionality or performance, to avoid the infringement or the alleged infringement, provided that there is no additional cost or burden to the Authority;
- (ii) buy a licence to use and supply the Services or Deliverables, which are the subject of the alleged infringement, on terms which are acceptable to the Authority; and
- (iii) promptly perform any responsibilities and obligations to do with this Contract.

13.18 If an IPR Claim is made (or in the reasonable opinion of the Contractor is likely to be made) against the Contractor, the Contractor will immediately notify the Authority in writing.

13.19 If the Contractor does not comply with provisions of this clause within 20 Working Days of receipt of notification by the Contractor from the Authority under clause 13.16 or receipt of the notification by the Authority from the Contractor under clause 13.18 (as appropriate), the Authority may terminate this Contract for Material Breach (Contract) and the Contractor will, on demand, refund the Authority with all monies paid for the Service or Deliverable that is subject to the IPR Claim.

13.20 The Contractor will have no rights to use any of the Authority's names, logos or trademarks without the Authority's prior written approval.

13.21 The Contractor will, as an enduring obligation throughout the term of this Contract where any software is used in the provision of the Services or information uploaded, interfaced or exchanged with the Authority systems, use software and the most up-

to-date antivirus definitions from an industry-accepted antivirus software vendor. It will use the software to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Authority and the Contractor).

13.22 If Malicious Software is found, the Contractor will co-operate with the Authority to reduce the effect of the Malicious Software. If Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, the Contractor will use all reasonable endeavours to help the Authority to mitigate any losses and restore the provision of the Services to the desired operating efficiency as soon as possible.

13.23 Any costs arising from the actions of the Authority or Contractor taken in compliance with the provisions of the above clause, will be dealt with by the Authority and the Contractor as follows:

- (i) by the Contractor, where the Malicious Software originates from the Contractor Software or the Authority Data while the Authority Data was under the control of the Contractor, unless the Contractor can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority when provided to the Contractor;
- (ii) by the Authority if the Malicious Software originates from the Authority Software or the Authority Data, while the Authority Data was under the control of the Authority.

13.24 All Deliverables that are software shall be created in a format, or able to be converted into a format, which is suitable for publication by the Authority as open source software, unless otherwise agreed by the Authority.

13.25 Where Deliverables that are software are written in a format that requires conversion before publication as open source software, the Contractor shall also provide the converted format to the Authority unless the Authority agrees in advance in writing that the converted format is not required.

14. DATA PROTECTION AND DISCLOSURE

14.1 The Contractor shall comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with this Contract.

14.2 Where the Contractor is processing Authority Data or Personal Data, the Contractor shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the Authority and Personal Data (and to guard against unauthorised or unlawful processing or accidental loss, destruction of or damage to the Authority Data and the Personal Data).

14.3 The Contractor shall provide the Authority and with such information as the Authority may reasonably request to satisfy itself that the Contractor is complying with its obligations under the DPA including;

- to promptly notify the Authority of any breach of the security measures to be put in place pursuant to this Clause; and
- to ensure that it does not knowingly or negligently do or omit to do anything which places the Authority in breach of its obligations under the DPA; and
- not to cause or permit to be processed, stored, accessed or otherwise transferred outside the European Economic Area any Authority Data Personal Data supplied to it by the Authority without approval.

15. AUTHORITY DATA

15.1 The Contractor will not remove any proprietary notices relating to the Authority Data.

15.2 The Contractor will not store or use Authority Data except where necessary to fulfill its obligations.

15.3 If Authority Data is processed by the Contractor, the Contractor will supply the data to the Authority as requested and in the format specified by the Authority.

15.4 The Contractor will preserve the integrity of Authority Data processed by the Contractor and prevent its corruption and loss.

15.5 The Contractor will ensure that any system which holds any Authority Data complies with the security requirements prescribed by the Authority.

15.6 The Contractor will ensure that any system on which the Contractor holds any protectively marked Authority Data will be accredited as specific to the Authority and will comply with:

- (i) the government security policy framework and information assurance policy;
- (ii) guidance issued by the Centre for Protection of National Infrastructure on Risk Management and Accreditation of Information Systems; and
- (iii) the relevant government information assurance standard(s).

15.7 Where the duration of this Contract exceeds one year, the Contractor will review the accreditation status at least once a year to assess whether material changes have occurred which could alter the original accreditation decision in relation to Authority Data. If any changes have occurred then the Contractor will re-submit such system for accreditation.

15.8 If at any time the Contractor suspects that the Authority Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Contractor will notify the Authority immediately and will at its own cost comply with any remedial action proposed by the Authority.

15.9 The Contractor will provide at the request of the Authority, any information relating to the Contractor's compliance with its obligations under the Data Protection Act. The Contractor will also ensure that it does not knowingly or negligently fail to do something that places the Authority in breach of its obligations of the Data Protection Act. This is an absolute obligation and is not qualified by any other provision of this Contract.

15.10 The Contractor agrees to use the appropriate organisational, operational and technological processes and procedures to keep the Authority Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

16. DOCUMENT AND SOURCE CODE MANAGEMENT REPOSITORY

16.1 The Contractor will comply with any reasonable instructions given by the Authority as to where it will store documents and source code, both finished and in progress, during the term of this Contract.

16.2 The Contractor will ensure that all items that are uploaded to any repository contain sufficient detail, code annotations and instructions so that a third-party developer with the relevant technical abilities within the applicable role would be able to understand how the item was created and how it works together with the other items in the repository within a reasonable timeframe.

17. [NOT USED]

18. FREEDOM OF INFORMATION (FOI) REQUESTS

18.1 The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act (FoIA) and the Environmental Information Regulation (EIR).

18.2 The Contractor will help and co-operate with the Authority to enable it to comply with their Information disclosure obligations regarding this Contract.

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- 18.3 The Contractor will in no event respond directly to a Request for Information under the FoIA.
- 18.4 The Contractor will note that the Information disclosed in response to a FoIA or EIR request may include its response. This may include attachments, embedded documents, any score or details of the evaluation of a response.
- 18.5 The Contractor considers such of its information confidential commercially sensitive:
- (ii) as is identified in Part A, Contract Data; or
 - (iii) as otherwise set out in a SOW; and
 - (iii) in each case, estimate how long it believes such Information will remain confidential or commercially sensitive]
- 18.6 The Authority will then consider whether or not to withhold such Information from publication. Even where Information is identified as confidential or commercially sensitive, the Authority may be required to disclose such Information in accordance with the FoIA or the EIR.
- 18.7 The Authority must form an independent judgement of whether the Contractor's Information is exempt from disclosure under the FoIA or the EIR and whether the public interest favours disclosure or not. Contractors must refer any request for Information, including requests relating to the procurement, to the Authority.

19. STANDARDS AND QUALITY

- 19.1 The Contractor will comply with any standards in this Contract with Good Industry Practice and the following methodologies:
- 19.1.1 The Contractor will plan on using an agile process, starting with user needs. The methodology will be outlined in the Statement of Work (SOW).
- 19.1.2 Waterfall methodology will only be used in exceptional circumstances, and where it can be shown to better meet user needs.
- 19.1.3 Projects may need the best of both waterfall and agile methods, playing to their respective strengths.
- 19.1.4 Guidance can be found at:
- (i) the service design manual - <https://www.gov.uk/service-manual/agile>
 - (ii) the technology code of practice - <https://www.gov.uk/service-manual/technology/code-of-practice.html#using-the-technology-code-of-practice>
- 19.2 The Contractor must:

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- (i) provide the Services through successful Service Standard assessments <https://www.gov.uk/service-manual/digital-by-default>
 - (ii) develop Services based on open standards and accessible data protocols, to ensure they are interoperable <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>.
 - (iii) comply with any standards that are compulsory in government - <http://standards.data.gov.uk/challenges/adopted>.

20. SECURITY

- 20.1 If requested to do so by the Authority, the Contractor will, within 5 Working Days of the date of this Contract, develop, obtain Authority's approval of, maintain and observe a Security Management Plan and an Information Security Management System (ISMS) which, after Authority approval, will apply during the term of this Contract. Both the ISMS and the Security Management Plan will comply with the security policy of the Authority contained in Schedule 6 and protect all aspects of the Services and all processes associated with the delivery of the Services.
- 20.2 The Contractor will use software and the most up-to-date antivirus definitions available from an industry accepted antivirus software vendor to minimise the impact of Malicious Software.
- 20.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, the Contractor will help the Authority to mitigate any losses and will restore the Services to their desired operating efficiency as soon as possible.
- 20.4 The Contractor will immediately notify the Authority of any breach of security in relation to the Authority's Confidential Information. The Contractor will recover such Authority Confidential Information however it may be recorded.
- 20.5 Any system development by the Contractor must also comply with the government's '10 Steps to Cyber Security' guidance, available at: <https://www.gov.uk/government/publications/cyber-risk-management-a-board-level-responsibility/10-steps-summary>
- 20.6 The Authority will specify any security requirements for this project in the Contract Data.
- 20.7 If requested by the Authority, the Contractor must support the Authority according to:

20.7.1 the Baseline Personnel Security Standard (BPSS). Additional levels of security clearance may include:

- a) Security Check (SC)
- b) Developed Vetting (DV)
- c) Counter-Terrorist Check (CTC)

20.7.2 the Supplier Contractor assurance framework for contracts at the 'Official' information security level-
<https://www.gov.uk/government/publications/government-supplier-assurance-framework>

20.7.3 any relevant security guidance -
<https://www.gov.uk/government/collections/government-security>

20.7.4 the Cyber Essentials scheme
<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>)

20.7.5 the Government Security Classification -
<https://www.gov.uk/government/publications/government-security-classifications>

All of the above guidance may change occasionally.

21. INCORPORATION OF TERMS

21.1 Upon the execution of a Statement of Work, the terms and conditions agreed in the SOW will be incorporated into this Contract.

22. MANAGING DISPUTES

22.1 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement as soon as possible.

22.2 Nothing in this procedure will prevent a Party from seeking any interim order restraining the other Party from doing any act or compelling the other Party to do any act.

22.3 If the dispute cannot be resolved, either Party will be entitled to refer it to mediation in accordance with the procedures below, unless:

22.3.1 the Authority considers that the dispute is not suitable for resolution by mediation; and/or

22.3.2 the Contractor does not agree to mediation.

22.4 The procedure for mediation is as follows:

22.4.1 A neutral adviser or mediator will be chosen by agreement between the Parties. If the Parties cannot agree on a mediator within 10 Working Days after a request by one Party to the other, either Party will as soon as possible, apply to the mediation provider or to the Centre for Effective Dispute Resolution (CEDR) to appoint a mediator. This application to CEDR must take place within 12 Working Days from the date of the proposal to appoint a mediator, or within 3 Working Days of notice from the mediator to either Party that they are unable or unwilling to act.

22.4.2 The Parties will meet with the mediator within 10 Working Days of the mediator's appointment to agree a programme for the exchange of all relevant information and the structure for negotiations to be held. The Parties may at any stage seek help from the mediation provider specified in this clause to provide guidance on a suitable procedure.

22.4.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

22.4.5 If the Parties reach agreement on the resolution of the dispute, the agreement will be reduced to writing and will be binding on the Parties once it is signed by their duly authorised representatives.

22.4.6 Failing agreement, either Party may invite the mediator to provide a non-binding but informative opinion in writing. Such an opinion will be provided without prejudice and will not be used in evidence in any proceedings relating to this Contract without the prior written consent of both Parties.

22.4.7 If the Parties fail to reach agreement in the structured negotiations 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.

22.5 Either Party may request by written notice that the dispute is referred to expert determination if the dispute relates to:

- (i) any technical aspect of the delivery of the digital services;
- (ii) the underlying technology; or

(iii) otherwise is of a financial or technical nature.

22.6 An expert will be appointed by written agreement between the Parties, but if there's a failure to agree within 10 Working Days, or if the person appointed is unable or unwilling to act, the expert will be appointed on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society).

22.7 The expert will act on the following basis:

22.7.1 they will act as an expert and not as an arbitrator and will act fairly and impartially;

22.7.2 the expert's determination will (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;

22.7.3 the expert will decide the procedure to be followed in the determination and will be requested to make their determination within 30 Working Days of their appointment or as soon as reasonably practicable and the Parties will help and provide the documentation that the expert needs for the determination;

22.7.4 any amount payable by one Party to another as a result of the expert's determination will be due and payable within 20 Working Days of the expert's determination being notified to the Parties;

22.7.5 the process will be conducted in private and will be confidential; and

22.7.6 the expert will determine how and by whom the costs of the determination, including their fees and expenses, are to be paid.

22.8 Without prejudice to any other rights of the Authority under this Contract, the obligations of the Parties under this Contract will not be suspended, ceased or delayed by the reference of a dispute submitted to mediation or expert determination and the Contractor and the Contractor Staff will comply fully with the requirements of this Contract at all times.

23. TERMINATION

23.1 The Authority will have the right to terminate this Contract at any time by giving the notice to the Contractor specified in Part A, the Contract Data. The Contractor's obligation to provide the Services will end on the date set out in the Authority's notice.

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- 23.2 The minimum notice period (expressed in Working Days) to be given by the Authority to terminate under this clause will be the number of whole days that represent 20% of the total duration of the relevant SOW to be performed under this Contract, up to a maximum of 30 Working Days.
- 23.3 Partial days will be discounted in the calculation and the duration of the SOW will be calculated in full Working Days.
- 23.4 The Parties acknowledge and agree that:
- (i) the Authority's right to terminate under this clause is reasonable in view of the subject matter of this Contract and the nature of the Service being provided.
 - (ii) the Contract Charges paid during the notice period given by the Authority in accordance with this clause are a reasonable form of compensation and are deemed to fully cover any avoidable costs or losses incurred by the Contractor which may arise either directly or indirectly as a result of the Authority exercising the right to terminate under this clause without cause.
 - (iii) Subject to clause 33 (Liability), if the Authority terminates this Contract without cause, they will indemnify the Contractor against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Contractor, provided that the Contractor takes all reasonable steps to mitigate such Loss. If the Contractor holds insurance, the Contractor will reduce its unavoidable costs by any insurance sums available. The Contractor will submit a fully itemised and costed list of such Loss, with supporting evidence of unavoidable Losses incurred by the Contractor as a result of termination.
- 23.5 The Authority will have the right to terminate or suspend this Contract at any time with immediate effect by written notice to the Contractor if:
- (i) the Contractor commits a Contractor Default and if the Contractor Default cannot, in the opinion of the Authority, be remedied;
 - (ii) the Contractor commits any fraud;
 - (iii) fails to meet any of the Key Performance Indicator Targets on at least 3 occasions within a 12-month rolling period; or
 - (iv) the Contractor has scored a 'red' status on any one of the 4 KPI Targets listed on the balanced scorecard, on at least 2 occasions within the Contract duration, or within a period of 3 months (whichever is the soonest).
- 23.6 Either Party may terminate this Contract at any time with immediate effect by written notice to the other if:
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- (i) the other Party commits a Material Breach of any term of this Contract (other than failure to pay any amounts due under this Contract) and, if such breach is remediable, fails to remedy that breach within a period of 15 Working Days of being notified in writing to do so;
- (ii) an Insolvency Event of the other Party occurs, or the other Party ceases or threatens to cease to carry on the whole or any material part of its business; or
- (iii) a Force Majeure Event occurs for a period of more than 15 consecutive calendar days.

23.7 If a Contractor Insolvency Event occurs, the Authority is entitled to suspend or terminate this Contract.

23.8 Termination on change of Control

23.8.1 The Authority may terminate this Contract by giving notice in writing to the Contractor with immediate effect within 1 month of either:

- (i) being notified in writing that a change of Control (within the meaning of Section 450 of the Corporation Tax Act 2010) has occurred or is being contemplated; or
- (ii) where no notification has been made, the date that Authority becomes aware that a change of Control has occurred or is contemplated.

23.9 If the Authority determines at its absolute and sole discretion that the change is prohibited under the Regulations or, where approval has not been granted before the change of Control, if Authority reasonably believes that such change is likely to have an adverse effect on the provision of the Services.

23.10 Termination, suspension or expiry of this Contract will be without prejudice to any accrued rights, remedies or obligations of either Party.

23.11 If the Contractor commits any fraud it will be a Material Breach, and:

- (i) the Authority may terminate this Contract; and
- (ii) the Authority may fully recover from the Contractor any Losses incurred as a consequence.

23.12 Termination without cause by the Authority

23.12.1 The Authority will have the right, without cause and without liability to suspend or terminate the Contract or any provisions of any part of this Contract by giving at least one month's written notice to the Contractor.

24. CONSEQUENCES OF TERMINATION

24.1 If the Authority contracts with another Contractor, the Contractor will comply with clause 28.

24.2 The rights and obligations of the Parties in respect of this Contract (including any executed SOWs) will automatically terminate upon the expiry or termination of this Contract, except those rights and obligations set out in clause 24.6.

24.3 At the end of the Contract period (howsoever arising), the Contractor must:

- (i) immediately return to the Authority:
 - all Authority Data including all copies of Authority Software and any other software licensed by the Authority to the Contractor under this Contract;
 - any materials created by the Contractor under this Contract where the IPRs are owned by the Authority;
 - any items that have been on-charged to the Authority, such as consumables; and all Equipment provided to the Contractor pursuant to clause 41. This Equipment must be handed back to the Authority in good working order (allowance will be made for reasonable wear and tear).
- (ii) immediately upload any items that are or were due to be uploaded to the repository when this Contract was terminated (as specified in clause 27);
- (iii) cease to use the Authority Data and, at the direction of the Authority, provide the Authority and the replacement Contractor with a complete and uncorrupted version of the Authority Data in electronic form in the formats and on media agreed with the Authority and the replacement Contractor;
- (iv) destroy all copies of the Authority Data when they receive the Authority's written instructions to do so or 12 months after the date of expiry or termination, and provide written confirmation to the Authority that the data has been destroyed, except where the retention of Authority Data is required by Law;

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- (iv) vacate the Authority premises;
 - (vi) work with the Authority on any work in progress and ensure an orderly transition of the Services to the replacement contractor;
 - (vii) return any sums prepaid for Services which have not been delivered to the Authority by the date of expiry or termination;
 - (viii) provide all information requested by the Authority on the provision of the Services so that:
 - o the Authority is able to understand how the Services have been provided; and
 - o the Authority and the replacement contractor can conduct due diligence.

24.4 Each Party will return all of the other Party's Confidential Information. Each Party will confirm that it does not retain the other Party's Confidential Information except where the information must be retained by the Party as a legal requirement or where this Contract states otherwise.

24.5 All licences, leases and authorisations granted by the Authority to the Contractor in relation to the Services will be terminated at the end of the Contract period (howsoever arising) without the need for the Authority to serve notice except where this Contract states otherwise.

24.6 Termination or expiry of this Contract will not affect:

- (i) any rights, remedies or obligations accrued under this Contract prior to termination or expiration;
- (ii) the right of either Party to recover any amount outstanding at the time of such termination or expiry;
- (iii) the continuing rights, remedies or obligations of the Authority or the Contractor under clauses:
 - o 8 - Payment Terms and VAT
 - o 9 - Recovery of Sums Due and Right of Set-Off
 - o 11 - Confidentiality
 - o 12 - Conflict of Interest
 - o 13 - Intellectual Property Rights
 - o 24 - Consequences of Expiry or Termination
 - o 33 - Liability
 - o 34 - Waiver and cumulative remedies

- (iv) any other provision of the Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry will survive the termination or expiry of this Contract.

25. CONTRACTOR'S STATUS

- 25.1 The Contractor is an independent Contractor and no contract of employment or partnership is created between the Contractor and the Authority. Neither Party is authorised to act in the name of, or on behalf of, the other Party.

26. NOTICES

- 26.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being in writing.
- 26.2 The following table sets out the method by which notices may be served under this Contract and the respective deemed time and proof of Service:

Delivery type	Deemed delivery time	Proof of Service
Email	9am on the first Working Day after sending	Dispatched in a pdf form to the correct email address without any error message

- 26.3 The address and email address of each Party will be the address and email address in the Contract Data.

27. EXIT PLAN

- 27.1 The Authority and the Contractor will agree an exit plan during this Contract period to enable the Contractor Deliverables to be transferred to the Authority ensuring that the Authority has all the code and documentation required to support and continuously develop the Service with Authority resource or any third party as the Authority requires. The Contractor will update this plan whenever there are material changes to the Services. A Statement of Work may be agreed between the Authority and the Contractor to specifically cover the exit plan.

28. HELP AT RETENDERING AND HANDOVER TO REPLACEMENT CONTRACTOR

- 28.1 When requested, the Contractor will (at its own expense where the Contract has been terminated before end of term due to Contractor cause) help the Authority to migrate the Services to a replacement Contractor in line with the exit plan (clause 27) to ensure continuity of the Services. Such help may include Contractor demonstrations of the existing code and development documents, software licences used and Authority approval documents. The Contractor will also answer Service and development-related clarification questions.

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- 28.2 Within 10 Working Days of a request by the Authority, the Contractor will provide any information needed by the Authority to prepare for any procurement exercise or to facilitate any potential replacement Contractor undertaking due diligence. The exception to this is where such information is deemed to be Commercially Sensitive Information, in which case the Contractor will provide the information in a redacted form.

29. CHANGES TO SERVICES

- 29.1 It is likely that there will be changes to the scope of the Services during the Contract period. Agile projects have a scope that will change over time. The detailed scope (e.g. as defined in user stories) can evolve and change during the Contract Period. These changes do not require formal contract changes but do require the Authority and Contractor to agree these changes.
- 29.2 Any changes to the high-level scope of the Services must be agreed between the Authority and Contractor. The Contractor will consider any request by the Authority to change the scope of the Services, and may agree to such request.

30. CONTRACT CHANGES

- 30.1 All changes to this Contract which cannot be accommodated informally as described in clause 29 will require a Contract Change Note.
- 30.2 Either Party may request a contract change by completing and sending a draft Contract Change Note in the form in Schedule 4 of Part B - The Schedules ('the **Contract Change Note**') to the other Party giving sufficient information to enable the other Party to assess the extent of the change and any additional cost that may be incurred. The Party requesting the contract change will bear the costs of preparation of the Contract Change Note. Neither Party will unreasonably withhold nor delay consent to the other Party's proposed changes to this Contract.
- 30.3 Due to the agile-based delivery methodology recommended by the Contract, it may not be possible to exactly define the consumption of Services over the duration of the Contract in a static Contract Data. The Contractor should state the initial value of all Services that are likely to be consumed under the Contract.

31. FORCE MAJEURE

- 31.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Contract (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event. Each Party will use all reasonable endeavours to continue to perform its obligations under this Contract for the length of a Force Majeure event. If a Force Majeure event prevents a Party from performing its obligations under this Contract for more than 15

consecutive calendar days, the other Party may terminate this Contract with immediate effect by notice in writing.

32. ENTIRE AGREEMENT

- 32.1 This Contract constitutes the entire agreement between the Parties relating to the matters dealt within it. It supersedes any previous agreement between the Parties relating to such matters.
- 32.2 Each Party agrees that in entering into this Contract it does not rely on, and will have no remedy relating to, any agreement or representation (whether negligently or innocently made) other than as expressly described in this Contract.
- 32.3 Nothing in this clause will exclude any liability for (or remedy relating to) fraudulent misrepresentation or fraud.
- 32.4 Each of the Parties agrees that in entering into this Contract it does not rely on, and will have no remedy relating to, any agreement, statement, representation, warranty, understanding or undertaking (whether negligently or innocently made) other than as described in this Contract.

33. LIABILITY AND WARRANTY

- 33.1 Neither Party excludes or limits its liability for:
- (i) death or personal injury;
 - (ii) bribery or fraud by it or its employees;
 - (iii) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - (iv) any liability to the extent it cannot be excluded or limited by Law.
- 33.2 In respect of the indemnities in Clause 13 (Intellectual Property Rights) the Contractor's total liability will be unlimited. The Authority is not limited in the number of times they can call on this indemnity.
- 33.3 Subject to the above, each Party's total aggregate liability relating to all Losses due to a Default in connection with this agreement:
- resulting in direct loss or damage to physical Property (including any technical infrastructure, assets or Equipment) of the other Party, will be limited to the sum of £1,000,000 in each Contract year in which the Default occurs, unless otherwise stipulated by the Authority;
 - subject to the first bullet point in this clause 33.3 which occur in the first 6 months, will be limited to the greater of the sum of £500,000 or a sum equal to 200% of the estimated Contract Charges for the first six months;

subject to the first bullet point in this clause 33.3 which occur during the remainder of the Contract period, will be limited in each 6 month period to the greater of the sum of £500,000 or an amount equal to 200% of the Contract Charges paid, due or which would have been payable under this Contract in the immediately preceding 6 months;

- subject to the first bullet point in this clause 33.3 which occur after the end of the Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Contract Charges paid, due or which would have been payable under this Contract in the 6 months immediately before the end of the Contract period.

33.4 Subject to clause 33.1, in no event will either Party be liable to the other for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); or
- (f) any indirect, special or consequential loss or damage.

33.5 The Contractor will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Authority:

- (a) the additional operational or administrative costs and expenses arising from any Material Breach; and/or
- (b) any regulatory losses, fines, expenses or other losses arising from a breach by the Contractor of any Law.

33.6 No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, the Authority to any document or information provided by the Contractor in its provision of the Services, and no failure of the Authority to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the Contractor to carry out all the obligations of a professional Contractor employed in a client and Authority relationship.

33.7 Unless otherwise expressly provided, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a Contracting counterparty and nothing in this Contract will be an obligation on, or in any other way constrain the Authority in any other capacity, nor will the exercise by the Authority of its duties and powers in any other capacity lead to any liability under this Contract on the part of the Authority to the Contractor.

33.8 Any liabilities which are unlimited will not be taken into account for the purposes of establishing whether any limits relating to direct loss or damage to physical Property within this clause have been reached.

33.9 Nothing in this clause will exclude any liability for (or remedy relating to) fraud.

33.10 The Contractor warrants, represents and undertakes to the Authority all of the following:

- (i) it has full capacity, authority and all necessary authorisations, consents, licences, permissions, to enter into and perform its obligations under this Contract and each SOW.
- (ii) the Contractor or an authorised representative will sign the Contract and each SOW;
- (iii) in entering into the Contract it hasn't committed, or agreed to commit, a Prohibited Act before or after entering into the SOW;
- (iv) the Contract shall be performed in compliance with all Laws (as amended from time to time); and
- (v) on the Commencement Date, all information, statements and representations contained in the Application for the Services are true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract, and the Contractor will advise the Authority of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading; and all warranties, representations and undertakings contained in the Contract shall be deemed repeated in each SOW.

33.11 Any warranties in this Contract will not prevent any right of termination for its breach.

33.12 When entering into this Contract and each SOW, the Contractor confirms to the Authority that it has not committed any Fraud.

34. WAIVER AND CUMULATIVE REMEDIES

34.1 The rights and remedies provided by this agreement may be waived only in writing by the Authority or the Contractor representatives in a way that expressly states that a waiver is intended, and such waiver will only be operative regarding the specific circumstances referred to.

34.2 Unless a right or remedy of the Authority is expressed to be exclusive, the exercise of it by the Authority is without prejudice to the Authority's other rights and

remedies. Any failure to exercise, or any delay in exercising, a right or remedy by either Party will not constitute a waiver of that right or remedy, or of any other rights or remedies.

35. FRAUD

35.1 The Contractor will notify the Authority if it suspects that any fraud has occurred, or is likely to occur. The exception to this is if while complying with this, it would cause the Contractor or its employees to commit an offence.

35.2 If the Contractor commits any fraud relating to this Contract or any other contract with the government:

- (a) the Authority may terminate the Contract; or
- (b) the Authority may recover in full from the Contractor whether under Clause 35.3 below or by any other remedy available in law.

35.3 The Contractor will, on demand, compensate the Authority, in full, for any loss sustained by the Authority at any time (whether such loss is incurred before or after the making of a demand following the indemnity hereunder) in consequence of any breach of this clause.

36. PREVENTION OF BRIBERY AND CORRUPTION

36.1 The Contractor will not commit any Prohibited Act.

36.2 The Authority will be entitled to recover in full from the Contractor and the Contractor will, on demand, compensate the Authority in full from and against:

- (i) the amount of value of any such gift, consideration or commission; and
- (ii) any other loss sustained by the Authority in consequence of any breach of this clause.

37. LEGISLATIVE CHANGE

37.1 The Contractor will neither be relieved of its obligations under this Contract nor be entitled to increase the Contract prices as the result of a general change in Law or a Specific Change in Law without prior written approval from the Authority.

37.2 If a Specific Change in Law occurs during the term which has a material impact on the delivery of the Services or the Contract price range, the Contractor will notify Authority of the likely effects of that change. This will include whether any change is required to the Services, the Contract price range or this Contract.

38. PUBLICITY, BRANDING, MEDIA AND OFFICIAL ENQUIRIES

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- 38.1 The Contractor will take all reasonable steps to not do anything which may damage the public reputation of the Authority. The Authority may terminate this Contract for Material Breach where the Contractor, by any act or omission, causes material adverse publicity relating to or affecting the Authority or the Contract. This is true whether or not the act or omission in question was done in connection with the performance by the Contractor of its obligations hereunder.

39. NON DISCRIMINATION

- 39.1 The Contractor 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 and diversity policy as given to the Contractor from time to time;
 - (iii) any other requirements and instructions which the Authority reasonably imposes in connection with 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).

40. PREMISES

- 40.1 Where either Party uses the other Party's premises, such Party is liable for all Loss or damage it causes to the premises. Such Party is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.
- 40.2 The Contractor will use the Authority's premises solely for the Contract.
- 40.3 The Contractor will vacate the Authority's premises upon termination or expiry of the Contract.
- 40.4 This clause does not create a tenancy or exclusive right of occupation.
- 40.5 While on the Authority's premises, the Contractor will:
- (a) ensure the security of the premises;
 - (b) comply with Authority requirements for the conduct of personnel;

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- (c) comply with any health and safety measures implemented by the Authority;
 - (d) comply with any instructions from the Authority on any necessary associated safety measures; and
 - (e) notify the Authority immediately in the event of any incident occurring on the premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

40.6 The Contractor will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Authority on request.

40.7 All Equipment brought onto the Authority's premises will be at the Contractor's risk. Upon termination or expiry of the Contract, the Contractor will remove such Equipment.

41. EQUIPMENT

41.1 Any Equipment brought onto the premises will be at the Contractor's own risk and the Authority will have no liability for any Loss of, or damage to, any Equipment.

41.2 Upon termination or expiry of the Contract, the Contractor will remove the Equipment, and any other materials, leaving the premises in a safe and clean condition.

42. SEVERABILITY

42.1 If any part of the Contract becomes invalid, illegal or unenforceable, it will be severed from the Contract and the remaining parts of the Contract or any SOW will be unaffected.

42.2 If any fundamental part of this Contract becomes invalid, the Authority and the Contractor may agree to remedy the invalidity. If the Parties are not able to do so within 20 Working Days of becoming aware of the invalidity, the Contract will be automatically terminated and each Party will be responsible for their own costs arising from the termination of the Contract.

43. EMPLOYER LIABILITY INSURANCE

43.1 The Contractor will have employer's liability insurance of at least £5,000,000 prior to Contract award. Thereafter, Contractors will need to maintain such further insurances and to the indemnity levels specified by the Authority in the Contract Data or SOW.

44. COMMUNICATION

44.1 Any notices sent in relation to this Contract must be in writing. For the purpose of this clause and Clause 26, an email is accepted as being 'in writing'.

44.1A The Authority's email address for general communication is:
procurement@cqc.org.uk

44.2 The following table, and Clause 26 set out the method by which notices may be served under this Contract and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of delivery	Proof of Service
Email	9am on the first Working Day after sending	Dispatched in an emailed pdf to the correct email address without any error message

45. RELATIONSHIP

45.1 Neither Party can act as agent of the other or make representations on their behalf.

46. VARIATION

46.1 This Contract may be amended if the Authority notifies the Contractor that it wishes to change the provisions of this Contract (including any variations suggested by the Contractor) and provides the Contractor with full written details of any such proposed change. Both Parties must agree to the variation and a written variation agreement must be signed by both Parties.

46.2 If no agreement is reached by the Parties within (30) Working Days after notification was given, the Authority may either:

- (i) agree that the Parties shall continue to perform their obligations under this Contract without the variation; and
- (ii) terminate this Contract

47. [NOT USED]

48. SUBCONTRACTING

48.1 The Contractor will deliver the services offered and will not solely source staff for others.

48.2 The Contractor will only subcontract with the approval of the Authority. If the Contractor chooses to use Subcontractors, this will be outlined in any bid along with the percentage of delivery allocated to each Subcontractor.

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- 48.3 The Contractor will take direct contractual responsibility and full accountability for delivering the services they provide using Subcontractors.

49. ENVIRONMENTAL REQUIREMENTS

- 49.1 The Authority will provide a copy of its environmental policy to the Contractor on request, which the Contractor will comply with.
- 49.2 The Contractor must support the Authority in their efforts to work in an environmentally- friendly way, e.g. by helping them engage in practices like recycling or lowering their carbon footprint.

50. TRANSPARENCY AND ACCESS TO RECORDS

50.1 Transparency

- 50.1.1 In accordance with the government's policy on transparency, the Authority reserves the right to make all or part of the information (including the Contract and any SOW) publicly available (subject to any redactions made at the discretion of the Authority by considering and applying relevant exemptions under the FoIA).
- 50.1.2 The Contractor permits the Authority to publish the full text of this Contract after considering (at Authority's sole discretion) any representations made by the Contractor regarding the application of any relevant FoIA or EIR exemptions and the list of Commercially Sensitive Information set out in the Contract Data.

50.2 Who can carry out an audit or inspection?

- 50.2.1 Representatives of the following auditors will have access to the Contractor's records and accounts:
- the Cabinet Office
 - the National Health Service
 - the Authority
 - the National Audit Office
 - any auditor appointed by the Audit Commission

50.3 What will happen during the Contract's term?

- 50.3.1 The Contractor will keep and maintain in accordance with Good Industry Practice and generally accepted accounting principles, full and accurate records and accounts of all of the following:
- 50.3.1.1 the operation of the Contract;
 - 50.3.1.2 the Services provided under the Contract (including any subcontracts);
and
 - 50.3.1.3 the amounts paid by the Authority under the Contract.

50.4 What will happen when the Contract ends?

50.4.1 The Contractor will provide a completed self-audit certificate to the Authority within 3 months. A template certificate will be provided.

50.4.2 The Contractor's records and accounts will be kept until the latest of the following dates:

- (i) 3 years after the date of termination or expiry of this Contract; and/or
- (ii) another date that may be agreed between the Parties

50.4.3 During the timeframes highlighted in clause 50.4.2, the Contractor will:

- a) allow the previously listed auditors to inspect or audit its records;
- b) keep the data from the Contract;
- c) keep commercial records of:
 - o the Charges, and any variations to them (actual or proposed)
 - o costs, including Subcontractors' costs
- d) keep books of accounts for this Contracts;
- e) keep MI reports;
- f) maintain access to its published accounts and trading entity information;
- g) maintain an asset register of all Intellectual Property Rights (IPR);
- h) Equipment and facilities (used, acquired, developed) under this Contract;
- i) maintain proof of its compliance with obligations under Data Protection, and Transparency and Security regulations; and
- j) maintain records of its delivery performance under each Contract, including that of Subcontractors.

50.5 What will happen during an audit or inspection?

50.5.1 The auditor will use reasonable endeavours to ensure that the conduct of the audit does not:

- (a) unreasonably disrupt the Contractor; and/or
- (b) delay the provision of Services under any Contract or SOWs.

50.5.2 Subject to any Confidentiality obligations, the Contractor will use reasonable endeavours to:

- a) provide information without unreasonable delay
- b) provide all information within scope
- c) give auditors access to:
 - o each site controlled by the Contractor
 - o any Equipment used to provide the Services
 - o the Contractor's staff

50.5.3 An auditor will be able to review, inspect and examine the Contractor's records and accounts associated with this Contracts. This is to:

- (a) verify the accuracy of:
 - o the Charges (and proposed or actual variations to them in accordance with this Contract);
 - o the costs of the Contractor (including any Subcontractor's costs);
- (b) review the integrity, Confidentiality and security of the Personal Data and Authority Data held or used by the Contractor;
- (c) review any books of accounts kept by the Contractor in connection with the provision of the Services, for the purposes of auditing the Charges and Management Charges under the Contract;
- (d) review any other aspect of the delivery of the Services including to review compliance with any legislation;
- (e) carry out an examination following Section 6 (1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- (f) review any internal contract management accounts kept by the Contractor in connection with this Contract;
- (g) review any records relating to the Contractor's performance of the Services and to verify that these reflect the Contractor's own internal reports and records; and
- (h) inspect the Authority's assets, including the Intellectual Property Rights, Equipment, facilities and maintenance, to ensure that the Authority's assets are secure and that any asset register is up to date.

50.5.4 The Contractor will reimburse Authority's reasonable costs incurred in relation to the audit or inspection, if it reveals that the Contractor has committed a material Default

50.5.5 Each Party is responsible for covering all other costs that they may incur from their compliance with the obligations of this Contract

51. Rights of Third Parties

A person who is not Party to this Contract has no right to enforce any term of this Contract under the Contracts (Rights of Third Parties) Act 1999.

52. Law and jurisdiction

This Contract will be governed by the Laws of England and Wales. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

53. Defined Terms

The following terms shall have the meanings ascribed to them below:

'Background IPRs'	<p>for each Party:</p> <ul style="list-style-type: none">• IPRs owned by that Party before the date of this Contract, including IPRs contained in any of the Party's know-how, documentation, processes and procedures;• IPRs created by the Party independently of this Contract; and/or• For the Authority, Crown Copyright which is not available to the Contractor otherwise than under this Contract; <p>but excluding IPRs owned by that Party subsisting in Authority Software or Contractor Software.</p>
'Authority Background IPRs'	Background IPRs of the Authority.
'Authority's Confidential Information'	all Authority Data and any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Contractors of the Authority, including all Intellectual Property Rights (IPRs).

	<p>together with all information derived from any of the above;</p> <p>Any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').</p>
'Authority Data'	data that is owned or managed by the Authority, including Personal Data gathered for user research, eg recordings of user research sessions and lists of user research participants.
'Authority Software'	software owned by or licensed to the Authority (other than under or pursuant to this Agreement), which is or will be used by the Contractor for the purposes of providing the Services.
'Contract'	<p>this legally binding agreement for the provision of Services made between the Authority and the Contractor.</p> <p>This shall include Part A: the Contract Data, Part B: the Schedules; Part C: the Terms and Conditions Contractor and any Statement of Work or Contract Change Notice (CNN) entered into pursuant to them.</p>
'Charges'	the prices (excluding any applicable VAT), payable to the Contractor by the Authority under the Contract or as set out in the applicable SOW(s), in consideration of the full and proper performance by the Contractor of the Contractor's obligations under the Contract and the specific obligations in the applicable SOW.
'Commercially Sensitive Information'	information, which the Authority has been notified about, (before the start date of the Contract) with full details of why the Information is deemed to be commercially sensitive as set out in the Contract Data or a SOW.
'Comparable Supply'	the supply of services to another customer of the Contractor that are the same or similar to any of the Services.
'Confidential Information'	the Authority's Confidential Information or the Contractor's Confidential Information, which may include (but is not limited to):

	<ul style="list-style-type: none"> any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
'Control'	Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
'Crown'	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf.
"Data Protection Laws"	means the Data Protection Act 1998 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation and, with effect from 25 May 2018, the EU General Data Protection Regulation.
'Default'	any breach of the material obligations of the Contractor (including any fundamental breach or breach of a fundamental term); and any other material default, act, omission, negligence or negligent statement of the Contractor, of its Subcontractors or any Contractor Staff in connection with or in relation to this Contract.
'Deliverable'	a tangible work product, professional service, outcome or related material or item that is to be achieved (or delivered to the Authority) by the Contractor as part of the Services defined in a Statement of Work.
'Equipment'	the Contractor's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Contractor (but not hired, leased or loaned from the Authority) in the performance of its

	obligations under this Contract.
'FoIA'	the Freedom of Information Act 2000 and any subordinate legislation made under the Act occasionally together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.
'Good Industry Practice'	standards and procedures conforming to the Law and the application of skill, care and foresight which would be expected from a person or body who has previously been engaged in a similar type of undertaking under similar circumstances. The person or body must adhere to the technology code of practice (https://www.gov.uk/service-manual/technology/code-of-practice.html) and the government service design manual (https://www.gov.uk/service-manual).
'Group'	a company plus any subsidiary or holding company. 'Holding company' and 'Subsidiary' are defined in section 1159 of the Companies Act 2006.
'Group of Economic Operators'	a partnership or consortium not (yet) operating through a separate legal entity.
'Holding Company'	as described in section 1159 and Schedule 6 of the Companies Act 2006.
"Incident"	means an incident the nature and categorisation of which are set out in the Specification at paragraph 5.13 of Part A of Schedule 1 (Part B).
'Information'	as described under section 84 of the Freedom of Information Act 2000, as amended from time to time.
'Insolvency Event'	may be: <ul style="list-style-type: none"> • a voluntary arrangement; • a winding-up petition; • the appointment of a receiver or administrator; • an unresolved statutory demand; • a Schedule A1 moratorium.
'Intellectual Property Rights' or 'IPR'	means: <p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and</p>

	<p>rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), Know-How, trade secrets and moral rights and other similar rights or obligations whether registerable or not;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off.</p>
'Key Staff'	the Contractor Staff named in the SOW as such.
'KPI Target'	the acceptable performance level for a key performance indicator (KPI) as detailed in a SOW.
'Law'	any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.
'Loss'	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and 'Losses' will be interpreted accordingly.
'Malicious Software'	any software program or code intended to destroy, or cause any undesired effects. It could be introduced wilfully, negligently or without the Contractor having knowledge of its existence.
'Material Breach (Contract)'	<p>a single serious breach of or persistent failure to perform as required in the Contract</p> <p>Or a breach of any of the following Clauses:</p>

	<ul style="list-style-type: none"> ● Subcontracting; ● Non-Discrimination; ● Conflicts of Interest; ● Warranties and Representations; ● Prevention of Bribery and Corruption; ● Safeguarding against Fraud; ● Data Protection and Disclosure; ● Intellectual Property Rights and Indemnity; ● Confidentiality; ● Official Secrets Act; ● Audit.
'Contract Data'	Part A of this contract which contains the important information about this Contract.
'Party'	the Authority and the Contractor.
'Personal Data'	as described in the Data Protection Laws.
'Prohibited Act'	<p>to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:</p> <ul style="list-style-type: none"> ● induce that person to perform improperly a relevant function or activity; ● reward that person for improper performance of a relevant function or activity; ● commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud.
'Project-Specific IPRs'	Intellectual Property Rights in Deliverables, created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema.

'Property'	the property, other than real property and IPR, issued or made available to the Contractor by the Authority in connection with a Contract.
'Regulations'	The Public Contracts Regulations 2015 (at http://www.legislation.gov.uk/uksi/2015/102/contents/made) and the Public Contracts (Scotland) Regulations 2012 (at http://www.legislation.gov.uk/ssi/2012/88/made)
'Regulatory Bodies'	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Contract.
'Request for Information'	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.
'Services'	means the provided in accordance with Schedule 1 of Part B and such other services as may from time to time be agreed under a Statement of Work.
'Service Period'	means a calendar month.
'Specific Change in Law'	a change in the Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.
'Specification'	a statement issued by the Authority detailing its Services requirements issued in the Contract and agreed under a SOW.
'Statement of Work' (SOW)	the document outlining the agreed body of works to be undertaken as part of the Contract between the Authority and the Contractor as set out in the format prescribed by Schedule 3 of Part B. Multiple SOWs can apply to this Contract.
'Subcontractor'	each of the Contractor's Subcontractors engaged by the Contractor in connection with the provision of the digital services as may be permitted by this Contract.
'Contractor Background IPRs'	Background IPRs of the Contractor.

'Contractor Software'	software which is proprietary to the Contractor and which is or will be used by the Contractor for the purposes of providing the Services.
'Contractor Staff'	all persons employed by the Contractor including the Contractor's agents and consultants used in the performance of its obligations under this Contract.
'Working Day'	any day other than a Saturday, Sunday or public holiday in England and Wales

