Home Office

MODEL SERVICES CONTRACT

DATED

11th September 2025

(1) The Secretary of State for the Home Department

and

(2) DoctorPA Ltd

CONTRACT

relating to

Irregular Migration Management Services – Healthcare Services

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THIS CONTRACT is made on 20

BETWEEN:

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT (acting through the Home Office) whose principal place of business is at 2 Marsham Street, London SW1P 4DF (the "**Authority**"); and

(2) DoctorPA Ltd a company registered in England under company number 09356355 whose registered office is at 42 Kew Court Richmond Road, Kingston Upon Thames, Surry, KT25BF (the "**Supplier**")

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

INTRODUCTION

(A) The Authority has appointed the Supplier to:

Provide healthcare services to all small boats arrivals at the Manston Site and Disembarkation Point. The primary role consisting of paramedic response at sea, healthcare assessments and the operation of the Manston Healthcare Centre.

(B) On 11th October 2024 the Authority advertised on Find a Tender (Ref 2024/S 000-032859) inviting prospective suppliers to submit proposals for the Irregular Migration Management Services – Lot 2 – Healthcare Services.
and

(C) The Supplier is a leading provider of Healthcare Services and has experience relating to the service provisions detailed in Schedule 2.2 of this Contract.

(D) On the basis of the Supplier's response to the advertisement and a subsequent tender process, the Authority selected the Supplier as its preferred supplier.

(E) Following negotiations, the Parties have agreed to contract with each other in accordance with the terms and conditions set out below.]

INITIAL TERM

The period of six (6) years from and including the Effective Date (the "***Initial Term***").

EXTENSION PERIOD

The period of up to four (4) years from the end of the Initial Term (the "***Extension Period***").

IT IS AGREED as follows:

Section A: Preliminaries

1 Definitions and Interpretation

1.1 In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (*Definitions*) or the relevant Schedule in which that capitalised expression appears.

1.2 Interpretation is as set out in Schedule 1 (*Definitions*).

1.3 If there is any conflict between the Clauses and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

1.3.1 the Clauses and Schedule 1 (*Definitions*);

1.3.2 Schedules 2 (*Services Description*) and 3 (*Performance Levels*) and their Annexes;

1.3.3 any other Schedules and their Annexes (other than Schedule 8 (*Supplier Solution*) and its Annexes); and

1.3.4 Schedule 8 (*Supplier Solution*) and its Annexes (if any) unless any part of the Supplier Solution offers a better commercial position for the Authority (as decided by the Authority, in its absolute discretion), in which case that part of the Supplier Solution will take precedence over the documents above.

1.4 The Schedules and their Annexes form part of this Contract.

1.5 In entering into this Contract, the Authority is acting as part of the Crown.

2 Due Diligence

2.1 The Supplier acknowledges that, subject to the Allowable Assumptions:

2.1.1 the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Contract;

2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;

2.1.3 it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Effective Date) of all relevant details relating to:

(a) the Authority Requirements;

(b) the suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;

(c) the operating processes and procedures and the working methods of the Authority;

(d) the ownership, functionality, capacity, condition and suitability for use in the Services of the Authority Assets; and

(e) the existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Services; and

(f) it has advised the Authority in writing of:

(i) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;

(ii) the actions needed to remedy each such unsuitable aspect; and

(iii) a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

and such actions, timetable and costs are fully reflected in this Contract, including the Services Description and/or Authority Responsibilities as applicable.

2.2 The Supplier shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor, subject to Clause 2.3, shall the Supplier be entitled to recover any additional costs or charges, arising as a result of:

2.2.1 any unsuitable aspects of the Operating Environment;

2.2.2 any misinterpretation of the Authority Requirements; and/or

2.2.3 any failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

2.3 The Parties shall comply with the provisions of Paragraph 7 of Part C of Schedule 15.2 (*Charges and Invoicing*) in relation to the verification of any Allowable Assumptions.

3 Warranties

3.1 The Authority represents and warrants that:

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

3.1.2 this Contract is entered into by its duly authorised representative;

3.1.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Contract; and

3.1.4 its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to

equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).

3.2 The Supplier represents and warrants that:

3.2.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

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

3.2.3 this Contract is entered into by its duly authorised representative;

3.2.4 it has all necessary consents and regulatory approvals to enter into this Contract;

3.2.5 it has notified the Authority in writing of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, any threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Contract;

3.2.6 its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;

3.2.7 its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);

3.2.8 all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation its response to the selection questionnaire and ITT (if applicable), its tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Contract or to the extent that the Supplier has otherwise disclosed to the Authority in writing prior to the date of this Contract;

3.2.9 it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;

3.2.10 it has all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the Authority which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by the Authority;

3.2.11 the Contract Inception Report is a true and accurate reflection of the Costs and Supplier Profit Margin forecast by the Supplier and the Supplier does not have

any other internal financial model in relation to the Services inconsistent with the Financial Model;

3.2.12 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;

3.2.13 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and

3.2.14 within the previous 12 months, no Financial Distress Events have occurred or are subsisting (or any events that would be deemed to be Financial Distress Events under this Contract had this Contract been in force) and there are currently no matters that it is aware of that could cause a Financial Distress Event to occur or subsist.

3.3 The representations and warranties set out in Clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Contract) by reference to the facts then existing.

3.4 Each of the representations and warranties set out in Clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Contract.

3.5 If at any time a Party becomes aware that a representation or warranty given by it under Clause 3.1 or 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

3.6 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Supplier.

3.7 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

3.8 The Supplier indemnifies the Authority against wilful misconduct of the Supplier, Subcontractor and Supplier Personnel that impacts the Contract.

Section B: The Services

4 Term

4.1 This Contract shall:

4.1.1 come into force on the Effective Date, save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 19 (*Confidentiality*), 20 (*Transparency and Freedom of Information*), 22 (*Publicity and Branding*), 23 (*Limitations on Liability*), 35 (*Waiver and Cumulative Remedies*), 36 (*Relationship of the Parties*), 38 (*Severance*), 40 (*Entire Agreement*), 41 (*Third Party Rights*), 42 (*Notices*), 43 (*Disputes*) and 44 (*Governing Law and Jurisdiction*), which shall be binding and enforceable as between the Parties from the date of signature; and

4.1.2 unless terminated at an earlier date by operation of Law or in accordance with Clause 31 (*Termination Rights*), terminate:

(a) at the end of the Initial Term; or

(b) if the Authority elects to extend the Initial Term by giving the Supplier at least 60 Working Days' notice before the end of the Initial Term, at the end of the Extension Period.

Condition Precedent

4.2 Save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 19 (*Confidentiality*), 20 (*Transparency and Freedom of Information*), 22 (*Publicity and Branding*), 23 (*Limitations on Liability*), 35 (*Waiver and Cumulative Remedies*), 36 (*Relationship of the Parties*), 38 (*Severance*), 40 (*Entire Agreement*), 41 (*Third Party Rights*), 42 (*Notices*), 43 (*Disputes*) and 44 (*Governing Law and Jurisdiction*), this Contract is conditional upon the valid execution and delivery to the Authority of the Guarantee (the "**Condition Precedent**"). The Authority may in its sole discretion at any time agree to waive compliance with the Condition Precedent by giving the Supplier notice in writing.

4.3 The Supplier shall satisfy, or procure the satisfaction of, the Condition Precedent as soon as possible. In the event that the Condition Precedent is not satisfied within 20 Working Days after the date of this Contract then, unless the Condition Precedent is waived by the Authority in accordance with Clause 4.2:

4.3.1 this Contract shall automatically cease and shall not come into effect; and

4.3.2 neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.

4.4 The Supplier shall consult with the Authority in relation to the steps it takes to satisfy the condition set out in Clause 4.2 and shall keep the Authority fully informed of its progress in satisfying the condition and of any circumstances which are likely to result in the condition not being satisfied by the date set out in Clause 4.3.

5 Services

Standard of Services

5.1 The Supplier shall provide:

5.1.1 the Implementation Services from (and including) the Implementation Services Commencement Date; and

5.1.2 the Operational Services in each case from (and including) the relevant Operational Service Commencement Date.

5.2 The Supplier shall ensure that:

5.2.1 the Services:

(a) comply in all respects with the Services Description; and

(b) are supplied in accordance with the Supplier Solution and the provisions of this Contract; and

5.2.2 where:

(a) the Operational Services to be provided from any Operational Service Commencement Date are similar to services that the Authority was receiving immediately prior to that Operational Service Commencement Date (such similar services being "**Preceding Services**"); and

(b) the standard and level of service received by the Authority in respect of any of the Preceding Services in the 12 month period immediately prior to that Operational Service Commencement Date have been disclosed to the Supplier in the Due Diligence Information (such preceding services being "**Relevant Preceding Services**"),

the Operational Services to be provided from the relevant Operational Service Commencement Date that are similar to the Relevant Preceding Services are in each case provided to a standard and level of service which is at least as good as the standard and level of service received by the Authority in respect of the Relevant Preceding Services in the 12 month period immediately prior to the relevant Operational Service Commencement Date.

5.3 The Supplier shall:

5.3.1 perform its obligations under this Contract, including in relation to the supply of the Services and any Goods in accordance with:

(a) all applicable Law;

(b) Good Industry Practice;

(c) the Standards;

(d) the Baseline Security Requirements;

(e) the Quality Plans;

(f) the Authority IT Strategy; and

(g) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 5.3.1(a) to 5.3.1(f); and

5.3.2 indemnify the Authority against any costs resulting from any breach by the Supplier of any applicable Law relating to the Contract; and

5.3.3 deliver the Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.

5.4 In the event that the Supplier becomes aware of any inconsistency between the requirements of Clauses 5.3.1(a) to 5.3.1(f), the Supplier shall immediately notify the Authority Representative in writing of such inconsistency and the Authority Representative shall, as soon as practicable, notify the Supplier which requirement the Supplier shall comply with.

Supplier covenants

5.5 The Supplier shall:

5.5.1 at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Contract;

5.5.2 save to the extent that obtaining and maintaining the same are Authority Responsibilities and subject to Clause 13 (*Change*), obtain, and maintain throughout the duration of this Contract, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;

5.5.3 ensure that:

(a) it shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the Authority which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by the Authority;

(b) the release of any new Software or upgrade to any Software complies with the interface requirements in the Services Description and (except in relation to new Software or upgrades which are released to address Malicious Software or to comply with the requirements of Schedule 5 (*Security Management*)) shall notify the Authority 3 months before the release of any new Software or Upgrade;

(c) all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;

(d) any products or services recommended or otherwise specified by the Supplier for use by the Authority in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the Authority Requirements; and

(e) the Supplier System and Assets used in the performance of the Services will be free of all encumbrances (except as agreed in writing with the Authority);

5.5.4 minimise any disruption to the Services, the IT Environment and/or the Authority's operations when carrying out its obligations under this Contract;

5.5.5 ensure that any Documentation and training provided by the Supplier to the Authority are comprehensive, accurate and prepared in accordance with Good Industry Practice;

5.5.6 co-operate with any Other Supplier notified to the Supplier by the Authority from time to time by providing:

(a) reasonable information (including any Documentation);

(b) advice; and

(c) reasonable assistance,

in connection with the Services to any such Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Contract for any reason, to enable the timely transition of the Services (or any of them) to the Authority and/or to any Replacement Supplier in accordance with the following collaborative working principles:

(a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";

(b) being open, transparent and responsive in sharing relevant and accurate information with such Other Suppliers;

(c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with such Other Suppliers;

(d) providing reasonable cooperation, support, information and assistance to such Other Suppliers in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and

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

5.5.7 to the extent it is legally able to do so, hold on trust for the sole benefit of the Authority, all warranties and indemnities provided by third parties or any Sub-contractor in respect of any Deliverables and/or the Services and, where any

such warranties are held on trust, at its cost enforce such warranties in accordance with any reasonable directions that the Authority may notify from time to time to the Supplier;

5.5.8 unless it is unable to do so, assign to the Authority on the Authority's written request and at the cost of the Supplier any such warranties and/or indemnities as are referred to in Clause 5.5.7;

5.5.9 provide the Authority with such assistance as the Authority may reasonably require during the Term in respect of the supply of the Services;

5.5.10 gather, collate and provide such information and co-operation as the Authority may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Contract;

5.5.11 notify the Authority in writing as soon as reasonably possible and in any event within 1 month of any change of Control taking place;

5.5.12 notify the Authority in writing within 10 Working Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Contract;

5.5.13 ensure that neither it, nor any of its Affiliates, embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in any act or omission in relation to this Contract which is reasonably likely to diminish the trust that the public places in the Authority; and

5.5.14 manage closure or termination of Services and end of life of Goods to take account of the Authority's disposal requirements, including recycling and scope for re-use, and all applicable Standards.

5.6 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-contractors and Supplier Personnel also do, or refrain from doing, such act or thing.

5.7 Without prejudice to Clauses 17.2 and 17.3 (*IPRs Indemnity*) and any other rights and remedies of the Authority howsoever arising, the Supplier shall:

5.7.1 remedy any breach of its obligations in Clauses 5.5.2 to 5.5.4 inclusive within 3 Working Days of becoming aware of the breach or being notified of the breach by the Authority where practicable or within such other time period as may be agreed with the Authority (taking into account the nature of the breach that has occurred);

5.7.2 remedy any breach of its obligations in Clause 5.5.1 and Clauses 5.5.5 to 5.5.10 inclusive within 20 Working Days of becoming aware of the breach or being notified of the breach by the Authority; and

5.7.3 meet all the costs of, and incidental to, the performance of such remedial work,

and any failure of the Supplier to comply with its obligations under Clause 5.7.1 or Clause 5.7.2 within the specified or agreed timeframe shall constitute a Notifiable Default.

Specially Written Software warranty

5.8 Without prejudice to Clauses 5.5 (*Supplier Covenants*) and 5.7 (*Services*) and any other rights and remedies of the Authority howsoever arising, the Supplier warrants to the Authority that all components of the Specially Written Software shall:

5.8.1 be free from material design and programming errors;

5.8.2 perform in all material respects in accordance with the relevant specifications contained in the Supplier Solution and Documentation; and

5.8.3 not infringe any Intellectual Property Rights.

Continuing obligation to provide the Services

5.9 The Supplier shall continue to perform all of its obligations under this Contract and shall not suspend the supply of the Services, notwithstanding:

5.9.1 NOT USED

5.9.2 the existence of an unresolved Dispute; and/or

5.9.3 any failure by the Authority to pay any Charges,

unless the Supplier is entitled to terminate this Contract under Clause 31.3.1 (*Termination by the Supplier*) for failure to pay undisputed Charges.

Optional Services

5.10 The Authority may require the Supplier to provide any or all of the Optional Services at any time by giving notice to the Supplier in writing. The Supplier acknowledges that the Authority is not obliged to take any Optional Services from the Supplier and that nothing shall prevent the Authority from receiving services that are the same as or similar to the Optional Services from any third party.

5.11 If a Change Request is submitted, the Supplier shall, as part of the Impact Assessment provided by the Supplier in relation to such Change Request, provide details of the impact (if any) that the proposed Change will have on the relevant Optional Services.

5.12 Following receipt of the Authority's notice pursuant to Clause 5.10:

5.12.1 the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with the Change Control Procedure, modified to reflect the fact that the terms and conditions on which the Supplier shall provide the relevant Optional Services have already been agreed;

5.12.2 the Supplier shall implement and test the relevant Optional Services in accordance with the Optional Services Implementation Plan;

5.12.3 any additional charges for the Optional Services shall be incorporated in the Charges as specified in Paragraph 3 of Part B of Schedule 15 (*Charges and Invoicing*); and

5.12.4 the Supplier shall, from the date agreed in the Optional Services Implementation Plan (or, if later, the date of Achievement of any Milestones

associated with the commencement of the relevant Optional Services (if any)), provide the relevant Optional Services to meet or exceed the applicable Target Performance Level in respect of all Performance Indicators applicable to the Optional Services as set out in Annex 1 of Schedule 3 (*Performance Levels*).

Power of attorney

5.13 By way of security for the performance of its obligations under Clauses 5.5.7 and 5.5.8 (*Supplier covenants*) the Supplier:

5.13.1 hereby irrevocably appoints the Authority as its agent and attorney to act with full power and authority in the Supplier's name and on its behalf to do all such acts and execute all such documents as may be necessary or desirable to enforce any such warranties and/or effect any such assignment as are referred to in such Clauses and to delegate one or more of the powers conferred on it by this Clause 5.13 (other than the power to delegate) to officer(s) appointed for that purpose by the Authority and may vary or revoke such delegation at any time;

5.13.2 shall promptly, at its own expense, execute any deed that the Authority may reasonably require to create or perfect the appointment of the power of attorney referred to in this Clause 5.13; and

5.13.3 ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in this Clause 5.13.

Authority Responsibilities

5.14 The Authority shall comply with its responsibilities set out in Schedule 7 (*Authority Responsibilities*).

6 Implementation

Quality Plans

6.1 The Supplier shall develop, within 5 Working Days of the Effective Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").

6.2 The Supplier shall obtain the Authority Representative's written approval of the Quality Plans before implementing them, which approval shall not be unreasonably withheld or delayed. The Supplier acknowledges and accepts that the Authority's approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Contract.

6.3 Following the approval by the Authority of the Quality Plans:

6.3.1 the Supplier shall design and deliver all Deliverables in accordance with the Quality Plans; and

6.3.2 any Changes to the Quality Plans shall be agreed in accordance with the Change Control Procedure.

Implementation Plan and Delays

6.4 The Parties shall comply with the provisions of Schedule 13 (*Implementation Plan*) in relation to the agreement and maintenance of the Detailed Implementation Plan.

6.5 The Supplier shall:

6.5.1 comply with the Implementation Plan; and

6.5.2 ensure that each Milestone is Achieved on or before its Milestone Date.

6.6 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay:

6.6.1 it shall:

(a) notify the Authority in accordance with Clause 25.1 (*Rectification Plan Process*); and

(b) comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and

(c) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and

6.6.2 if the Delay or anticipated Delay relates to a Key Milestone, the provisions of Clause 26 (*Delay Payments*) shall apply.

Testing and Achievement of Milestones

6.7 The Parties shall comply with the provisions of Schedule 14 (*Testing Procedures*) in relation to the procedures to determine whether a Milestone or Test has been Achieved.

7 Performance Indicators

7.1 The Supplier shall:

7.1.1 provide the Operational Services in such a manner so as to meet or exceed the Target Performance Level for each Performance Indicator from the Milestone Date for each relevant CPP Milestone; and

7.1.2 comply with the provisions of Schedule 3 (*Performance Levels*) in relation to the monitoring and reporting on its performance against the Performance Indicators.

Performance Failures

7.2 If in any Service Period:

7.2.1 a KPI Failure occurs, Service Credits shall be deducted from the Service Charges in accordance with Paragraph 3 of Part C of Schedule 15.2 (*Charges and Invoicing*); and

7.2.2 a Material KPI Failure occurs, the Supplier shall comply with the Rectification Plan Process (in addition to Service Credits accruing in accordance with Clause 7.2.1).

7.3 Service Credits shall be the Authority's exclusive financial remedy for a KPI Failure except where:

7.3.1 the Supplier has over the previous 12 month period accrued Service Credits in excess of the Service Credit Cap;

7.3.2 the KPI Failure:

(a) breaches the relevant KPI Service Threshold;

(b) has arisen due to the wilful default by the Supplier or any Supplier Personnel; or

(c) results in:

(i) the corruption or loss of any Authority Data (in which case the remedies under Clause 18.7 (*Authority Data and Security Requirements*) shall also be available); and/or

(ii) the Authority being required to make a compensation payment to one or more third parties;

7.3.3 the Supplier has fraudulently misreported its performance against any Performance Indicator; and/or

7.3.4 the Authority is otherwise entitled to or does terminate the relevant Services or this Contract pursuant to Clause 31.1.2 (*Termination by the Authority*).

Unacceptable KPI Failure

7.4 If in any Service Period an Unacceptable KPI Failure occurs:

7.4.1 the Authority shall (subject to the Service Credit Cap set out in Clause 23.4.2 (*Financial and other limits*)) be entitled to withhold and retain as compensation for the Unacceptable KPI Failure a sum equal to any Service Charges which would otherwise have been due to the Supplier in respect of that Service Period (such sum being "**Compensation for Unacceptable KPI Failure**"); and

7.4.2 if the Authority withholds and retains such Compensation for Unacceptable KPI Failure, any Service Points and Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue,

provided that the operation of this Clause 7.4 shall be without prejudice to any right which the Authority may have to terminate this Contract and/or to claim damages from the Supplier as a result of such Unacceptable KPI Failure.

7.5 The Supplier:

7.5.1 agrees that the application of Clause 7.4 is commercially justifiable where an Unacceptable KPI Failure occurs; and

7.5.2 acknowledges that it has taken legal advice on the application of Clause 7.4 and has had the opportunity to price for that risk when calculating the Service Charges.

Critical Performance Failure

7.6 If a Critical Performance Failure occurs, the Authority may exercise its rights to terminate this Contract in whole or in part pursuant to Clause 31.1 or 31.2 (*Termination by the Authority* in the following circumstances:

7.6.1 **NOT USED**

7.6.2 If a Performance Failure occurs for KPI1.

Changes to Performance Indicators and Service Credits

7.7 Not more than once in each Contract Year the Authority may, on giving the Supplier at least 3 months' notice:

7.7.1 change the weighting that applies in respect of one or more specific Key Performance Indicators; and/or

7.7.2 convert one or more:

(a) Key Performance Indicators into a Subsidiary Performance Indicator; and/or

(b) Subsidiary Performance Indicators into a Key Performance Indicator (in which event the Authority shall also set out in the notice details of what will constitute a Minor KPI Failure, a Serious KPI Failure and a Severe KPI Failure for the new Key Performance Indicator).

7.8 The Supplier shall not be entitled to object to any changes made by the Authority under Clause 7.7, or increase the Service Charges as a result of such changes provided that:

7.8.1 the total number of Key Performance Indicators is not unreasonable;

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

7.8.3 there is no change to the Service Credit Cap.

Material KPI Persistent Failure

7.9 If a Material KPI Persistent Failure occurs, the Authority may exercise its rights to terminate this Contract in whole or in part pursuant to Clause 31.1 or 31.2 (Termination by the Authority).

8 Services Improvement

8.1 The Supplier shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with this Clause 8. As part of this obligation the Supplier shall identify and report to the Innovation & Social Value Review Group as described in Schedule 21 (*Governance*) once every 12 months on:

8.1.1 the emergence of new and evolving relevant technologies which could improve the IT Environment and/or the Services, and those technological advances potentially available to the Supplier and the Authority which the Parties may wish to adopt;

8.1.2 new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;

8.1.3 new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or reduction of operational risk;

8.1.4 changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Authority; and/or

8.1.5 changes to the IT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.

8.2 The Supplier shall ensure that the information that it provides to the Authority shall be sufficient for the Authority to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Authority requests.

8.3 If the Authority wishes to incorporate any improvement identified by the Supplier, the Authority shall send the Supplier a Change Request in accordance with the Change Control Procedure.

9 Equipment and Maintenance

Supplier Equipment

9.1 The Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites and to the Authority Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on termination or expiry of this Contract the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites and the Authority Premises, including the cost of packing, carriage and making good the Sites and/or the Authority Premises following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements.

9.2 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Authority shall be liable for loss of or damage to any of the Supplier's property located on Authority Premises which is due to the negligent act or omission of the Authority.

9.3 Subject to any express provision of the Service Continuity Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Contract, including the Target Performance Levels.

Maintenance

9.4 The Supplier shall create and maintain a rolling schedule of planned maintenance to the IT Environment (the "**Maintenance Schedule**") which shall be agreed with the Authority. Once the Maintenance Schedule has been agreed with the Authority Representative, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.

9.5 The Supplier shall give as much notice as is reasonably practicable to the Authority Representative prior to carrying out any Emergency Maintenance.

9.6 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the IT Environment or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the IT Environment and the Services.

Supply of Goods

9.7 Where, as part of the Services, the Supplier is to sell goods or equipment ("**Goods**") to the Authority:

9.7.1 the relevant Goods and their prices shall be as set out in in Schedule 2.2 (*Services Description Healthcare Services)* and Schedule 15.2 (*Charges and Invoicing*).

9.7.2 the Supplier shall supply and, where relevant, install the Goods in accordance with the relevant specification;

9.7.3 the Supplier shall ensure that the Goods are free from material defects in design, materials and workmanship and remain so for 12 months after delivery;

9.7.4 if following inspection or testing the Authority considers that the Goods do not conform with the relevant specification, the Authority shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance;

9.7.5 without prejudice to any other rights or remedies of the Authority:

(a) risk in the Goods shall pass to the Authority at the time of delivery; and

(b) ownership of the Goods shall pass to the Authority at the time of payment;

9.7.6 the Supplier indemnifies the Authority against the costs of any Recall of the Goods and shall give notice of actual or anticipated action about the Recall of the Goods; and

9.7.7 the Authority will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Authority or its servant or agent. If the Authority suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation

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

Asset Registers

9.8 The Supplier shall maintain Asset Registers to record all equipment held on Site, detailing Supplier owned equipment and Authority owned equipment. Asset Registers shall be continually updated each time new equipment is added and when existing equipment is removed from Site. The Supplier shall provide copies of the Asset Register within 24 hours of request by the Authority.

Section C: Payment, Taxation and Value for Money Provisions

10 Financial and Taxation Matters

Charges and Invoicing

10.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, the Authority shall pay the Charges to the Supplier in accordance with the pricing and payment profile and the invoicing procedure specified in Schedule 15.2 (*Charges and Invoicing*).

10.2 Except as otherwise provided, each Party shall each bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 6.7 (*Testing and Achievement of Milestones*), 12 (*Records, Reports, Audits and Open Book Data*), 20 (*Transparency and Freedom of Information*), 21 (*Protection of Personal Data*) and, to the extent specified therein, Clause 27 (*Remedial Adviser*) and Clause 28 (*Step-In Rights*).

10.3 If the Authority fails to pay any undisputed Charges properly invoiced under this Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

VAT

10.4 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.

10.5 The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Contract. Any amounts due under this Clause 10.5 shall be paid in cleared funds by the Supplier to the Authority not less than five Working Days before the date upon which the tax or other liability is payable by the Authority.

Set-off and Withholding

10.6 The Authority may set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Authority) against any amount due to the Supplier under this Contract or under any other agreement between the Supplier and the Authority.

10.7 If the Authority wishes to:

10.7.1 set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Authority) against any amount due to the Supplier pursuant to Clause 10.6; or

10.7.2 NOT USED

it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Authority's reasons for withholding or retaining the relevant Charges.

Benchmarking

10.8 The Parties shall comply with the provisions of Schedule 17 (*Benchmarking*) in relation to the benchmarking of any or all of the Services.

Financial Distress

10.9 The Parties shall comply with the provisions of Schedule 18 (*Financial Distress*) in relation to the assessment of the financial standing of the Supplier and other specified entities and the consequences of a change to that financial standing.

Promoting Tax Compliance

10.10 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

10.10.1 notify the Authority in writing of such fact within 5 Working Days of its occurrence; and

10.10.2 promptly provide to the Authority:

(a) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

Section D: Contract Governance

11 Governance

11.1 The Parties shall comply with the provisions of Schedule 21 (*Governance*) in relation to the management and governance of this Contract.

Representatives

11.2 Each Party shall have a representative for the duration of this Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Contract.

11.3 The initial Supplier Representative shall be the person named as such in Schedule 29 (*Key Personnel*). Any change to the Supplier Representative shall be agreed in accordance with Clause 14 (*Supplier Personnel*).

11.4 The Authority shall notify the Supplier of the identity of the initial Authority Representative within 5 Working Days of the Effective Date. The Authority may, by written notice to the Supplier, revoke or amend the authority of the Authority Representative or appoint a new Authority Representative.

12 Records, Reports, Audits & Open Book Data

12.1 The Supplier shall comply with the provisions of:

12.1.1 Schedule 24 (*Reports and Records Provisions*) in relation to the maintenance and retention of Records; and

12.1.2 Part A of Schedule 19 (*Financial Reports and Audit Rights*) in relation to the maintenance of Open Book Data.

12.2 The Parties shall comply with the provisions of:

12.2.1 Part B of Schedule 19 (*Financial Reports and Audit Rights*) in relation to the provision of the Financial Reports; and

12.2.2 Part C of Schedule 19 (*Financial Reports and Audit Rights*) in relation to the exercise of the Audit Rights by the Authority or any Audit Agents.

13 Change

Change Control Procedure

13.1 Any requirement for a Change shall be subject to the Change Control Procedure.

Change in Law

13.2 The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Charges as the result of:

13.2.1 a General Change in Law; or

13.2.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date.

13.3 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 13.2.2), the Supplier shall:

13.3.1 notify the Authority as soon as reasonably practicable of the likely effects of that change, including:

(a) whether any Change is required to the Services, the Charges or this Contract; and

(b) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Target Performance Levels; and

13.3.2 provide the Authority with evidence:

(a) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;

(b) as to how the Specific Change in Law has affected the cost of providing the Services; and

(c) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 8 (*Services Improvement*), has been taken into account in amending the Charges.

13.4 Any variation in the Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 13.2.2) shall be implemented in accordance with the Change Control Procedure.

Section E: Supplier Personnel and Supply Chain

14 Supplier Personnel

14.1 The Supplier shall:

14.1.1 Provide in advance of any admission to Authority Premises a list of the names of all Supplier Personnel requiring such admission, specifying the capacity in which they require admission and giving such other particulars as the Authority may reasonably require;

14.1.2 ensure that all Supplier Personnel:

(a) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;

(b) are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Schedule 2.2 (*Services Description Healthcare Services*) and Schedule 5 (*Security Management*); and

(c) comply with all reasonable requirements of the Authority concerning conduct at the Authority Premises, including the security requirements as set out in Schedule 5 (*Security Management*);

14.1.3 subject to Schedule 28 (*Staff Transfer*), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Authority;

14.1.4 be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Contract shall be a Default by the Supplier;

14.1.5 use all reasonable endeavours to minimise the number of changes in Supplier Personnel;

14.1.6 replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;

14.1.7 bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and

14.1.8 procure that the Supplier Personnel shall vacate the Authority Premises immediately upon the termination or expiry of this Contract.

14.2 If the Authority reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Contract, it may:

14.2.1 refuse admission to the relevant person(s) to the Authority Premises; and/or

14.2.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

Key Personnel

14.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term. Schedule 29 (*Key Personnel*) lists the Key Roles and names of the persons who the Supplier shall appoint to fill those Key Roles at the Operational Service Commencement.

14.4 The Authority may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.

14.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out Exit Management) unless:

14.5.1 requested to do so by the Authority;

14.5.2 the person concerned resigns, retires or dies or is on maternity leave, paternity leave or shared parental leave or long-term sick leave;

14.5.3 the person's employment or contractual arrangement with the Supplier or a Sub-contractor is terminated for material breach of contract by the employee; or

14.5.4 the Supplier obtains the Authority's prior written consent (such consent not to be unreasonably withheld or delayed).

14.6 The Supplier shall:

14.6.1 notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of 2 weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);

14.6.2 ensure that any Key Role is not vacant for any longer than 10 Working Days;

14.6.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least 60 Working Days' notice;

14.6.4 ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services; and

14.6.5 ensure that any replacement for a Key Role:

(a) has a level of qualifications and experience appropriate to the relevant Key Role; and

(b) is fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced.

Employment Indemnity

14.7 The Parties agree that:

14.7.1 the Supplier shall both during and after the Term indemnify the Authority against all Employee Liabilities that may arise as a result of any claims brought against the Authority by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel; and

14.7.2 the Authority shall both during and after the Term indemnify the Supplier against all Employee Liabilities that may arise as a result of any claims brought against the Supplier by any person where such claim arises from any act or omission of the Authority or any of the Authority's employees, agents, consultants and contractors.

Income Tax and National Insurance Contributions

14.8 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Contract, the Supplier shall:

14.8.1 at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and

14.8.2 indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

Staff Transfer

14.9 The Parties agree that:

14.9.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Schedule 28 (*Staff Transfer*) shall apply as follows:

(a) where the Relevant Transfer involves the transfer of Transferring Authority Employees, Part A and Part D of Schedule 28 (*Staff Transfer*) shall apply;

(b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B and Part D of Schedule 28 (*Staff Transfer*) shall apply;

(c) where the Relevant Transfer involves the transfer of Transferring Authority Employees and Transferring Former Supplier Employees, Parts A, B and D of Schedule 28 (*Staff Transfer*) shall apply; and

(d) Part C of Schedule 28 (*Staff Transfer*) shall not apply;

14.9.2 where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Schedule 28 (*Staff Transfer*) shall apply, Part D of Schedule 28 may apply and Parts A and B of Schedule 28 (*Staff Transfer*) shall not apply; and

14.9.3 Part E of Schedule 28 (*Staff Transfer*) shall apply on the expiry or termination of the Services or any part of the Services.

15 Supply Chain Rights and Protections

Advertising Sub-contract Opportunities

15.1 The Supplier shall:

15.1.1 subject to Clauses 15.3 and 15.4, advertise on Contracts Finder all Sub-contract opportunities arising from or in connection with the provision of the Goods and/or Services and/or Works above a minimum threshold of £25,000 that arise during the Term;

15.1.2 within ninety (90) days of awarding a Sub-contract to a Sub-contractor, update the notice on Contracts Finder with details of the successful Sub-contractor;

15.1.3 monitor the number, type and value of the Sub-contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;

15.1.4 provide reports on the information at Clause 15.1.3 to the Authority in the format and frequency as reasonably specified by the Authority; and

15.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

15.2 Each advert referred to in Clause 15.1 above shall provide a full and detailed description of the Sub-contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.

15.3 The obligation at Clause 15.1 shall only apply in respect of Sub-contract opportunities arising after the Effective Date.

15.4 Notwithstanding Clause 15.1 the Authority may, by giving its prior written approval, agree that a Sub-contract opportunity is not required to be advertised on Contracts Finder.

Appointment of Sub-contractors

15.5 The Supplier shall exercise due skill and care in the selection and appointment of any Sub-contractors to ensure that the Supplier is able to:

15.5.1 manage any Sub-contractors in accordance with Good Industry Practice;

15.5.2 comply with its obligations under this Contract in the delivery of the Services; and

15.5.3 assign, novate or otherwise transfer to the Authority or any Replacement Supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Contract.

15.6 Prior to sub-contracting any of its obligations under this Contract, the Supplier shall notify the Authority in writing of:

15.6.1 the proposed Sub-contractor's name, registered office and company registration number;

15.6.2 the scope of any Services to be provided by the proposed Sub-contractor; and

15.6.3 where the proposed Sub-contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-contract has been agreed on "arm's-length" terms.

15.7 If requested by the Authority within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 15.6, the Supplier shall also provide:

15.7.1 a copy of the proposed Sub-contract; and

15.7.2 any further information reasonably requested by the Authority.

15.8 The Authority may, within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 15.6 (or, if later, receipt of any further information requested pursuant to Clause 15.7), object to the appointment of the relevant Sub-contractor if it considers that:

15.8.1 the appointment of a proposed Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of the Authority;

15.8.2 the proposed Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;

15.8.3 the proposed Sub-contractor employs unfit persons; and/or

15.8.4 the proposed Sub-contractor should be excluded in accordance with Clause 15.22 (*Termination of sub-contracts*);

in which case, the Supplier shall not proceed with the proposed appointment.

15.9 If:

15.9.1 the Authority has not notified the Supplier that it objects to the proposed Sub-contractor's appointment by the later of 10 Working Days of receipt of:

(a) the Supplier's notice issued pursuant to Clause 15.6; and

(b) any further information requested by the Authority pursuant to Clause 15.7; and

15.9.2 the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of the Authority in accordance with Clause 15.10 (*Appointment of Key Sub-contractors*),

the Supplier may proceed with the proposed appointment and, where the Sub-contract is entered into exclusively for the purpose of delivery of the Services, may notify the Authority that the relevant Sub-contract shall constitute a Third Party Contract for the purposes of Schedule 11.1 (*Third Party Contracts*).

Appointment of Key Sub-contractors

15.10 Where the Supplier wishes to enter into a Key Sub-contract or replace a Key Sub-contractor, it must obtain the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed. For these purposes, the Authority may withhold its consent to the appointment of a Key Sub-contractor if it reasonably considers that:

15.10.1 the appointment of a proposed Key Sub-contractor may prejudice the provision of the Services or may be contrary to the interests of the Authority;

15.10.2 the proposed Key Sub-contractor is unreliable and/or has not provided reasonable services to its other customers; and/or

15.10.3 the proposed Key Sub-contractor employs unfit persons; and/or

15.10.4 the proposed Key Sub-contractor should be excluded in accordance with Clause 15.22 (*Termination of sub-contracts*).

15.11 The Authority consents to the appointment of the Key Sub-contractors listed in Schedule 10 (*Notified Key Sub-contractors*).

15.12 Except where the Authority has given its prior written consent, the Supplier shall ensure that each Key Sub-contract shall include:

15.12.1 provisions which will enable the Supplier to discharge its obligations under this Contract;

15.12.2 a right under CRTPA for the Authority to enforce any provisions under the Key Sub-contract which are capable of conferring a benefit upon the Authority;

15.12.3 a provision enabling the Authority to enforce the Key Sub-contract as if it were the Supplier;

15.12.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-contract to the Authority or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by the Authority;

15.12.5 obligations no less onerous on the Key Sub-contractor than those imposed on the Supplier under this Contract in respect of:

(a) data protection requirements set out in Clauses 18 (Authority *Data and Security Requirements*) and 21 (*Protection of Personal Data*);

(b) FOIA requirements set out in Clause 20 (*Transparency and Freedom of Information*);

(c) the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 5.5.13 (*Services*);

(d) the keeping of records in respect of the services being provided under the Key Sub-contract, including the maintenance of Open Book Data; and

(e) the conduct of Audits set out in Part C of Schedule 19 (*Financial Reports and Audit Rights*);

15.12.6 provisions enabling the Supplier to terminate the Key Sub-contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under Clauses 31.1.1 (*Termination by the Authority*) and 32.5 (*Payments by the Authority*) and Schedule 16 (*Payments on Termination*) of this Contract;

15.12.7 a provision restricting the ability of the Key Sub-contractor to sub-contract all or any part of the services provided to the Supplier under the Key Sub-contract without first seeking the written consent of the Authority;

15.12.8 a provision enabling the Supplier or the Authority to appoint a Remedial Adviser on substantially the same terms as are set out in Clause 27 (*Remedial Adviser*);

15.12.9 a provision enabling the Supplier, the Authority or any other person on behalf of the Authority to step-in on substantially the same terms as are set out in Clause 28 (*Step-in Rights*);

15.12.10 a provision requiring the Key Sub-contractor to participate in, and if required by the Authority in the relevant Multi-Party Procedure Initiation Notice to procure the participation of all or any of its Sub-contractors in, the Multi-Party Dispute Resolution Procedure; and

15.12.11 a provision requiring the Key Sub-contractor to:

(a) promptly notify the Supplier and the Authority in writing of any of the following of which it is, or ought to be, aware:

(i) the occurrence of a Financial Distress Event in relation to the Key Sub-contractor; or

(ii) any fact, circumstance or matter of which it is aware which could cause the occurrence of a Financial Distress Event in relation to the Key Sub-contractor,

and in any event, provide such notification within 10 Working Days of the date on which the Key Sub-contractor first becomes aware of such); and

(b) co-operate with the Supplier and the Authority in order to give full effect to the provisions of Schedule 18 (*Financial Distress*), including meeting with the Supplier and the Authority to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Remediation Plan, and providing the information specified at Paragraph 4.3(b)(ii) of Schedule 18 (*Financial Distress*).

15.13 The Supplier shall not terminate or materially amend the terms of any Key Sub-contract without the Authority's prior written consent, which shall not be unreasonably withheld or delayed.

Supply chain protection

15.14 For Sub-contracts in the Supplier's supply chain made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

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

15.14.2 where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:

(a) give the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour Law;

(b) require the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;

(c) if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 15.14.2(b), the invoice shall be regarded as valid and undisputed for the purpose of Clause 15.14.2(d) after a reasonable time has passed;

(d) require the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;

(e) give the Authority a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and

(f) require the Sub-contractor to include a clause to the same effect as this Clause 15.14 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract.

15.15 The Supplier shall:

15.15.1 pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed;

15.15.2 include within the Balanced Scorecard Report produced by it pursuant to Schedule 3 (*Performance Levels*) a summary of its compliance with Clause 15.15.1, such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

15.16 Without prejudice to Clause 15.15.1, the Supplier shall:

15.16.1 pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:

(a) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or

(b) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and

15.16.2 include within the Balanced Scorecard Report produced by it pursuant to Schedule 3 (*Performance Levels*) a summary of its compliance with Clause 15.16.1, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.

15.17 If any Balanced Scorecard Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall upload to the Virtual Library within 15 Working Days of submission of the latest Balanced Scorecard Report an action plan (the "**Action Plan**") for improvement. The Action Plan shall include, but not be limited to, the following:

15.17.1 identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;

15.17.2 actions to address each of the causes set out in Clause 15.17.1; and

15.17.3 mechanism for and commitment to regular reporting on progress to the Supplier's Board.

15.18 The Action Plan shall be certificated by a director of the Supplier and the Action Plan, or a summary of the Action Plan published on the Supplier's website within 10 Working Days of the date on which the Action Plan is uploaded to the Virtual Library.

15.19 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.

15.20 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier's Solution (to the extent it is not already included).

15.21 Notwithstanding any provision of Clauses 19 (*Confidentiality*) and 22 (*Publicity and Branding*), if the Supplier notifies the Authority (whether in a Balanced Scorecard Report or otherwise) that the Supplier has failed to pay a Sub-contractor's undisputed invoice within thirty (30) days of receipt or that it has failed to pay 95% or above of its Sub-Contractors or Unconnected Sub-contractors within sixty (60) days after the day on which

the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Termination of Sub-contracts

15.22 The Authority may require the Supplier to terminate:

15.22.1 a Sub-contract where:

(a) the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause 31.1.2 (*Termination by the Authority*);

(b) the relevant Sub-contractor or any of its Affiliates have embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the Services or otherwise;

(c) the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or

(d) the Authority has found grounds for exclusion of the Sub-contractor in accordance with Clause 15.26; and

15.22.2 a Key Sub-contract where there is a change of Control of the relevant Key Sub-contractor, unless:

(a) the Authority has given its prior written consent to the particular change of Control, which subsequently takes place as proposed; or

(b) the Authority has not served its notice of objection within 6 months of the later of the date the change of Control took place or the date on which the Authority was given notice of the change of Control.

Competitive Terms

15.23 If the Authority is able to obtain from any Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Supplier or the Supplier Personnel in the supply of the Services, then the Authority may require the Supplier to replace its existing commercial terms with that person with the more favourable commercial terms obtained by the Authority in respect of the relevant item.

15.24 If the Authority exercises its option pursuant to Clause 15.23, then the Charges shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.

Retention of Legal Obligations

15.25 Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 15, the Supplier shall remain responsible for all acts and omissions of its Sub-contractors and

the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own. In respect of any element of the Services delivered by Supplier Personnel and/or which are Sub-contracted by the Supplier, an obligation on the Supplier to do or to refrain from doing any act or thing under this Contract, shall include an obligation on the Supplier to procure that the Supplier Personnel and the Sub-contractor also do or refrain from doing such act or thing in their delivery of those elements of the Services.

Exclusion of Sub-contractors

15.26 Where the Authority considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:

15.26.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall replace or shall not appoint the Sub-contractor;

15.26.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to replace or not to appoint the Sub-contractor and the Supplier shall comply with such a requirement.

Reporting SME/VCSE Sub-contracts

15.27 In addition to any other Management Information requirements set out in this Contract, the Supplier agrees that it shall, at no charge, provide timely, full, accurate and complete Supply Chain Transparency Reports to the Authority thirty (30) days prior to the of the end of each financial year by providing all of the information described in the Supply Chain Transparency Information Template in the format set out in the Schedule 24 (*Reports and Records Provisions*) Annex 4 and in accordance with any guidance issued by the Authority from time to time.

15.28 The Authority may update the Supply Chain Transparency Information Template from time to time (including the data required and/or format) by issuing a replacement version with at least thirty (30) days' notice and specifying the date from which it must be used.

Transparency of Sub-contracts

15.29 The Supplier shall provide copies of, and any amendments to, Sub-Contracts as requested by the Authority within five (5) working days.

Section F: Intellectual Property, Data and Confidentiality

16 Intellectual Property Rights

16.1 The Parties agree that the terms set out in Schedule 32 (*Intellectual Property Rights*) shall apply to this Contract.

17 IPRs Indemnity

17.1 The Supplier shall at all times, during and after the Term, on written demand indemnify the Authority and each other Indemnified Person, and keep the Authority and each other Indemnified Person indemnified, against all Losses incurred by, awarded against or agreed to be paid by an Indemnified Person arising from an IPRs Claim.

17.2 If an IPRs Claim is made, or the Supplier anticipates that an IPRs Claim might be made, the Supplier may, at its own expense and sole option, either:

17.2.1 procure for the Authority or other relevant Indemnified Person the right to continue using the relevant item which is subject to the IPRs Claim; or

17.2.2 replace or modify the relevant item with non-infringing substitutes provided that:

(a) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;

(b) the replaced or modified item does not have an adverse effect on any other services or the IT Environment;

(c) there is no additional cost to the Authority or relevant Indemnified Person (as the case may be); and

(d) the terms and conditions of this Contract shall apply to the replaced or modified Services.

17.3 If the Supplier elects to procure a licence in accordance with Clause 17.2.1 or to modify or replace an item pursuant to Clause 17.2.2, but this has not avoided or resolved the IPRs Claim, then:

17.3.1 the Authority may terminate this Contract (if subsisting in accordance with Clause 31.1) with immediate effect by written notice to the Supplier; and

17.3.2 without prejudice to the indemnity set out in Clause 17.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

18 Authority Data and Security Requirements

18.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

18.2 The Supplier shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

18.3 To the extent that Authority Data is held and/or processed by the Supplier, the Supplier shall supply that Authority Data to the Authority as requested by the Authority in the format specified in Schedule 2.2 (*Services Description Healthcare Services*), Schedule 24 (*Reports and Records Provisions)* and Schedule 31 (*Processing Personal Data*).

18.4 The Supplier shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data at all times that the relevant Authority Data is under its control or the control of any Sub-contractor.

18.5 The Supplier shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Service Continuity Plan. The Supplier shall ensure that such back-ups are available to the Authority (or to such other person as the Authority may direct) at all times upon request and are delivered to the Authority at no less than 6 monthly intervals (or such other intervals as may be agreed in writing between the Parties) via a secure encrypted method.

18.6 The Supplier shall ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Requirements.

18.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

18.7.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of Authority Data to the extent and in accordance with the requirements specified in Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*) and the Supplier shall do so as soon as practicable but not later than 5 Working Days from the date of receipt of the Authority's notice; and/or

18.7.2 itself restore or procure the restoration of Authority Data and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*).

18.8 If at any time the Supplier suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.

18.9 The Supplier shall comply with the requirements of Schedule 5 (*Security Management*).

18.10 The Authority shall notify the Supplier of any changes or proposed changes to the Baseline Security Requirements.

18.11 If the Supplier believes that a change or proposed change to the Baseline Security Requirements will have a material and unavoidable cost implication to the Services, it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to

mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.

18.12 Until and/or unless a change to the Charges is agreed by the Authority pursuant to Clause 18.11 the Supplier shall continue to perform the Services in accordance with its existing obligations.

19 Confidentiality

19.1 For the purposes of this Clause 19, the term "**Disclosing Party**" shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and "**Recipient**" shall mean the Party which receives or obtains directly or indirectly Confidential Information.

19.2 Except to the extent set out in this Clause 19 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:

19.2.1 treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);

19.2.2 not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Contract or without obtaining the owner's prior written consent;

19.2.3 not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Contract; and

19.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

19.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

19.3.1 the Recipient is required to disclose the Confidential Information by Law, provided that Clause 20 (*Transparency and Freedom of Information*) shall apply to disclosures required under the FOIA or the EIRs;

19.3.2 the need for such disclosure arises out of or in connection with:

(a) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Contract;

(b) the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of any Services provided under this Contract; or

(c) the conduct of a Crown Body review in respect of this Contract; or

19.3.3 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

19.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.

19.5 The Supplier may disclose the Confidential Information of the Authority on a confidential basis only to:

19.5.1 Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Contract;

19.5.2 its auditors; and

19.5.3 its professional advisers for the purposes of obtaining advice in relation to this Contract.

Where the Supplier discloses Confidential Information of the Authority pursuant to this Clause 19.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

19.6 The Authority may disclose the Confidential Information of the Supplier:

19.6.1 on a confidential basis to any Crown Body for any proper purpose of the Authority or of the relevant Crown Body;

19.6.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

19.6.3 to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

19.6.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 19.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;

19.6.5 on a confidential basis for the purpose of the exercise of its rights under this Contract, including the Audit Rights, its step-in rights pursuant to Clause 28 (*Step-In Rights*), its rights to appoint a Remedial Adviser pursuant to Clause 27 (*Remedial Adviser*) and Exit Management rights; or

19.6.6 on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 19.

19.7 Nothing in this Clause 19 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

20 Transparency and Freedom of Information

20.1 The Parties acknowledge that:

20.1.1 the Transparency Reports;

20.1.2 the content of this Contract, including any changes to this Contract agreed from time to time, except for –

(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and

(b) Commercially Sensitive Information; and

20.1.3 the Publishable Performance Information

(together the "**Transparency Information**") are not Confidential Information.

20.2 Notwithstanding any other provision of this Contract, the Supplier hereby gives its consent for the Authority to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). The Authority shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

20.3 The Supplier shall assist and co-operate with the Authority to enable the Authority to publish the Transparency Information, including the preparation of the Transparency Reports in accordance with Paragraph 1 of Schedule 24 (*Reports and Records Provisions*).

20.4 If the Authority believes that publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Supplier.

20.5 The Authority shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed, having regard to the context of the wider commercial relationship with the Supplier.

20.6 The Supplier agrees that any Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Authority may disclose such information under the FOIA and the EIRs and may (except for Commercially

Sensitive Information, Confidential Information (subject to Clause 19.6.3) and Open Book Data) publish such Information. The Supplier shall provide to the Authority within five (5) Working Days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.

20.7 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Supplier shall:

20.7.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;

20.7.2 transfer to the Authority all Requests for Information relating to this Contract that it receives as soon as practicable and in any event within 2 Working Days of receipt;

20.7.3 provide the Authority with a copy of all Information held on behalf of the Authority which is requested in a Request For Information and which is in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and

20.7.4 not respond directly to a Request For Information addressed to the Authority unless authorised in writing to do so by the Authority.

20.8 The Supplier acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Authority shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and EIRs.

21 Protection of Personal Data

21.1 The Supplier shall indemnify the Authority against any and all Losses incurred by the Authority due to breach by the Supplier of Data Protection Legislation or Clause 21.

Status of the Controller

21.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract will determine the status of each Party under the Data Protection Legislation. A Party may act as:

21.2.1 "Controller" (where the other Party acts as the "Processor");

21.2.2 "Processor" (where the other Party acts as the "Controller");

21.2.3 "Joint Controller" (where both Parties are considered to jointly control the same Personal Data);

21.2.4 "Independent Controller" of the Personal Data where the other Party is also "Controller" of the same Personal Data in its own right (but there is no element of joint control);

and the Parties shall set out in Schedule 31 (*Processing Personal Data*) which scenario or scenarios are intended to apply under this Contract.

Where one Party is Controller and the other Party its Processor

21.3 Where a Party is a Processor, the only processing that it is authorised to do is listed in Schedule 31 (*Processing Personal Data*) by the Controller and may not be determined by the Processor. The term "processing" and any associated terms are to be read in accordance with Article 4 of the UK GDPR and EU GDPR (as applicable).

21.4 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

21.5 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

21.5.1 a systematic description of the envisaged processing operations and the purpose of the processing;

21.5.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

21.5.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

21.5.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

21.6 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

21.6.1 process that Personal Data only in accordance with Schedule 31 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required, the Processor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

21.6.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18 (*Authority Data and Security Requirements*), which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

(a) nature of the data to be protected;

(b) harm that might result from a Data Loss Event;

(c) state of technological development; and

(d) cost of implementing any measures;

21.6.3 ensure that:

(a) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 31 (*Processing Personal Data*));

(b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Processor's duties under this Clause 21, Clauses 19 (*Confidentiality*) and 18 (*Authority Data and Security Requirements*);

(ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

21.6.4 not transfer such Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

(a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or

(b) the Controller and/or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the Controller which could include relevant parties entering into:

(i) where the transfer is subject to UK GDPR:

(A) the UK International Data Transfer Agreement as published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time or

(B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") [as published by the Information Commissioner's Office from time to time; and/or

(ii) where the transfer is subject to EU GDPR, the EU SCCs,

as well as any additional measures determined by the Controller being implemented by the importing party;

(c) the Data Subject has enforceable rights and effective legal remedies;

(d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and

(e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; and

21.6.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

21.7 Subject to Clause 21.8, the Processor shall notify the Controller immediately if it:

21.7.1 receives a Data Subject Request (or purported Data Subject Request);

21.7.2 receives a request to rectify, block or erase any Personal Data;

21.7.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

21.7.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

21.7.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

21.7.6 becomes aware of a Data Loss Event.

21.8 The Processor's obligation to notify under Clause 21.7 shall include the provision of further information to the Controller in phases, as details become available.

21.9 Taking into account the nature of the processing, the Processor shall provide the Controller with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 21.7 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

21.9.1 the Controller with full details and copies of the complaint, communication or request;

21.9.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

21.9.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

21.9.4 assistance as requested by the Controller following any Data Loss Event; and/or

21.9.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.

21.10 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 21. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

21.10.1 the Controller determines that the processing is not occasional;

21.10.2 the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or

21.10.3 the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

21.11 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

21.12 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.

21.13 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:

21.13.1 notify the Controller in writing of the intended Sub-processor and processing;

21.13.2 obtain the written consent of the Controller;

21.13.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 21 such that they apply to the Sub-processor; and

21.13.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

21.14 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

21.15 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Authority may on not less than 30 Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

Where the Parties are Joint Controllers of Personal Data

21.16 In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Clauses that are necessary to comply with Article 26 of the UK GDPR based on the terms set out in Annex 1 to Schedule 31 (*Processing Personal Data*).

Where the Parties are Independent Controllers of Personal Data

21.17 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their processing of such Personal Data as Controller.

21.18 Each Party shall process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.

21.19 Where a Party has provided Personal Data to the other Party in accordance with Clause 21.17, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

21.20 The Parties shall be responsible for their own compliance with Articles 13 and 14 of the UK GDPR in respect of the processing of Personal Data for the purposes of this Contract.

21.21 The Parties shall only provide Personal Data to each other:

21.21.1 to the extent necessary to perform the respective obligations under this Contract;

21.21.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);

21.21.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:

(a) the destination country has been recognised as adequate by the UK government is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or

(b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include the relevant parties entering into:

(i) where the transfer is subject to UK GDPR:

(A) the UK International Data Transfer Agreement (the "**IDTA**") as published by the Information Commissioner's Office [or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time] or

(B) the European Commission's Standard Contractual Clauses per decisions 2021/914/EU [or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time] (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") [as published by the Information Commissioner's Office from time to time]; and/or

(ii) where the transfer is subject to EU GDPR, the EU SCCs,

as well as any additional measures determined by the Controller being implemented by the importing party;

(c) the Data Subject has enforceable rights and effective legal remedies;

(d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and

(e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

21.21.4 where it has recorded it in Schedule 31 (*Processing Personal Data*).

21.22 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

21.23 A Party processing Personal Data for the purposes of this Contract shall maintain a record of its processing activities in accordance with Article 30 of the UK GDPR and shall make the record available to the other Party upon reasonable request.

21.24 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("**the Request Recipient**"):

21.24.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or

21.24.2 where the request or correspondence is directed to the other party and/or relates to the other party's Processing of the Personal Data, the Request Recipient will:

(a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other party that it has received the same and shall forward such request or correspondence to the other party; and

(b) provide any information and/or assistance as reasonably requested by the other party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

21.25 Each party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other party pursuant to this Contract and shall:

21.25.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Breach;

21.25.2 implement any measures necessary to restore the security of any compromised Personal Data;

21.25.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and

21.25.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.

21.26 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Schedule 31 (*Processing Personal Data*).

21.27 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's obligations under this Contract which is specified in Schedule 31 (*Processing Personal Data*).

21.28 Notwithstanding the general application of Clauses 21.3 to 21.15 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Clause 21.16 to 21.27.

Standard Contractual Clauses

21.29 It is noted that on 28 June 2021 the European Commission made an implementing decision pursuant to Article 45 of the EU GDPR on the adequate protection of personal data by the United Kingdom which contains carve-outs for certain transfers outside of the EU to the UK of certain types of Personal Data (the "**UK Adequacy Decision**"). If any

transfer of Personal Data which is subject to EU GDPR pursuant to this Contract is not covered by the UK Adequacy Decision or at any time during the term of the Contract the UK Adequacy Decision is:

21.29.1 withdrawn, invalidated, overruled or otherwise ceases to have effect, or

21.29.2 amended in such a way as to affect the transfers of Personal Data outside of the EU which are contemplated under this Contract,

Clauses 21.30 to 21.31 below shall apply.

21.30 The Parties agree:

21.30.1 that without any further action being required they have entered into the Standard Contractual Clauses in the European Commission's decision 2021/914/EU in respect of data transfers by the Supplier outside of the EU to the UK;

21.30.2 that, where no other appropriate safeguard or exemption applies, that the Personal Data subject to this Contract (and to which Chapter V of the EU GDPR applies) will be transferred in accordance with those Standard Contractual Clauses as of the date the Parties entered into those Standard Contractual Clauses;

21.30.3 to use best endeavours to complete the annexes to the Standard Contractual Clauses promptly and at their own cost for the purpose of giving full effect to them; and

21.30.4 that if there is any conflict between this Contract and the Standard Contractual Clauses the terms of the Standard Contractual Clauses shall apply.

21.31 In the event that the European Commission updates, amends, substitutes, adopts or publishes new Standard Contractual Clauses from time to time, the Parties agree:

21.31.1 that the most up to date Standard Contractual Clauses from time to time shall be automatically incorporated in place of those in use at the time of such update, amendment, substitution, adoption or publication and that such incorporation is not a Change;

21.31.2 that where no other appropriate safeguard or exemption applies, that the Personal Data subject to this Contract (and to which Chapter V of the EU GDPR applies) will be transferred in accordance with the relevant form of the most up to date Standard Contractual Clauses as of the date the European Commission decision regarding such new Standard Contractual Clauses becomes effective;

21.31.3 to use best endeavours to complete any part of the most up to date Standard Contractual Clauses that a Party must complete promptly and at their own cost for the purpose of giving full effect to them; and

21.31.4 that if there is any conflict between this Contract and the most up to date Standard Contractual Clauses the terms of the most up to date Standard Contractual Clauses shall apply.

22 Publicity and Branding

22.1 The Supplier shall not:

22.1.1 make any press announcements or publicise this Contract or its contents in any way; or

22.1.2 use the Authority's name or brand in any promotion or marketing or announcement of orders;

without the prior written consent of the Authority, which shall not be unreasonably withheld or delayed.

22.2 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services, the Supplier System and the Authority System) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

Section G: Liability, Indemnities and Insurance

23 Limitations on Liability

Unlimited liability

23.1 Neither Party limits its liability for:

23.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

23.1.2 fraud or fraudulent misrepresentation by it or its employees;

23.1.3 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

23.1.4 any liability to the extent it cannot be limited or excluded by Law.

23.2 The Supplier's liability in respect of the indemnities in Clause 10.5 (*VAT*), Clause 14.7 (*Employment Indemnity*), Clause 14.8 (*Income Tax and National Insurance Contributions*), Clause 17 (*IPRs Indemnity*), Schedule 28 (*Staff Transfer*) and the Annexes to Schedule 28 (*Staff Transfer*) shall be unlimited.

23.3 The Authority's liability in respect of the indemnities in Clause 14.7 (*Employment Indemnity*), Schedule 28 (*Staff Transfer*) and the Annexes to Schedule 28 (*Staff Transfer*) shall be unlimited.

Financial and other limits

23.4 Subject to Clauses 23.1 and 23.2 (*Unlimited Liability*) and Clauses 23.7 (*Consequential losses*):

23.4.1 the Supplier's aggregate liability in respect of loss of or damage to the Authority Premises or other property or assets of the Authority (including technical infrastructure, assets or equipment but excluding any loss or damage to the Authority's Data or any other data) that is caused by Defaults of the Supplier occurring in each and any Contract Year shall in no event exceed £10 million;

23.4.2 the Supplier's aggregate liability in respect of loss or damage to Authority Data and the indemnity at Clause 21.1 in each and any Contract Year shall in no event exceed £10 million;

23.4.3 the Supplier's aggregate liability in respect of all:

(a) Service Credits; and

(b) Compensation for Unacceptable KPI Failure;

incurred in any rolling period of 12 months shall be subject to the Service Credit Cap; and

23.4.4 the Supplier's aggregate liability in respect of all other Losses incurred by the Authority under or in connection with this Contract as a result of Defaults by

the Supplier, including the Supplier's aggregate liability in respect of the indemnities at Clauses 5.3.2, 9.7.6 and 9.7.7 shall in no event exceed:

(a) in relation to Defaults occurring in the first Contract Year, an amount equal to 150% of the Estimated Year 1 Charges;

(b) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier under this Contract in the Contract Year immediately preceding the occurrence of the Default; and

(c) in relation to Defaults occurring after the end of the Term, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term,

provided that where any Losses referred to this Clause 23.4.4 have been incurred by the Authority as a result of the Supplier's abandonment of this Contract or the Supplier's wilful breach of a fundamental term of this Contract or wilful repudiatory breach of this Contract or the Supplier's aggregate liability in respect of the indemnity at Clause 3.8, the references in such Clause to 150% shall be deemed to be references to 200%.

23.5 Deductions from Charges shall not be taken into consideration when calculating the Supplier's liability under Clause 23.4.3.

23.6 Subject to Clauses 23.1 and 23.3 (*Unlimited Liability*) and Clause 23.7 (*Consequential Losses*) and without prejudice to the Authority's obligation to pay the Charges as and when they fall due for payment:

23.6.1 the Authority's total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Contract as a result of early termination of this Contract by the Authority pursuant to Clause 31.1.1 (*Termination by the Authority*) or by the Supplier pursuant to Clause 31.3.1 (*Termination by the Supplier*) shall in no event exceed the following amounts:

(a) in relation to the Unrecovered Payment, the amount set out in Paragraph 4 of Schedule 16 (*Payments on Termination*);

(b) in relation to the Breakage Costs Payment, the amount set out in Paragraph 3.2 of Schedule 16 (*Payments on Termination*); and

(c) in relation to the Compensation Payment, the amount set out in Paragraph 6 of Schedule 16 (*Payments on Termination*); and

23.6.2 the Authority's aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Contract as a result of Defaults of the Authority shall in no event exceed:

(a) in relation to Defaults occurring in the first Contract Year, an amount equal to the Estimated Year 1 Charges;

(b) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to the total Charges paid and/or due to be paid under

this Contract in the Contract Year immediately preceding the occurrence of the Default; and

(c) in relation to Defaults occurring after the end of the Term, an amount equal to the total Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term.

Consequential Losses

23.7 Subject to Clauses 23.1, 23.2 and 23.3 (*Unlimited Liability*) and Clause 23.8, neither Party shall be liable to the other Party for:

23.7.1 any indirect, special or consequential Loss; and/or

23.7.2 any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).

23.8 Notwithstanding Clause 23.7 but subject to Clause 23.4, the Supplier acknowledges that the Authority may, amongst other things, recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:

23.8.1 any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

23.8.2 any wasted expenditure or charges;

23.8.3 the additional cost of procuring Replacement Services for the remainder of the Term and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Contract;

23.8.4 any compensation or interest paid to a third party by the Authority;

23.8.5 any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; and

23.8.6 any anticipated savings identified in Schedule 20 (*Anticipated Savings*).

Conduct of indemnity claims

23.9 Where under this Contract one Party indemnifies the other Party, the Parties shall comply with the provisions of Schedule 27 (*Conduct of Claims*) in relation to the conduct of claims made by a third person against the Party having (or claiming to have) the benefit of the indemnity.

Mitigation

23.10 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Contract, including any Losses for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Contract.

24 Insurance

24.1 The Supplier shall comply with the provisions of Schedule 6 (*Insurance Requirements*) in relation to obtaining and maintaining insurance.

Section H: Remedies and Relief

25 Rectification Plan Process

25.1 In the event that:

25.1.1 there is, or is reasonably likely to be, a Delay; and/or

25.1.2 in any Service Period there has been:

(a) a Material KPI Failure; and/or

(b) a Material PI Failure; and/or

25.1.3 the Supplier commits a Material Default that is capable of remedy,

(each a "**Notifiable Default**"), the Supplier shall notify the Authority of the Notifiable Default as soon as practicable but in any event within 3 Working Days of becoming aware of the Notifiable Default, detailing the actual or anticipated effect of the Notifiable Default and, unless the Notifiable Default also constitutes a Rectification Plan Failure or other Supplier Termination Event, the Authority may not terminate this Contract in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

Notification

25.2 If:

25.2.1 the Supplier notifies the Authority pursuant to Clause 25.1 that a Notifiable Default has occurred; or

25.2.2 the Authority notifies the Supplier that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Supplier has to rectify),

then, unless the Notifiable Default also constitutes a Supplier Termination Event and the Authority serves a Termination Notice, the Supplier shall comply with the Rectification Plan Process.

25.3 The "**Rectification Plan Process**" shall be as set out in Clauses 25.4 (*Submission of the draft Rectification Plan*) to 25.9 (*Agreement of the Rectification Plan*).

Submission of the draft Rectification Plan

25.4 The Supplier shall submit a draft Rectification Plan to the Authority for it to review as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to Clause 25.2 (*Notification*). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.

25.5 The draft Rectification Plan shall set out:

25.5.1 full details of the Notifiable Default that has occurred, including a root cause analysis;

25.5.2 the actual or anticipated effect of the Notifiable Default; and

25.5.3 the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable).

25.6 The Supplier shall promptly provide to the Authority any further documentation that the Authority reasonably requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Paragraph 6 of Schedule 23 (*Dispute Resolution Procedure*).

Agreement of the Rectification Plan

25.7 The Authority may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:

25.7.1 is insufficiently detailed to be capable of proper evaluation;

25.7.2 will take too long to complete;

25.7.3 will not prevent reoccurrence of the Notifiable Default; and/or

25.7.4 will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.

25.8 The Authority shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Authority for review within 5 Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.

25.9 If the Authority consents to the Rectification Plan:

25.9.1 the Supplier shall immediately start work on the actions set out in the Rectification Plan; and

25.9.2 the Authority may no longer terminate this Contract in whole or in part on the grounds of the relevant Notifiable Default;

save in the event of a Rectification Plan Failure or other Supplier Termination Event.

26 Delay Payments

26.1 If a Key Milestone has not been Achieved by its relevant Milestone Date, the provisions of Paragraph 2 of Part C of Schedule 15.2 (*Charges and Invoicing*) shall apply in relation to the payment of Delay Payments.

26.2 NOT USED

27 Remedial Adviser

27.1 If:

27.1.1 any of the Intervention Trigger Events occur; or

27.1.2 the Authority reasonably believes that any of the Intervention Trigger Events are likely to occur,

(each an "**Intervention Cause**"), the Authority may give notice to the Supplier (an "**Intervention Notice**") giving reasonable details of the Intervention Cause and requiring:

27.1.3 a meeting between the Authority Representative and the Supplier Representative to discuss the Intervention Cause; and/or

27.1.4 the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this Clause 27.

For the avoidance of doubt, if the Intervention Cause is also a Supplier Termination Event, the Authority has no obligation to exercise its rights under this Clause 27.1 prior to or instead of exercising its right to terminate this Contract.

27.2 If the Authority gives notice that it requires the appointment of a Remedial Adviser:

27.2.1 the Remedial Adviser shall be:

(a) a person selected by the Supplier and approved by the Authority; or

(b) if none of the persons selected by the Supplier have been approved by the Authority (or no person has been selected by the Supplier) within 10 Working Days following the date on which the Intervention Notice is given, a person identified by the Authority;

27.2.2 the terms of engagement and start date agreed with the Remedial Adviser must be approved by the Authority; and

27.2.3 any right of the Authority to terminate this Contract pursuant to Clause 31.1.2 (*Termination by the Authority*) for the occurrence of that Intervention Cause shall be suspended for 60 Working Days from (and including) the date of the Intervention Notice (or such other period as may be agreed between the Parties)(the "**Intervention Period**").

27.3 The Remedial Adviser's overall objective shall be to mitigate the effects of, and (to the extent capable of being remedied) to remedy, the Intervention Cause and to avoid the occurrence of similar circumstances in the future. In furtherance of this objective (but without diminishing the Supplier's responsibilities under this Contract), the Parties agree that the Remedial Adviser may undertake any one or more of the following actions:

27.3.1 observe the conduct of and work alongside the Supplier Personnel to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;

27.3.2 gather any information the Remedial Adviser considers relevant in the furtherance of its objective;

27.3.3 write reports and provide information to the Authority in connection with the steps being taken by the Supplier to remedy the Intervention Cause;

27.3.4 make recommendations to the Authority and/or the Supplier as to how the Intervention Cause might be mitigated or avoided in the future; and/or

27.3.5 take any other steps that the Authority and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.

27.4 The Supplier shall:

27.4.1 work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Services recommended by the Remedial Adviser;

27.4.2 ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to the Assets;

27.4.3 submit to such monitoring as the Authority and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause;

27.4.4 implement any reasonable recommendations made by the Remedial Adviser that have been approved by the Authority within the timescales given by the Remedial Adviser; and

27.4.5 not terminate the appointment of the Remedial Adviser prior to the end of the Intervention Period without the prior consent of the Authority (such consent not to be unreasonably withheld).

27.5 The Supplier shall be responsible for:

27.5.1 the costs of appointing, and the fees charged by, the Remedial Adviser; and

27.5.2 its own costs in connection with any action required by the Authority and/or the Remedial Adviser pursuant to this Clause 27.

27.6 If:

27.6.1 the Supplier:

(a) fails to perform any of the steps required by the Authority in an Intervention Notice; and/or

(b) is in Default of any of its obligations under Clause 27.4; and/or

27.6.2 the relevant Intervention Trigger Event is not rectified by the end of the Intervention Period,

(each a "**Remedial Adviser Failure**"), the Authority shall be entitled to terminate this Contract pursuant to Clause 31.1.2 (*Termination by the Authority*).

28 Step-In Rights

28.1 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Supplier (a "**Step-In Notice**") that it will be taking action under this Clause 28 (*Step-in Rights*), either itself or with the assistance of a third party (provided that the Supplier may require any third parties to comply with a confidentiality undertaking equivalent to Clause 19 (*Confidentiality*)). The Step-In Notice shall set out the following:

28.1.1 the action the Authority wishes to take and in particular the Services that it wishes to control (the "**Required Action**");

28.1.2 the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Supplier's Default;

28.1.3 the date on which it wishes to commence the Required Action;

28.1.4 the time period which it believes will be necessary for the Required Action;

28.1.5 whether the Authority will require access to the Supplier's premises and/or the Sites; and

28.1.6 to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Supplier's obligations to provide the Services during the period that the Required Action is being taken.

28.2 Following service of a Step-In Notice, the Authority shall:

28.2.1 take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;

28.2.2 keep records of the Required Action taken and provide information about the Required Action to the Supplier;

28.2.3 co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which the Authority is not assuming control; and

28.2.4 act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Authority's rights under this Clause 28.

28.3 For so long as and to the extent that the Required Action is continuing, then:

28.3.1 the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;

28.3.2 no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Clause 28.4 shall apply to Deductions from Charges in respect of other Services; and

28.3.3 the Authority shall pay to the Supplier the Charges after subtracting any applicable Deductions and the Authority's costs of taking the Required Action.

28.4 If the Supplier demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:

28.4.1 the degradation of any Services not subject to the Required Action; or

28.4.2 the non-Achievement of a Milestone,

beyond that which would have been the case had the Authority not taken the Required Action, then the Supplier shall be entitled to an agreed adjustment of the Charges.

28.5 Before ceasing to exercise its step in rights under this Clause 28 the Authority shall deliver a written notice to the Supplier (a "**Step-Out Notice**"), specifying:

28.5.1 the Required Action it has actually taken; and

28.5.2 the date on which the Authority plans to end the Required Action (the "**Step-Out Date**") subject to the Authority being satisfied with the Supplier's ability to resume the provision of the Services and the Supplier's plan developed in accordance with Clause 28.6.

28.6 The Supplier shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a "**Step-Out Plan**") relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Contract.

28.7 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Supplier of its reasons for not approving it. The Supplier shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

28.8 The Supplier shall bear its own costs in connection with any step-in by the Authority under this Clause 28, provided that the Authority shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:

28.8.1 limbs (c) or (d) of the definition of a Step-In Trigger Event; or

28.8.2 limbs (e) and (f) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Supplier's Default).

29 Authority Cause

29.1 Notwithstanding any other provision of this Contract, if the Supplier has failed to:

29.1.1 Achieve a Milestone by its Milestone Date;

29.1.2 provide the Operational Services in accordance with the Target Performance Levels; and/or

29.1.3 comply with its obligations under this Contract,

(each a "**Supplier Non-Performance**"),

and can demonstrate that the Supplier Non-Performance would not have occurred but for an Authority Cause, then (subject to the Supplier fulfilling its obligations in this Clause 29):

(a) the Supplier shall not be treated as being in breach of this Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Authority Cause;

(b) the Authority shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance:

(i) to terminate this Contract pursuant to Clause 31.1.2 (*Termination by the Authority*); or

(ii) to take action pursuant to Clauses 27 (*Remedial Adviser*) or 28 (*Step-In Rights*);

(c) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:

(i) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Authority Cause;

(ii) if the Authority, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Authority Cause;

(iii) if the Milestone is a Key Milestone, the Supplier shall have no liability to pay any Delay Payments associated with the Key Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Authority Cause; and

(iv) the Supplier shall be entitled to claim compensation subject to and in accordance with the principles set out in Paragraph 2 of Part C of Schedule 15.2 (*Charges and Invoicing*); and/or

(d) where the Supplier Non-Performance constitutes a Performance Failure:

(i) the Supplier shall not be liable to accrue Service Credits;

(ii) NOT USED

(iii) the Authority shall not be entitled to withhold and retain any Compensation for Unacceptable KPI Failure pursuant to Clause 7.4.1 (*Unacceptable KPI Failure*); and

(iv) the Supplier shall be entitled to invoice for the Service Charges for the relevant Operational Services affected by the Authority Cause,

in each case, to the extent that the Supplier can demonstrate that the Performance Failure was caused by the Authority Cause.

29.2 In order to claim any of the rights and/or relief referred to in Clause 29.1, the Supplier shall as soon as reasonably practicable (and in any event within 10 Working Days) after becoming aware that an Authority Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give the Authority notice (a "**Relief Notice**") setting out details of:

29.2.1 the Supplier Non-Performance;

29.2.2 the Authority Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Contract;

29.2.3 any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Authority Cause; and

29.2.4 the relief and/or compensation claimed by the Supplier.

29.3 Following the receipt of a Relief Notice, the Authority shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Authority Cause and whether it agrees with the Supplier's assessment set out in the Relief Notice as to the effect of the relevant Authority Cause and its entitlement to relief and/or compensation, consulting with the Supplier where necessary.

29.4 The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of an Authority Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

29.5 Without prejudice to Clause 5.9 (*Continuing obligation to provide the Services*), if a Dispute arises as to:

29.5.1 whether a Supplier Non-Performance would not have occurred but for an Authority Cause; and/or

29.5.2 the nature and/or extent of the relief and/or compensation claimed by the Supplier,

either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.

29.6 Any Change that is required to the Implementation Plan or to the Charges pursuant to this Clause 29 shall be implemented in accordance with the Change Control Procedure.

30 Force Majeure

30.1 Subject to the remaining provisions of this Clause 30 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*)), a Party may claim relief under this Clause 30 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-contractor or supplier

shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

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

30.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 30 to the extent that consequences of the relevant Force Majeure Event:

30.3.1 are capable of being mitigated, but the Supplier has failed to do so;

30.3.2 should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract; or

30.3.3 are the result of the Supplier's failure to comply with its Service Continuity Plan (except to the extent that such failure is also due to a Force Majeure Event that affects the execution of the Service Continuity Plan).

30.4 Subject to Clause 30.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.

30.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

30.6 Where, as a result of a Force Majeure Event:

30.6.1 an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:

(a) the other Party shall not be entitled to exercise any rights to terminate this Contract in whole or in part as a result of such failure other than pursuant to Clause 31.1.3 (*Termination by the Authority*) or Clause 31.3.2 (*Termination by the Supplier*); and

(b) neither Party shall be liable for any Default arising as a result of such failure;

30.6.2 the Supplier fails to perform its obligations in accordance with this Contract:

(a) the Authority shall not be entitled:

(i) during the continuance of the Force Majeure Event to exercise its rights under Clause 27 (*Remedial Adviser*) and/or Clause 28 (*Step-in Rights*) as a result of such failure;

(ii) to receive Delay Payments pursuant to Clause 26 (*Delay Payments*) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and

(iii) to receive Service Credits, or withhold and retain any of the Service Charges as compensation pursuant to Clause 7.4.1 (*Unacceptable KPI Failure*) to the extent that a Performance Failure has been caused by the Force Majeure Event; and

(b) the Supplier shall be entitled to receive payment of the Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of this Contract during the occurrence of the Force Majeure Event.

30.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.

30.8 Relief from liability for the Affected Party under this Clause 30 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 30.7.

Section I: Termination and Exit Management

31 Termination Rights

Termination by the Authority

31.1 The Authority may terminate this Contract (in whole or in part) by issuing a Termination Notice to the Supplier:

31.1.1 for convenience at any time;

31.1.2 if a Supplier Termination Event occurs;

31.1.3 if a Force Majeure Event endures for a continuous period of more than ninety (90) days; or

31.1.4 if the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

and this Contract shall terminate on the date specified in the Termination Notice.

31.2 Where the Authority:

31.2.1 has the right to terminate this Contract under Clause 31.1.1, it may, prior to or instead of terminating the whole of this Contract, serve a Termination Notice requiring the partial termination of this Contract in relation to any specific Services or part of the Services as specified in the Termination Notice; or

31.2.2 is terminating this Contract under Clause 31.1.2 due to the occurrence of either limb (b),(h) and/or (i) of the definition of Supplier Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default; and/or

31.2.3 has the right to terminate this Contract under Clause 31.1.2 or Clause 31.1.3, it may, prior to or instead of terminating the whole of this Contract, serve a Termination Notice requiring the partial termination of this Contract to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

Termination by the Supplier

31.3 The Supplier may, by issuing a Termination Notice to the Authority, terminate:

31.3.1 this Contract if the Authority fails to pay an undisputed sum due to the Supplier under this Contract which in aggregate exceeds [redacted] plus the applicable indexation and such amount remains outstanding 40 Working Days after the receipt by the Authority of a notice of non-payment from the Supplier; or

31.3.2 any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than ninety (90) days,

and this Contract or the relevant Services (as the case may be) shall then terminate on the date specified in the Termination Notice (which shall not be less than 20 Working Days from the date of the issue of the Termination Notice). If the operation of Clause 31.3.2 would result in a Partial Termination, the provisions of Clause 31.4 (*Partial Termination*) shall apply.

Partial Termination

31.4 If the Supplier notifies the Authority pursuant to Clause 31.3.2 (*Termination by the Supplier*) that it intends to terminate this Contract in part and the Authority, acting reasonably, believes that the effect of such Partial Termination is to render the remaining Services incapable of meeting a significant part of the Authority Requirements, then the Authority shall be entitled to terminate the remaining part of this Contract by serving a Termination Notice to the Supplier within 1 month of receiving the Supplier's Termination Notice. For the purpose of this Clause 31.4, in assessing the significance of any part of the Authority Requirements, regard shall be had not only to the proportion of that part to the Authority Requirements as a whole, but also to the importance of the relevant part to the Authority.

31.5 The Parties shall agree the effect of any Change necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Charges, provided that:

31.5.1 the Supplier shall not be entitled to an increase in the Charges in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Supplier Termination Event;

31.5.2 any adjustment to the Charges (if any) shall be calculated in accordance with the Financial Model and must be reasonable; and

31.5.3 the Supplier shall not be entitled to reject the Change.

32 Consequences of Expiry or Termination

General Provisions on Expiry or Termination

32.1 The provisions of Clauses 5.8 (*Specially Written Software warranty*), 9.7.6 (*Indemnity against the recall of goods*), 10.4 and 10.5 (*VAT*), 10.6 and 10.7 (*Set-off and Withholding*), 12 (*Records, Reports, Audits and Open Book Data*), 14.7 (*Employment Indemnity*), 14.8 (*Income Tax and National Insurance Contributions*), 16 (*Intellectual Property Rights*), 17.1 (*IPRs Indemnity*), 19 (*Confidentiality*), 20 (*Transparency and Freedom of Information*), 21 (*Protection of Personal Data*), 23 (*Limitations on Liability*), 32 (*Consequences of Expiry or Termination*), 38 (*Severance*), 40 (*Entire Agreement*), 41 (*Third Party Rights*), 43 (*Disputes*) and 44 (*Governing Law and Jurisdiction*), and the provisions of Schedules 1 (*Definitions*), 15.2 (*Charges and Invoicing*), 16 (*Payments on Termination*), 19 (*Financial Reports and Audit Rights*), 23 (*Dispute Resolution Procedure*), 24 (*Reports and Records Provisions*), 25 (*Exit Management*), 28 (*Staff Transfer*), and 32 (*Intellectual Property Rights)*, shall survive the termination or expiry of this Contract.

32.2 Accumulated rights of the Parties shall not be affected by termination or expiry of the Contract.

Exit Management

32.3 The Parties shall comply with the provisions of Schedule 25 (*Exit Management*) and any current Exit Plan in relation to orderly transition of the Services to the Authority or a Replacement Supplier.

Payments by the Authority

32.4 If this Contract is terminated (in part or in whole) by the Authority pursuant to Clause 31.1.1 (*Termination by the Authority*) or by the Supplier pursuant to Clause 31.3.1 (*Termination by the Supplier*) or 34.4, the Authority shall pay the Supplier the following payments (which shall be the Supplier's sole remedy for the termination of this Contract):

32.4.1 the Partial Termination Payment or Termination Payment; and

32.4.2 the Compensation Payment, if either of the following periods is less than one hundred and eighty (180) days:

(a) the period from (but excluding) the date that the Termination Notice is given by the Authority pursuant to Clause 31.1.1 (*Termination by the Authority*)) to (and including) the Termination Date; or

(b) the period from (and including) the date of the non-payment by the Authority referred to in Clause 31.3.1 (*Termination by the Supplier*) to (and including) the Termination Date.

32.5 If this Contract is terminated (in part or in whole) by the Authority pursuant to Clauses 31.1.2, 31.1.3, 31.2.2, 31.2.3,31.2, 33.8.12(b), and/or 33.11.2, or the Term expires, the only payments that the Authority shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

32.5.1 payments in respect of any Assets or apportionments in accordance with Schedule 25 (*Exit Management*); and

32.5.2 payments in respect of unpaid Charges for Services received up until the Termination Date.

32.6 The costs of termination incurred by the Parties shall lie where they fall if:

32.6.1 either Party terminates or partially terminates this Contract for a continuing Force Majeure Event pursuant to Clauses 31.1.3 or 31.2.3 (*Termination by the Authority*) or 31.3.2 (*Termination by the Supplier*); or

32.6.2 the Authority terminates this Contract under Clause 31.1.4 (*Termination by the Authority*).

Payments by the Supplier

32.7 In the event of termination or expiry of this Contract, the Supplier shall repay to the Authority all Charges it has been paid in advance in respect of Services not provided by the Supplier as at the date of expiry or termination.

32.8 If this Contract is terminated (in whole or in part) by the Authority pursuant to Clause 31.1.2 (*Termination by the Authority*) prior to Achievement of one or more CPP Milestones, the Authority may at any time on or within 12 months of the issue of the

relevant Termination Notice by issue to the Supplier of written notice (a "**Milestone Adjustment Payment Notice**") require the Supplier to repay to the Authority an amount equal to the aggregate Milestone Adjustment Payment Amounts in respect of each CPP Milestone to which the Milestone Adjustment Payment Notice relates.

32.9 A Milestone Adjustment Payment Notice shall specify:

32.9.1 each CPP Milestone to which it relates;

32.9.2 in relation to each such CPP Milestone, each Deliverable relating to that CPP Milestone that the Authority wishes to retain, if any (each such Deliverable being a "**Retained Deliverable**"); and

32.9.3 those Retained Deliverables, if any, the Allowable Price for which the Authority considers should be subject to deduction of an adjusting payment on the grounds that they do not or will not perform in all material respects in accordance with their specification (such adjusting payment being an "**Allowable Price Adjustment**"),

and may form part of a Termination Notice.

32.10 The Supplier shall within 10 Working Days of receipt of a Milestone Adjustment Payment Notice, in each case as applicable:

32.10.1 notify the Authority whether it agrees that the Retained Deliverables which the Authority considers should be subject to an Allowable Price Adjustment as specified in the relevant Milestone Adjustment Payment Notice should be so subject; and

32.10.2 in relation to each such Retained Deliverable that the Supplier agrees should be subject to an Allowable Price Adjustment, notify the Authority of the Supplier's proposed amount of the Allowable Price Adjustment and the basis for its approval;

32.10.3 provide the Authority with its calculation of the Milestone Adjustment Payment Amount in respect of each CPP Milestone the subject of the relevant Milestone Adjustment Payment Notice using its proposed Allowable Price Adjustment, including details of:

(a) all relevant Milestone Payments; and

(b) the Allowable Price of each Retained Deliverable; and

32.10.4 provide the Authority with such supporting information as the Authority may require.

32.11 If the Parties do not agree the calculation of a Milestone Adjustment Payment Amount within 20 Working Days of the Supplier's receipt of the relevant Milestone Adjustment Payment Notice, either Party may refer the Dispute to the Dispute Resolution Procedure.

32.12 If the Authority issues a Milestone Adjustment Payment Notice pursuant to Clause 32.8:

32.12.1 the Authority shall:

(a) securely destroy or return to the Supplier all Non-retained Deliverables that are in tangible form; and

(b) ensure that all Non-retained Deliverables that are held in electronic, digital or other machine-readable form cease to be readily accessible (other than by the information technology staff of the Authority) from any computer, word processor, voicemail system or any other device containing such all Non-retained Deliverables,

in each case as soon as reasonably practicable after repayment of the aggregate Milestone Adjustment Payment Amounts repayable pursuant to that Milestone Adjustment Payment Notice; and

32.12.2 all licences granted by the Supplier pursuant to Schedule 32 (*Intellectual Property Rights*) in respect of Specially Written Software and Project Specific IPRs and any Supplier Non-COTS Software and/or Supplier Background IPRs shall terminate upon such repayment to the extent that they relate to the Non-retained Deliverables.

Section J: Miscellaneous and Governing Law

33 Compliance

Health and Safety

33.1 The Supplier shall perform its obligations under this Contract (including those in relation to the Services) in accordance with:

33.1.1 all applicable Law regarding health and safety; and

33.1.2 the Health and Safety Policy whilst at the Authority Premises.

33.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Contract. The Supplier shall instruct the Supplier Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

Employment Law

33.3 The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

Equality and Diversity

33.4 The Supplier shall:

33.4.1 perform its obligations under this Contract (including those in relation to the Services) in accordance with:

(a) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(b) the Authority's equality and diversity policy as provided to the Supplier from time to time; and

(c) 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

33.4.2 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).

Official Secrets Act and Finance Act

33.5 The Supplier shall comply with the provisions of:

33.5.1 the Official Secrets Acts 1911 to 1989;

33.5.2 National Security Act 2023; and

33.5.3 section 182 of the Finance Act 1989.

Conflicts of Interest

33.6 The Supplier:

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

33.6.2 must promptly notify and provide details to the Authority if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

33.7 The Authority will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Authority, such measures do not or will not resolve an actual or potential Conflict of Interest, the Authority may terminate this Contract in accordance with Clause 31.1.2 immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 32.2, 32.5 and 32.6 to 32.11 shall apply.

Modern Slavery

33.8 The Supplier:

33.8.1 shall not use, nor allow its sub-contractors to use forced, bonded or involuntary prison labour;

33.8.2 shall not require any Supplier Personnel or the personnel of any sub-contractors to lodge deposits or identity papers with their employer and shall be free to leave their employer after reasonable notice;

33.8.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;

33.8.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;

33.8.5 shall make reasonable enquires to ensure that its officers, employees and sub-contractors have not been convicted of slavery or human trafficking offences anywhere around the world;

33.8.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its sub-contractors anti-slavery and human trafficking provisions;

33.8.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;

33.8.8 shall prepare and deliver to the Authority, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and

human trafficking is not taking place in any of its supply chains or in any part of its business;

33.8.9 shall not use, nor allow its employees or sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or sub-contractors;

33.8.10 shall not use or allow child or slave labour to be used by its sub-contractors;

33.8.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its sub-contractors to the Authority and the Modern Slavery Helpline and relevant national or local law enforcement agencies;

33.8.12 if the Supplier is in Default under Clauses 33.8.1 to 33.8.11 the Authority may by notice:

(a) require the Supplier to remove from performance of the Contract any sub-contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or

(b) immediately terminate the Contract in accordance with Clause 31.1.2; and

33.8.13 shall, if the Supplier or the Authority identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Authority to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains);

33.9 For the purposes of an audit carried out pursuant to the definition of “Audit”, in addition to any other rights under the Contract, the Authority may instruct the Supplier to carry out such an audit of any Sub-Contractor by an independent third party and, if so instructed, the Supplier shall deliver a report to the Authority within ninety (90) days of such instruction.]

33.10 If the Supplier notifies the Authority pursuant to Clause 33.8.11 it shall respond promptly to the Authority’s enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.

33.11 If the Supplier is in Default under Clause 33.8 the Authority may by notice:

33.11.1 require the Supplier to remove from performance of the Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or

33.11.2 immediately terminate the Contract in accordance with Clause 31.1.2.

Whistleblowing

33.12 As soon as it is aware of it the Supplier and Supplier Personnel must report to the Authority any actual or suspected breach of:

33.12.1 Law;

33.12.2 Clauses 33.1 to 33.8 or 33.13; or

33.12.3 Clause 37.

33.13 The Supplier must not retaliate against any of the Supplier Personnel who in good faith reports a breach listed in this Clause to the Authority or a Prescribed Person.

34 Assignment and Novation

34.1 The Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Contract without the prior written consent of the Authority.

34.2 The Authority may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Contract and/or any associated licences to:

34.2.1 any Crown Body; or

34.2.2 to a body other than a Crown Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority,

and the Supplier shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 34.2.

34.3 A change in the legal status of the Authority such that it ceases to be a Crown Body shall not (subject to Clause 34.4) affect the validity of this Contract and this Contract shall be binding on any successor body to the Authority.

34.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Contract to a body which is not a Crown Body or if a body which is not a Crown Body succeeds the Authority (any such body a "**Successor Body**"), the Supplier shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of the Authority under limb (k) of the definition of Supplier Termination Event (as if references in that limb (k) to the Supplier and the Guarantor were references to the Successor Body) and the consequences of termination set out in Clause 32.3 shall apply.

35 Waiver and Cumulative Remedies

35.1 The rights and remedies under this Contract may be waived only by notice and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Contract or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

35.2 Unless otherwise provided in this Contract, rights and remedies under this Contract are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

36 Relationship of the Parties

36.1 Except as expressly provided otherwise in this Contract, nothing in this Contract, nor any actions taken by the Parties pursuant to this Contract, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

37 Prevention of Fraud and Bribery

37.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Effective Date:

37.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

37.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

37.2 The Supplier shall not during the term of this Contract:

37.2.1 commit a Prohibited Act; and/or

37.2.2 do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

37.3 The Supplier shall during the term of this Contract:

37.3.1 establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

37.3.2 have in place reasonable prevention measures (as defined in sections 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;

37.3.3 keep appropriate records of its compliance with its obligations under Clause 37.3.1 and make such records available to the Authority on request; and

37.3.4 take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with Section 47 of the Criminal Finances Act 2017.

37.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 37.1 and/or 37.2, or has reason to believe that it has or any of the Supplier Personnel have:

37.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

37.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

37.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

37.5 If the Supplier makes a notification to the Authority pursuant to Clause 37.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, Records and/or any other relevant documentation in accordance with Clause 12 (*Records, Reports, Audits and Open Book Data*).

37.6 If the Supplier is in Default under Clauses 37.1 and/or 37.2, the Authority may by notice:

37.6.1 require the Supplier to remove from performance of this Contract any Supplier Personnel whose acts or omissions have caused the Default; or

37.6.2 immediately terminate this Contract in accordance with Clause 31.1.2.

37.7 Any notice served by the Authority under Clause 37.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Contract shall terminate).

38 Severance

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

39 Further Assurances

39.1 Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning of this Contract.

40 Entire Agreement

40.1 This Contract constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

40.2 Neither Party has been given, nor entered into this Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Contract.

40.3 Nothing in this Clause 40 shall exclude any liability in respect of misrepresentations made fraudulently.

41 Third Party Rights

41.1 The provisions of Clause 17.1 (*IPRs Indemnity*), Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of Schedule 28 (*Staff Transfer*) and the provisions of Paragraph 7.9 of Schedule 25 (*Exit Management*) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

41.2 Subject to Clause 41.1, a person who is not a Party to this Contract has no right under the CRTPA to enforce any term of this Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

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

41.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 41.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

42 Notices

42.1 Any notices sent under this Contract must be in writing.

42.2 Subject to Clause 42.4, 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:

Manner of Delivery	Deemed time of service	Proof of service
Email	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message.
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt
Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next Working Day	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

Manner of Delivery	Deemed time of service	Proof of service
service providing proof of delivery.	Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	

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

[redacted]

42.4 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in the table in Clause 42.2:

42.4.1 Step-In Notices;

42.4.2 Force Majeure Notices;

42.4.3 notices issued by the Supplier pursuant to Clause 31.3 (*Termination by the Supplier*);

42.4.4 Termination Notices; and

42.4.5 Dispute Notices.

42.5 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 42.4 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 42.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

42.6 This Clause 42 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under Schedule 23 (*Dispute Resolution Procedure*)).

43 Disputes

43.1 The Parties shall resolve Disputes arising out of or in connection with this Contract in accordance with the Dispute Resolution Procedure.

43.2 The Supplier shall continue to provide the Services in accordance with the terms of this Contract until a Dispute has been resolved.

44 Governing Law and Jurisdiction

44.1 This Contract and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

44.2 Subject to Clause 43 (*Disputes*) and Schedule 23 (*Dispute Resolution Procedure*) (including the Authority's right to refer the dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Contract or its subject matter or formation.

This Contract has been duly entered into by the Parties on the date which appears at the head of its page 1.

SIGNED for and on behalf of
Doctor PA Ltd, by a director:



SIGNED for and on behalf of
The Secretary of State for the Home

Department



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 1

Definitions

Irregular Migration Management Services

Schedule 1: Definitions

1 Definitions

1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (*Definitions*) or the relevant Schedule in which that capitalised expression appears.

1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

1.3 In the Contract, unless the context otherwise requires:

1.3.1 the singular includes the plural and vice versa;

1.3.2 reference to a gender includes the other gender and the neuter;

1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;

1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted (including as consequence of the Retained EU Law (Revocation and Reform) Act 2023) from time to time;

1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";

1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;

1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings"** as references to obligations under the Contract;

1.3.8 references to **"Clauses"** and **"Schedules"** are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;

1.3.9 references to **"Paragraphs"** are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and

1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.

1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and

1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.

1.4 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):

1.4.1 any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and

1.4.2 any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

1.5 Where a standard, policy or document is referred to in this Contract by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall update this Contract with a reference to the replacement hyperlink.

"1971 Act"	means the Immigration Act 1971;
"1999 Act"	means the Immigration and Asylum Act 1999;
"2002 Act"	means the Nationality, Immigration and Asylum Act 2002;
"Accident & Emergency (A&E)"	Accident & Emergency department of a hospital;
"Accounting Reference Date"	means in each year the date to which the Supplier prepares its annual audited financial statements;
"ACDT"	means Assessment Care in Detention and Teamwork;
"Achieve"	(a) in respect of a Test, to successfully pass a Test without any Test Issues; and (b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Schedule 14 (*Testing Procedures*), and "**Achieved**" and "**Achievement**" shall be construed accordingly;

"Actual Costs"	means the Allowable Costs incurred, excluding any indirect overhead costs, indirect overhead mark-up, and any costs arising from Implementation, Pass-Through Costs, and Reimbursable Expenses;
"Actual Profit"	means in relation to any Profit Share Assessment Point, the total accumulated operating profit calculated as Actual Revenue less Actual Costs (including accruals and prepayments but excluding provisions) in the corresponding Profit Share Period(s);
"Actual Profit Percentage"	means in relation to any Profit Share Assessment Point is the Actual Profit for the Profit Share Assessment Point divided by the Actual Revenue for the Profit Share Assessment Point, expressed as a percentage;
"Actual Revenue"	means the total accumulated turnover of the Supplier, including payments calculated in accordance with Part A Paragraph 3.14 and Paragraph 4.2 of Schedule 15.2 (*Charges and Invoicing*), but excluding any payments arising from Implementation, Incentive Payments made in respect of Schedule 2.7 (*Service Improvement*), Pass-Through Costs, Reimbursable Expenses, and any adjustments arising from the Profit Share Calculation, Service Credits or Delay Payments;
"Admitted"	means a Service User that has entered the Campus in accordance with Manston Detention Service Orders, Detention Centre Rules 2001 and Manston Services Operating Standards Manual;
"Admission"	means admitting a Service User to the STHF and Residential Holding Room(s) in accordance with Detention Centre Orders, Detention Centre Rules and Detention Centre Operating Standards, as applicable, effectively the point at which the Supplier accepts Detention Order (Form IS91);
"Adult at Risk"	means a person that is aged 18 years or over, who is particularly vulnerable to harm if they are placed in detention or remain in detention, according to the definitions within DSO 06/2018 'Management of Adults at Risk in Immigration Detention;
"Affected Party"	the Party seeking to claim relief in respect of a Force Majeure Event;
"Affiliate"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or

indirect common Control with, that body corporate from time to time;

"Allowable Costs" means the following costs elements (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in delivering services under the Contract including:

(a) Direct Labour Cost elements to the Supplier or the Key Sub-contractor (as the context requires), calculated per Man Day where it is appropriate to do so, of engaging the Supplier Personnel, including:

(i) base salary paid to the Supplier Personnel;

(ii) employer's national insurance contributions;

(iii) Employer Pension Contributions;

(iv) car allowances;

(v) any other contractual employment benefits;

(vi) staff training;

(vii) workplace accommodation;

(viii) workplace IT equipment and tools reasonably necessary to perform the Services (but not including items included within limb (b) – (c) below); and

(ix) reasonable recruitment costs, as agreed with the Authority;

(b) costs incurred in respect of those Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Assets by the Supplier to the Authority or (to the extent that risk and title in any Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Assets;

(c) Direct Other Costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the delivery of the Services; and

(d) Reimbursable Expenses to the extent these are incurred in delivering any Services where the Charges for those Services are to be calculated on a Fixed Price or Firm Price pricing mechanism;

but excluding:

(i) Overhead;

(ii) financing or similar costs;

(iii) maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Term, whether in relation to Assets or otherwise;

(iv) taxation;

(v) fines and penalties;

(vi) amounts payable under Schedule 17 (*Benchmarking*); and

(vii) non-cash items (including impairments and movements in provisions);

"Allowable Assumptions" the assumptions set out in Paragraph 7 of Part C of Schedule 15.2 (*Charges and Invoicing*);

"Allowable Price" in relation to the Retained Deliverables relating to a CPP Milestone, if any, an amount determined in accordance with the formula:

A – B

where:

(a) A is an amount equal to the Costs incurred by the Supplier in providing or developing the relevant Retained Deliverables as reflected in the Financial Model together with an amount equal to the Anticipated Contract Life Profit Margin thereon; and

(b) B is an amount equal to the Allowable Price Adjustment relating to the relevant Retained Deliverables, if any, or if there is no such Allowable Price Adjustment, zero,

provided that the Allowable Price for any Retained Deliverables shall in no circumstances exceed the aggregate amount of the Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone;

"Allowable Price Adjustment" has the meaning given in Clause 32.9.3 (*Payments by the Supplier*);

"Annual Contract Report" has the meaning given in Schedule 19 (*Financial Reports and Audit Rights*);

"Annual Revenue" means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as

	appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology: (a) figures for accounting periods of other than 12 months should be scaled pro rata to produce a proforma figure for a 12-month period; and (b) where the Supplier, the Supplier Group and/or their joint ventures and Associates report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the Accounting Reference Date;
"Anticipated Annual Service Profit Margin"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Anticipated Annual Service Threshold Profit Margin"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Anticipated Contract Life Profit Margin"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Anticipated Average Monthly Service Profit Margin"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Appropriate Adult"	means an adult who can safeguard the interests, rights, entitlements and welfare of children and vulnerable people, by ensuring that they are treated in a fair and just manner, and are able to participate effectively;
"Approved Sub-Licensee"	any of the following: (a) a Crown Body; (b) any third-party providing services to a Crown Body; and/or (c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority;
"Assets"	all assets and rights used by the Supplier to provide the Services in accordance with this Contract but excluding the Authority Assets;
"Associated Person"	has the meaning given to it in Section 44(4) of the Criminal Finances Act 2017;

"Associates"	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
"Association"	means when Service Users have the opportunity to access the services within the Centre and associate with each other;
"Association Time"	means the period during which Service Users have the opportunity to access the services within the Centre and associate with each other;
"Assurance"	means written confirmation from a Relevant Authority to the Supplier that the CRP Information is approved by the Relevant Authority;
"ATP Milestone"	the Milestone linked to Authority to Proceed for the relevant Operational Services set out in the Implementation Plan;
"Audit"	any exercise by the Authority of its Audit Rights pursuant to Clause 12 (*Records, Reports, Audits & Open Book Data*) and Schedule 19 (*Financial Reports and Audit Rights*);
"Audit Agents"	(a) the Authority's internal and external auditors; (b) the Authority's statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Authority to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
"Audit Rights"	the audit and access rights referred to in Schedule 19 (*Financial Reports and Audit Rights*);
"Authority"	means the Secretary of State for the Home Department;
"Authority Assets"	the Authority Materials, the Authority infrastructure and any other data, software, assets, equipment or other property owned by and/or licensed or leased to the Authority and which is or may be used in connection with the provision or receipt of the Services;

"Authority Background IPRs"	(a) IPRs owned by the Authority before the Effective Date, including IPRs contained in any of the Authority's Know-How, documentation, processes and procedures; (b) IPRs created by the Authority independently of this Contract; and/or (c) Crown Copyright which is not available to the Supplier otherwise than under this Contract; but excluding IPRs owned by the Authority subsisting in the Authority Software;
"Authority Cause"	any material breach by the Authority of any of the Authority Responsibilities, except to the extent that such breach is: (a) the result of any act or omission by the Authority to which the Supplier has given its prior consent; or (b) caused by the Supplier, any Sub-contractor or any Supplier Personnel;
"Authority Data"	(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Supplier by or on behalf of the Authority; and/or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Authority is the Controller;
"Authority IT Strategy"	the Authority's IT policy in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Change Control Procedure;
"Authority Materials"	the Authority Data together with any materials, documentation, information, programs and codes supplied by the Authority to the Supplier, the IPRs in which: (a) are owned or used by or on behalf of the Authority; and (b) are or may be used in connection with the provision or receipt of the Services,

	but excluding any Project Specific IPRs, Specially Written Software, Supplier Software, Third Party Software and Documentation relating to Supplier Software or Third-Party Software;
"Authority Premises"	premises owned, controlled or occupied by the Authority and/or any Crown Body which are made available for use by the Supplier or its Sub-contractors for provision of the Services (or any of them);
"Authority Representative"	the representative appointed by the Authority pursuant to Clause 11.4 (*Representatives*);
"Authority Requirements"	the requirements of the Authority set out in Schedule 2.1 (*Services Description Operator Services*), Schedule 2.2 (*Services Description Healthcare Services*), Schedule 2.3 (*Cleaning & Catering*), Schedule 2.4 (*Service User Operating Model Capability Bandings*), Schedule 3 (*Performance Levels*), Schedule 4.1 (*Standards*), Schedule 4.2 (*Social Value*), Schedule 5 (*Security Management*), Schedule 6 (*Insurance Requirements*), Schedule 13 (*Implementation Plan*), Schedule 24 (*Reports and Records Provisions*), Schedule 25 (*Exit Management*) and Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Authority Responsibilities"	the responsibilities of the Authority specified in Schedule 7 (*Authority Responsibilities*);
"Authority Software"	software which is owned by or licensed to the Authority (other than under or pursuant to this Contract) and which is or will be used by the Supplier for the purposes of providing the Services;
"Authority System"	the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Contract which is owned by the Authority or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services;
"Authority to Proceed" or "ATP"	the authorisation to the Supplier to commence the provision of the relevant Operational Services to the Authority, provided by the Authority in the form of a Milestone Achievement Certificate in respect of the ATP Milestone;
"Authority's Representative"	means the representative appointed by the Authority pursuant to Clause 11.4 (*Representatives*);

"Available Service User Place"	a place for a single Service User Place as certified for Short Term Holding Facility Rules 35 and 37 except where otherwise agreed by the Authority as part of maintenance;
"Balanced Scorecard Report"	has the meaning given in Paragraph 1.1.2 of Part B of Schedule 3 (*Performance Levels*);
"Band", "Service User Operating Model Capability Band" or "Service User Operating Model Capability Bandings"	means one or more of the Bands defined as [redacted]
"Banding Downgrade"	means the formal contractual event of moving to a lower Service User Operating Model Capability Band;
"Banding Upgrade"	means the formal contractual event of moving to a higher Service User Operating Model Capability Band;
"Baseline Security Requirements"	the Authority's baseline security requirements, the current copy of which is contained in Schedule 5 (*Security Management*) Annex 1 (Baseline Security Requirements), as updated from time to time by the Authority and notified to the Supplier;
"Bed Watch"	means where a Service User requires hospital treatment, the Service User shall remain in the custody of an employee of the Supplier who has been instructed by the Supplier to escort and stay with them during such treatment;
"Binding Bids"	A Compliant Binding Bid response provided by the Supplier which it will provide the Services for the prices and rates specified in the Binding Supplier, which the Authority reserves the right to evaluate and accept for Award;
"Board"	means the Supplier's board of directors;
"Board Confirmation"	means the written confirmation from the Board in accordance with Paragraph 8 of Schedule 18 (*Financial Distress*);
Border Force Sea Vessels	means the vessels used by Border Force to safely transport small boats arrivals to Disembarkation Point;
"Breakage Costs Payment"	has the meaning given in Schedule 16 (*Payments on Termination*);

"Cabinet Office Markets and Suppliers Team"	means the UK Government's team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
"Computer Aided Facility Management (CAFM) System"	means any software that helps organise and complete daily tasks, from maintenance to asset management;
"Canine(s)"	means both Search Dogs and Patrol Dogs;
"Card Tracker System"	means the system used to securely manage the allocation of keys and fobs in the Site;
"Care Plan	means Care Plan (DSO 08/2016) Management of Adults at Risk in Immigration Detention (Annex B);
"Centre Manager"	means the person or persons appointed by the Supplier and approved by the Authority who is the senior member of Staff in overall charge of the Site;
"Certified"	means approved by a Senior Manager as meeting the required standard;
"Certificate of Costs"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Change"	any change to this Contract;
"Change Authorisation Note"	a form setting out an agreed Contract Change which shall be substantially in the form of Schedule 22 (*Change Control Procedure*) Annex 2: Change Authorisation Note;
"Change Control Procedure"	the procedure for changing this Contract set out in Schedule 22 (*Change Control Procedure*);
"Change in Law"	any change in Law which impacts on the performance of the Services which comes into force after the Effective Date;
"Change Request"	a written request for a Contract Change substantially in the form of Schedule 22 (*Change Control Procedure*) Annex 1 *(Change Request Form);*
"Charges" or "Prices"	means amounts paid or payable by the Authority to the Supplier for the provision of the Services set out in or otherwise calculated in accordance with Schedule 15.2 *(Charges and Invoicing)*, including any Milestone Payment or Service Charge;

"Child" or "Children"	means person(s) who is under the age of 18;
"Class 1 Transaction"	has the meaning set out in the listing rules issued by the UK Listing Authority;
"CNI"	means Critical National Infrastructure;
"Commercially Sensitive Information"	the information listed in Schedule 9 (*Commercially Sensitive Information*) comprising the information of a commercially sensitive nature relating to: (a) the pricing of the Services; (b) details of the Supplier's IPRs; and (c) the Supplier's business and investment plans; which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;
"Compact"	means an agreement between the Service User and the Supplier;
"Comparable Supply"	the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
"Compensation for Unacceptable KPI Failure"	has the meaning given in Clause 7.4.1 (*Unacceptable KPI Failure*);
"Compensation Payment"	has the meaning given in Schedule 16 (*Payments on Termination*);
"Complaint"	means any expression of dissatisfaction about the Services provided or about the professional conduct of the Authority or Supplier Staff;
"Condition Precedent"	has the meaning given in Clause 4.2 (*Condition Precedent*);
"Confidential Information"	(a) Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of this Contract that relates to: (i) the Disclosing Party Group; or (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-

how and/or personnel of the Disclosing Party Group;

(b) other Information provided by the Disclosing Party pursuant to or in anticipation of this Contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with this Contract;

(c) discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with this Contract and all matters arising therefrom; and

(d) Information derived from any of the above,

but not including any Information which:

(i) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;

(ii) the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient;

(iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality;

(iv) was independently developed without access to the Confidential Information; or

(v) relates to the Supplier's:

(1) performance under this Contract; or

(2) failure to pay any Sub-contractor as required pursuant to Clause 15.15(a) (*Supply Chain Protection*);

"Conflict of Interest" a conflict between the financial or personal duties of the Supplier or the Supplier Personnel and the duties owed to the

	Authority under the Contract, in the reasonable opinion of the Authority;
"Contingency Plans"	means the plans which set out the procedures to be followed both in the event of an Incident occurring at the Site(s) which will, or is likely to, have a material effect on the safety and security of the Site(s) as a whole and the procedures to be taken in the event of any incidents actually occurring at the Site(s); in accordance with Schedule 2.2 (*Services Description Healthcare Services) and* Section 12 (Contingency Planning Arrangements);
"Contract Amendment Report"	means the contract amendment report to be provided by the Supplier to the Authority pursuant to Schedule 19 (*Financial Reports and Audit Rights)* Paragraph 1 of Part B;
"Contract"	the contract between the Authority and the Supplier;
"Contract Change"	any change to this Contract other than an Operational Change;
"Contract Inception Report"	means the initial financial model in a form agreed by the Supplier and the Authority in writing on or before the Effective Date;
"Contracts Finder"	means the online government portal which allows suppliers to search for information about contracts as prescribed by Part 4 of the agreement;
"Contract Start Date"	the date on which this Contract is signed by both Parties;
"Contract Year"	(a) a period of 12 months commencing on the Effective Date; or (b) thereafter a period of 12 months commencing on each anniversary of the Effective Date; provided that the final Contract Year shall end on the expiry or termination of the Term;
"Control"	the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "**Controls**" and "**Controlled**" shall be interpreted accordingly;
"Controller"	has the meaning given in the UK GDPR or the EU GDPR as the context requires;
"Control & Restraint"	means Control & Restraint training approved by HMPPS;

"C&R"	means control and restraint;
"Core Staff"	means the employees of the Supplier dedicated to delivering the Services set out in Schedule 2.2 *(Services Description Healthcare Services),* but expressly excludes any Surge Staff;
"Core Staffing Model"	means the total number of staff, including the corresponding standard and overtime labour hours for both day and night shifts, per labour role as set out by the Supplier in Section 1A of the 'Labour Costs' worksheet in the Financial Pricing Model;
"Corporate Change Event"	means: (a) any change of Control of the Supplier or a Parent Undertaking of the Supplier; (b) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Authority, could have a material adverse effect on the Services; (c) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Authority, could have a material adverse effect on the Services; (d) a Class 1 Transaction taking place in relation to the shares of the Supplier or any Parent Undertaking of the Supplier whose shares are listed on the main market of the London Stock Exchange plc; (e) an event that could reasonably be regarded as being equivalent to a Class 1 Transaction taking place in respect of the Supplier or any Parent Undertaking of the Supplier; (f) payment of dividends by the Supplier or the ultimate Parent Undertaking of the Supplier Group exceeding 25% of the Net Asset Value of the Supplier or the ultimate Parent Undertaking of the Supplier Group respectively in any 12-month period; (g) an order is made, or an effective resolution is passed for the winding up of any member of the Supplier Group; (h) any member of the Supplier Group stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the Supplier Group ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or agreement

being made with creditors of any member of the Supplier Group;

(i) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the Supplier Group; and/or

(j) any process or events with an effect analogous to those in Paragraphs (e) to (g) inclusive above occurring to a member of the Supplier Group in a jurisdiction outside England and Wales;

"Corporate Change Event Grace Period"	means a grace period agreed to by the Relevant Authority for providing CRP Information and/or updates to Service Continuity Plan after a Corporate Change Event
"Corporate Resolvability Assessment (Structural Review)"	means part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 and Annex 2: Corporate Resolvability Assessment (Structural Review) of Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Costs"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"CPP Milestone"	a contract performance point as set out in the Implementation Plan, being the Milestone at which the Supplier has demonstrated that the Supplier Solution or relevant Service is working satisfactorily in its operating environment in accordance with Schedule 14 (*Testing Procedures*);
"CQC"	means the Care Quality Commission;
"CRF"	means the Clinical Report Form;
"Critical National Infrastructure"	means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:

(a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or

(b) significant impact on the national security, national defence, or the functioning of the UK;

"Critical Performance Failure"	means any performance failure of a KPI categorised as "Critical" (specified in Schedule 3 (*Performance Levels*) – Annex 1);
"Critical Service Contract"	means the overall status of the Services provided under this Contract as determined by the Authority and specified in Paragraph 1.1 of Part B to Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Crown Body"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Crown Copyright"	has the meaning given in the Copyright, Designs and Patents Act 1988
"CRP Information"	means the Corporate Resolution Planning Information, together, the: (a) Exposure Information (Contracts List); (a) Corporate Resolvability Assessment (Structural Review); and (b) Financial Information and Commentary
"CRTPA"	the Contracts (Rights of Third Parties) Act 1999;
"CTC"	means Counter Terrorist Check;
"Daily Report"	means a written or electronic record of the number of available Service User Place(s) and of all Arrivals accommodated at the RHR in the previous twenty-four (24) hour period to be completed by the Supplier in a form approved by the Monitor or electronically using the bed space management system provided by the Authority;
"Daily Statistical Review"	means a list of pre-defined detention statistics required by the Authority from the Supplier on a daily basis;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;

"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Legislation"	(a) the UK GDPR; (b) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (c) all applicable Law about the processing of personal data and privacy; and (d) (to the extent that it applies) the EU GDPR;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to their Personal Data;
"Day"	means any twenty-four (24) hour period, beginning at midnight;
"Day State"	means the period from 07:00 to 19:00, except in the RHRs where it means when a Service User is unlocked either from their room or within their residential area until the time in which they are locked either in their room or within their residential area;
"Deductions"	all Service Credits, Compensation for Unacceptable KPI Failure, Delay Payments or any other deduction which is paid or payable to the Authority under this Contract;
"Default"	any breach of the obligations of the relevant Party (including abandonment of this Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement: (a) in the case of the Authority, of its employees, servants, agents; or (b) in the case of the Supplier, of its Sub-contractors or any Supplier Personnel, in connection with or in relation to the subject-matter of this Contract and in respect of which such Party is liable to the other;
"Defect"	(a) any error, damage or defect in the manufacturing of a Deliverable; or

	(b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or (c) any failure of any Deliverable to provide the performance, features and functionality specified in the Authority Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria; or (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the Authority Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria;
"Delay"	(a) a delay in the Achievement of a Milestone by its Milestone Date; or (b) a delay in the design, development, testing or Implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Delay Deduction Period"	the period of one hundred (100) days commencing on the relevant Milestone Date;
"Delay Payments"	the amounts payable by the Supplier to the Authority in respect of a Delay in Achieving a Key Milestone as specified in Schedule 15.2 (*Charges and Invoicing*);
"Deliverable"	an item, feature or software delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of this Contract;
"Dependent Parent Undertaking"	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;

"DEPMU"	means Detainee Escorting and Population Management Unit. Home Office Immigration Enforcement unit responsible for the management and movement of the Service User population;
"Deputy Monitor"	means the Crown servant, employee or servants or employees appointed by the Authority as a deputy contract monitor
"Designated Languages"	means those languages as directed by the Authority which are used to ensure that any communication between a Service User and the Supplier's Staff is conducted in a relevant language;
"Designated Short Term Holding Facility"	means accommodation provided in a Designated Short Term Holding Facility, as defined in Rule 35, DC Rules;
"Detailed Implementation Plan"	the plan developed and revised from time to time in accordance with Paragraphs 3 and 4 of Schedule 13 (*Implementation Plan*);
"Detainee Custody Officer (DCO)"	means a person in respect of whom a certificate is in force certifying that they have been approved by the Authority for the purpose of performing Escort Functions or both Escort Functions and Custodial Functions in relation to Service Users and that they are accordingly authorised to perform them;
"Detainee Custody Manager (DCM)"	means a person in respect of whom a certificate is in force certifying that they have been approved by the Authority for the purpose of performing Escort Functions or both Escort Functions and Custodial Functions in relation to Service User s and that they are accordingly authorised to perform them, who is also responsible for first level management of areas of the operation and Detainee Custody Officers (DCOs) who are operating within the centre;
"Detention Centre (or DC) Rules"	means such Detention Centre rules as shall be made from time to time pursuant to Section 153 of the 1999 Act for the regulation and management of IRC;
"Detention Order (Form IS91)"	means the notice of authority that allows for the Service User to be detained under Schedule 2 to the Immigration Act 1971 powers and should accompany every Service User that arrives at the STHF and RHR. The Supplier must not accept Service Users without the correct documentation; means the notice of authority that allows for the Detainee Resident to be detained under Immigration Act powers and should accompany every Detainee Resident that arrives at the Manston Campus. The Supplier must not accept Detainee Residents without the correct documentation;

"Direct Labour Costs"	means those allowable costs defined in limb (a) of the definition of "Allowable Costs";
"Direct Other Costs"	means those costs: (a) other than Direct Labour Costs; (b) that are attributable to and reasonably and appropriately incurred in the course of delivering the Services set out in Schedule 2.2 *(Services Description Healthcare Services)*; and (c) for which the cost or activity driver of the cost occurred at the Sites;
"Discharge"	means the process of leaving the Site, whether for the purpose of Removal from the UK, transfer to another place of Detention or Release from Detention;
"Disclosure and Barring Service Checks (DBS)"	means checks made against criminal records and a barred list carried out by the Disclosure and Barring Service;
"Disclosing Party"	has the meaning given in Clause 19.1 (*Confidentiality*);
"Disclosing Party Group"	(a) where the Disclosing Party is the Supplier, the Supplier and any Affiliates of the Supplier; and (b) where the Disclosing Party is the Authority, the Authority and any Crown Body with which the Authority or the Supplier interacts in connection with this Contract;
"Disembarkation Point"	Means an official or unofficial landing site where migrants enter the UK;
"Dispute"	any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Schedule 23 (*Dispute Resolution Procedure*);

"Diversity and Equality Advisor"	means the Authority lead on Diversity and Equality;
"Duty of Candour"	has the meaning outlined in Schedule 2.2 (*Services Description Healthcare Services*);
"Documentation"	descriptions of the Services and Performance Indicators, details of the Supplier System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as: (a) is required to be supplied by the Supplier to the Authority under this Contract; (b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services; (c) is required by the Supplier in order to provide the Services; and/or (d) has been or shall be generated for the purpose of providing the Services;
"Dog Handler"	means a **DCO** or **DCM** responsible for Search Dogs;
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
"DPA 2018"	the Data Protection Act 2018;
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Authority prior to the Effective Date;

"Duty Manager/ Director"	means the senior member of Staff who is for the time being in overall charge of the Site;
"EEA"	European Economic Area
"Effective Date"	the later of: (a) the date on which this Contract is signed by both Parties; and (b) the date on which the Condition Precedent has been satisfied or waived in accordance with Clause 4.2 (*Condition Precedent*);
"EIRs"	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Crown Body in relation to such Regulations;
Electronic Patient Management System (EPMS)	means the IT system used by the Healthcare Supplier's that contains healthcare information held on Service Users;
"Emergency Maintenance"	ad hoc and unplanned maintenance provided by the Supplier where: (a) the Authority reasonably suspects that the IT Environment or the Services, or any part of the IT Environment or the Services, has or may have developed a fault, and notifies the Supplier of the same; or (b) the Supplier reasonably suspects that the IT Environment or the Services, or any part the IT Environment or the Services, has or may have developed a fault;
[redacted]	[redacted]
[redacted]	[redacted]
"Employee Liabilities"	all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which

	are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following: (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; (b) unfair, wrongful or constructive dismissal compensation; (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay; (d) compensation for less favourable treatment of part-time workers or fixed term employees; (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions; (f) employment claims whether in tort, contract or statute or otherwise; (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
"Employer Pension Contributions"	means employer pension contributions, charges or cost incurred by the Supplier which have been expressly agreed by the Authority in writing to constitute 'Employer Pension Contributions';
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
"Equalities Assessment"	means the assessment of the needs that different Service Users have and measures to make sure that these needs can be met;
"Escort(ing)"	means the activity of transporting a Service User or group of Service Users from the point of their collection to the point of their delivery at the destination;

"Escort Abscond"	means any incident of a Service User absconding from lawful custody whilst being escorted outside the STHF and RHR by the Supplier such that the Service User is no longer within the custody of the Supplier;
"Escorting Provider"	means the service provider providing services to the Authority including, but not limited to transport and escorting services for Service Users who: (a) are required to be removed from the UK under escort (including escort to gate at a UK Port); (b) require escorting within the UK, including, but not limited to those in detention required to appear at embassy, appeal and/or bail hearings, and those being brought/transferred to/or from the site, The Escorting Provider is an agent of the Authority;
"Escorting Provider Staff"	means the service provider staff involved in carrying out Escorts;
"Escorting Provider Vehicle Base"	situated on Manston Campus provides a base for the Escorting Provider Staff and Vehicles;
"Escorting Supplier Staff"	means any Staff involved in carrying out Escorts;
"Escorting Supplier"	means the service provider currently providing transport and escorting services for those Service Users who are required to be removed from the UK under escort and/or for Service Users in detention who are required to appear at appeal and/or bail hearings or who are being removed from the United Kingdom or being transferred to the IRC; The Escorting Supplier is an agent of the Authority;
"Escorting Vehicle"	means any vehicle used by the Escorting Supplier to carry out their Escort function;
"Estimated Year 1 Charges"	the estimated Charges payable by the Authority during the first Contract Year, as set out in the Financial Model;
"Estimated Initial Service Charges"	the estimated Service Charges payable by the Authority during the period of 12 months from the first Operational Service Commencement Date, as set out in the Financial Model;

"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
"EU"	European Union
"European Standard"	in relation to an electronic invoice means the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
"Exclusive Assets"	means those Assets used by the Supplier or a Key Sub-contractor which are used exclusively in the provision of the Services;
"Exit Management"	services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the Services from the Supplier to the Authority and/or a Replacement Supplier, as set out or referred to in Schedule 25 (*Exit Management*);
"Exit Plan"	the plan produced and updated by the Supplier during the Term in accordance with Paragraph 5 of Schedule 25 (*Exit Management*);
"Expedited Dispute Timetable"	the reduced timetable for the resolution of Disputes set out in Paragraph 3 of Schedule 23 (Dispute Resolution Procedure);
"Expert"	has the meaning given in Schedule 23 (*Dispute Resolution Procedure*);
"Expert Determination"	the process described in Paragraph 6 of Schedule 23 (*Dispute Resolution Procedure*);
"Exposure Information (Contracts List)"	means part of the CRP Information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 and Annex 1 of Part B of Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Extension Period"	a period of up to four years from the end of the Initial Term; such period may be enacted in one or more extensions so long as the total duration of the Extension Period does not exceed four years;
"Family"	means the definition detailed in DSO 1/2014;
"Flexible Staffing Model"	means any Supplier workforce model that comprises both a Core Staffing Model and a Surge Staffing Model;

"Financial Distress Event"	the occurrence of one or more of the events listed in Paragraph 3.1 of Schedule 18 (*Financial Distress*);
"Financial Information and Commentary"	means part of the CRP Information requirements set out in accordance with Paragraphs 2 and Annex 3 of Part B of Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Financial Distress Remediation Plan"	a plan setting out how the Supplier will ensure the continued performance and delivery of the Services in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Authority would need to put in place to ensure performance and delivery of the Services in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity and may refer to the Insolvency Continuity Plan in this regard;
"Financial Model"	has the meaning given in Schedule 19 (*Financial Reports and Audit Rights*);
"Financial Pricing Model"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Financial Reports"	has the meaning given in Schedule 19 (*Financial Reports and Audit Rights*);
"Financial Transparency Objectives"	has the meaning given in Schedule 19 (*Financial Reports and Audit Rights*);
"First Night"	means a Service User experiencing their first night in detention and the name of procedures that relate to the management of Service Users in an RHR for the first night;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or any relevant Crown Body in relation to such Act;
"Force Majeure Event"	any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or

	earthquake, or other natural disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel or any other failure in the Supplier's or a Sub-contractor's supply chain;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Foreign National Offender"	means a person who is not a national of the United Kingdom who has been convicted of a criminal offence;
"Former Supplier"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Gainshare"	mechanism whereby cost savings, efficiency gains, or additional revenues generated as a result of the Supplier's innovation, improved performance, or any other beneficial change during the provision of Services are shared between the Authority and the Supplier;
"Gain Share Amount"	has the meaning given in Schedule 15.3 (*Service Improvement*);
"Gain Share Calculation"	has the meaning given in Schedule 15.3 (*Service Improvement*);
"General Anti-Abuse Rule"	(a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
"General Change in Law"	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"GMC"	means the General Medical Council;
"Gold Commander"	means a suitably qualified and experienced Senior Manager who has overall responsibility for the management and resolution of the incident;
"Good Industry Practice"	at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;

"Goods"	has the meaning given in Clause 9.8 (*Supply of Goods*);
"Guarantee"	the deed of guarantee in favour of the Authority entered into by the Guarantor on or about the date of this Contract (which is in the form set out in Schedule 30 (*Deed of Guarantee*)), or any guarantee acceptable to the Authority that replaces it from time to time;
"Guarantor"	[**insert** name], a company registered in [**insert** country] with company number [**insert** company number] and whose registered office is at [**insert** registered address];
"HACCP System"	means Hazard Analysis and Critical Control Point System;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"Healthcare Professional"	means healthcare professionals employed by the Healthcare Supplier, qualified to deliver the Services;
"Health and Safety Policy"	the health and safety policy of the Authority and/or other relevant Crown Body as provided to the Supplier on or before the Effective Date and as subsequently provided to the Supplier from time to time except any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable Law regarding health and safety;
"Healthcare Services"	the Services described as such in Schedule 2.2 (*Services Description Healthcare Services*);
"Healthcare Services Provider"	means the organisation or body who provide Healthcare Services;
"Healthcare Staff"	means clinical and administrative staff employed by the Healthcare Provider;
"Healthcare Team"	means anyone engaged by the Healthcare Authority or the Healthcare Provider to deliver Healthcare Services or any part thereof;
"HSCN"	means the Health and Social Care Network
"HMPPS"	means Her Majesty's Prison and Probation Service;
"HMRC"	means HM Revenue & Customs;
"HNA"	means Health Needs Assessment;

"HOMES"	means the Home Office Manual for Escorting Safely;
"Home Office Case-working Teams"	means Home Office teams who consider and decide upon the immigration cases and applications, typically to remain in the UK, of Service Users;
"House Rules"	means a document written by the Supplier which provides information to a Service User about rights and responsibilities of Service Users whilst at any part of the RHR, and which has been approved by the Authority;
"ICB"	means Integrated Care Board;
"ICS"	means Integrated Care Systems;
"IMB (Independent Monitoring Board)"	means the committee appointed by the Authority in accordance with Section 152 of the 1999 Act;
"Immigration and Asylum Biometric System (IABS) Programme"	means a Home Office system that provides a database of fingerprints and facial images;
"Immigration Removal Centre or IRC"	has the meaning ascribed to it in Section 147 of the 1999 Act as amended by Section 66(2)(b) of the 2002 Act.
"Impact Assessment"	has the meaning given in Schedule 22 (*Change Control Procedure*);
"Implementation End Date"	Means the calendar day before the target Contract Operational Service Commencement Date, [redacted]
"Implementation Outstanding List" or "Outstanding List"	has the meaning given in Schedule 13 (*Implementation Plan*);
"Implementation Period"	means the period commencing when the activities listed in the Detailed Implementation Plan begin and ending on the date the Temporary Authority to Proceed is issued;
"Implementation Plan"	the Outline Implementation Plan or (if and when approved by the Authority pursuant to Paragraph 2 of Schedule 13 (*Implementation Plan*)) the Detailed Implementation Plan as updated in accordance with Paragraph 3 of Schedule 13 (*Implementation Plan*) from time to time;
"Implementation Services"	the Implementation services described as such in the Services Description;

"Implementation Services Commencement Date"	the date on which the Supplier is to commence provision of the first of the Services, [redacted]
"Implementation Start Date"	means the Implementation Services Commencement Date;
"Incentive Payment"	has the meaning set out in Schedule 15.3 (*Service Improvements*)
"Incident"	means an occurrence which disturbs the normal operation of any part of the Site;
"Incident Command"	means the process of co-ordinating an operational response to an Incident;
"Incident Report"	means the document provided by the Supplier to inform the Authority of an Incident;
"Incremental Costs Incurred"	means those direct, actual and proven costs incurred by Supplier that are additional to either: (a) any costs already recovered by another pricing mechanism under this Schedule; or (b) any costs recovered elsewhere including recoveries from the Supplier's Sub-Contractor(s) or statutory bodies including HMRC;
"Indemnified Person"	the Authority and each and every person to whom the Authority (or any direct or indirect sub-licensee of the Authority) sub-licenses, assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with this Contract;
"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Indexation" and "Index"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Induction"	means the process of providing Staff or Service Users with the comprehensive information necessary for their safe employment or detention in the STHF and RHR;
"Informal Complaints"	means is a fully voluntary structured interaction between Service User(s) and Supplier staff that is designed to help them address and resolve an issue at the earliest stage possible without submitting a formal complaint on a DCF9 form;

"Information"	all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);
"Initial Training Course (ITC)"	means an initial course, provided by the Supplier, during which newly appointed staff who are Detainee Custody Officer(s) are trained, so that they have the skills and knowledge to carry out their duties in the Centre effectively;
"Initial Term"	the period of six years from and including the Effective Date;
"Initial Upload Date"	means the occurrence of an event detailed in Schedule 24 (*Reports and Records Provisions*) Annex 3: (*Records to Upload to Virtual Library*) which requires the Supplier to provide its initial upload of the relevant information to the Virtual Library;
"Innovation Fund"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Insolvency Event"	with respect to any person, means: (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;

(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;

(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

(f) where that person is a company, a LLP or a partnership:

(i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;

(iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or

(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or

(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;

"Intellectual Property Rights" or **"IPRs"**

(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trademarks, rights in Internet domain names and

	website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information; (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and (c) all other rights having equivalent or similar effect in any country or jurisdiction;
"Internal Escorting"	means any Escorting within the confines of the Sites;
"Intervention Cause"	has the meaning given in Clause 27.1.2 (*Remedial Adviser*);
"Intervention Notice"	has the meaning given in Clause 27.1.2 (*Remedial Adviser*);
"Intervention Period"	has the meaning given in Clause 27.2.3(*Remedial Adviser*);
"Intervention Trigger Event"	(a) any event falling within limb (a), (b), (c), (e), (f) or (g) of the definition of a Supplier Termination Event; (b) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services; (c) the Supplier not Achieving a Key Milestone within seventy-five (75) days of its relevant Milestone Date;
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"IPC"	means Infection Protection Control;
"IPRs Claim"	any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any Relevant IPRs save for any such claim to the extent that it is caused by any use by or on behalf of that Indemnified Person of any Relevant IPRs, or the use of the Authority Software by or on behalf of the Supplier, in either case in combination with any item not supplied or recommended by the Supplier pursuant to this Contract or for a purpose not reasonably to be inferred from the Services Description or the provisions of this Contract;
"IS 91"	see Detention Order (Form IS91);
"IT"	information and communications technology;

"IT Environment"	the Authority System and the Supplier System;
"IT Infrastructure"	the Operator Service Provider's managed network which provides connectivity of client devices to the wider IT Environment;
"Joint Controllers"	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
"Key Milestone"	the Milestones identified in the Implementation Plan as key milestones and in respect of which Delay Payments may be payable in accordance with Paragraph 1 of Part C of Schedule 15.2 (*Charges and Invoicing*) if the Supplier fails to Achieve the Milestone date in respect of such Milestone;
"Key Performance Indicator"	the key performance indicators set out in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);
"Key Personnel"	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Schedule 29 (*Key Personnel*) against each Key Role as at the Effective Date or as amended from time to time in accordance with Clauses 14.5 and 14.6 (*Key Personnel*);
"Key Roles"	a role described as a Key Role in Schedule 29 (*Key Personnel*) and any additional roles added from time to time in accordance with Clause 14.4 (*Key Personnel*);
"Key Sub-contract"	each Sub-contract with a Key Sub-contractor;
"Key Sub-contractor"	any Sub-contractor: (a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Sub-contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract (as set out in the Financial Model);
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know how already in the other Party's possession before this Contract;
"KPI Failure"	a failure to meet the Target Performance Level in respect of a Key Performance Indicator;

"KPI Service Threshold"	shall be as set out against the relevant Key Performance Indicator in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);
"Law"	any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680) ;
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to the Authority for the purposes of or pursuant to this Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software;
"Local Health Protection Team"	means the South East regional arm of UKHSA that manage communicable disease outbreaks and Public Health Inquiries;
"Local Security Strategy"	Supplier document that sets out specific details of how security operates within the operation.
"Losses"	losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
"Maintenance Schedule"	shall have the meaning set out in Clause 9.5 (*Maintenance*);
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"Man Day"	means Man Hours worked per individual per day, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Man Hours"	means the hours spent by the Supplier Personnel properly working on the Services including time spent travelling (other

	than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Management Information"	the management information specified in Schedule 3 (*Performance Levels*), Schedule 15.2 (*Charges and Invoicing*), Schedule 21 (*Governance*) and Schedule 24 (*Reports and Records Provisions)* to be provided by the Supplier to the Authority;
"Manston Campus"	means the whole site including land and buildings that includes Manston Reception Centre and the Residential Holding Rooms facility;
"Manston Detention Services Order (DSO)"	means instruction setting out requirements for Detention and Escorting;
"Manston Operating Standards"	means a set of dedicated operating standards used to improve performance and compliance across the Site;
"Manston Reception Centre"	Means the site where Residents are processed and located on the Manston Campus;
"Material KPI Failure"	(a) a Serious KPI Failure; (b) a Severe KPI Failure; or (c) a failure by the Supplier to meet a KPI Service Threshold;
"Material KPI Persistent Failure"	has the meaning given in Schedule 3 (*Performance Levels*) Paragraph 3.3 of Part A;
"Medical Escort"	means a specialist medically trained Escort who supports standard Escorting functions;
"Measurement Period"	in relation to a Key Performance Indicator or Subsidiary Performance Indicator, the period over which the Supplier's performance is measured (for example, a Service Period if measured monthly or a 12-month period if measured annually);
"Milestone"	an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date;
"Milestone Achievement Certificate"	the certificate to be granted by the Authority when the Supplier has Achieved a Milestone, which shall be in substantially the same form as that set out in Annex 3 of Schedule 14 (*Testing Procedures*);

"Milestone Adjustment Payment Amount"	in respect of each CPP Milestone the subject of a Milestone Adjustment Payment Notice, an amount determined in accordance with the formula: A – B where: (a) A is an amount equal to the aggregate sum of all Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone; and (b) B is an amount equal to the aggregate Allowable Price for the Retained Deliverables relating to that CPP Milestone or, if there are no such Retained Deliverables, zero;
"Milestone Adjustment Payment Notice"	has the meaning given in Clause 32.8 (*Payments by the Supplier*);
"Milestone Costs Incurred"	means in relation to a Milestone, the sum of: (a) the fixed day costs set out in Table 1 of Annex 1 of Schedule 15.2 (*Charges and Invoicing*) multiplied by the number of Man Days that have been expended by the Supplier Personnel in achieving the relevant Milestone; and (b) any amount that would fall within limbs (b) – (d)) of the definition of "allowable costs", to the extent that such amount has been incurred in achieving the relevant Milestone;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milestone Payment"	a payment identified in Schedule 15.2 (*Charges and Invoicing*) to be made following the issue of a Milestone Achievement Certificate;
"Milestone Retention"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Minor KPI Failure"	shall be as set out against the relevant Key Performance Indicator in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);

"Modern Slavery Assessment Tool"	means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat]
"Monitor"	means the Crown servant or employee or servant or servants appointed by the Authority as a contract monitor in accordance with Section 149(4) of the 1999 Act;
"Month"	a calendar month and "**monthly**" shall be interpreted accordingly;
"Monthly Performance Report"	means the report produced by the Supplier, in the agreed format, to be received no later than 7 calendar days after the relevant Performance Month;
"Multi- Disciplinary Team (MDT)"	means a team of representatives from different organisations;
"Multi-Party Dispute Resolution Procedure"	has the meaning given in Paragraph 9.1 of Schedule 23 (*Dispute Resolution Procedure*);
"Multi-Party Procedure Initiation Notice"	has the meaning given in Paragraph 9.2 of Schedule 23 (*Dispute Resolution Procedure*);
"NCSC"	the National Cyber Security Centre or any replacement or successor body carrying out the same function;
"Near-Miss Log"	means near death, near hit, close call is an unplanned or planned event that has the potential to cause, but does not actually result in a serious injury, death and a record of these events are recorded.
"NHS"	means National Health Service;
"New Releases"	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
"NICE"	means the National Institute for Healthcare and Excellence;
"Night State"	means the period, from 19:00 to 07:00 except in the RHRs where it means when Service Users are limited to their rooms or their residential units during the night, which shall not exceed nine (9) hours;

"Non-Effective Time"	means annual leave, sickness absence and training. For the avoidance of doubt, overtime is not considered as Non-Effective Time;
"Non-Exclusive Assets"	means those Assets (if any) which are used by the Supplier or a Key Sub-contractor in connection with the Services but which are also used by the Supplier or Key Sub-contractor for other purposes of material value;
"Non-trivial Customer Base"	a significant customer base with respect to the date of first release and the relevant market but excluding Affiliates and other entities related to the licensor;
"Non-retained Deliverables"	in relation to a CPP Milestone Payment Notice and each CPP Milestone the subject of that CPP Milestone Payment Notice, Deliverables provided to the Authority which relate to the relevant CPP Milestone(s) and which are not Retained Deliverables;
"Notifiable Default"	shall have the meaning given in Clause 25.1 (*Rectification Plan Process*);
"Object Code"	software and/or data in machine-readable, compiled object code form;
"Occasion of Tax Non-Compliance"	(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of: (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;

"Official, Legal or Case Related Visit/Interview"	means any visit/interview to a Service User at the RHR by a Service User's legal advisor or representative, or a representative of the Authority, or notified as such by the Authority;
"Official Visitor"	means any visitor so notified as such by the Authority;
"Onerous Contract"	mean a contract where: (a) a contract in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it, as defined under International Accounting Standard 37; and (b) the Supplier has provided the Authority with relevant supporting information,
"Open Book Data"	has the meaning given in Schedule 19 (*Financial Reports and Audit Rights*);
"**Open Licence**"	means any material that is published for use, with rights to access, copy and modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles, and includes the Open Source publication of Software;
"Open Source"	computer Software that is released on the internet for use by any person, such release usually being made under a recognised open-source licence and stating that it is released as open source;
"Operating Environment"	the Authority System and the Sites;
"Operational Change"	any change in the Supplier's operational procedures which in all respects, when implemented: (a) will not affect the Charges and will not result in any other costs to the Authority; (b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services;

	(c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority's IT infrastructure; and (d) will not require a change to this Contract;
"Operational Service Commencement Date"	in relation to an Operational Service, the later of: (a) the date identified in the Operational Services Implementation Plan upon which the Operational Service is to commence; and (b) where the Implementation Plan states that the Supplier must have Achieved the relevant ATP Milestone before it can commence the provision of that Operational Service, the date upon which the Supplier Achieves the relevant ATP Milestone;
"Operational Services"	the operational services described as such in Schedule 2.2 (*Services Description Healthcare Services*);
"Operator Services"	the Services described in the Contract as such in Schedule 2.1 (Services Description Operator Services – Lot 1), Schedule 2.3 (Cleaning & Catering - Lot 1), Schedule 2.4 (Services Description Service User Processing Capacity Bandings).
"Operator Services Provider"	means the organisation or body who provide Operator Services;
"Operational Support Officer" (OSO)	means a person who carries out roles supporting the Authority staff and designated security functions, and who does not hold a Detainee Custody Officer (DCO) certification,
"Optional Services"	the services described as such in Schedule 2.2 (*Services Description Healthcare Services*) which are to be provided by the Supplier if required by the Authority in accordance with Clause 5.10 (*Optional Services*);
"Optional Services Implementation Plan"	the Implementation Plan to affect the Optional Services agreed between the Parties prior to the Effective Date and, if not agreed prior to the Effective Date, to be developed by the Supplier and approved by the Authority;
"Other Supplier"	any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time;
"Outline Implementation Plan"	the outline plan set out at Annex 1 of Schedule 13 (*Implementation Plan*);

"Out of Bounds Area" means an area designated as out of bounds to Service Users unless they are there for justified reasons and under supervision;

"Overhead(s)" means those reasonable and appropriate costs indirectly incurred by the Supplier as a result of the performance of the contract requirements, and that are wholly or partly attributable to the contract.

Overheads specifically exclude:

(a) Direct Labour Costs;

(b) Direct Other Costs;

(c) Non- Allowable Costs including:

any non-contract costs driven by Supplier decisions rather than contract requirements such as

i. financing, marketing and advertising costs;

ii. research and development and general insurance costs;

iii. fines, penalties, taxation and other statutory compliance related charges not related to the Contract; and

(d) Profit;

"Parent Undertaking" has the meaning set out in section 1162 of the Companies Act 2006;

"Partial Termination" the partial termination of this Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 31.2 (T*ermination by the Authority*) or 31.3 (*Termination by the Supplier*) or otherwise by mutual agreement by the Parties, but expressly excludes Banding Change Event(s);

"Partial Termination Payment" means the payment determined in accordance with Schedule 16 (*Payments on Termination*);

"Parties" and **"Party"** have the meanings respectively given on page 1 of this Contract;

"Pass-Through Costs" means those costs and expenses in respect of goods and/or services purchased by the Supplier in the provision of the Services and invoiced to the Authority for reimbursement at the purchase price, without any additional Supplier Profit Margin, Overhead or Charges;

"Passive Infrastructure"	means IT cabinets, Ethernet/copper cabling and fibre optic cabling installed at the Sites;
"Patient group directions (PGDs)"	has the meaning outlined in https://www.gov.uk/government/publications/patient-group-directions-pgds/patient-group-directions-who-can-use-them;
"Performance Failure"	a KPI Failure or a PI Failure;
"Performance Indicators"	the Key Performance Indicators and the Subsidiary Performance Indicators;
"Performance Level"	means the minimum level of performance for a Performance Indicator which is required by the Authority, as set out against the relevant Performance Indicator in the tables in Annex 1 of Schedule 3 (*Performance Levels*);
"Permitted Maintenance"	has the meaning given in Clause 9.5 (*Maintenance*);
"Performance Monitoring Report"	has the meaning given in Schedule 3 (*Performance Levels*);
"Person Escorting Record (PER)"	means a Person Escorting Record (PER) that informs staff and suppliers working in the detention estate how to communicate information about risks of escort or transfer using the Person Escort Record (PER) document;
"Personal Data"	has the meaning given in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given in the UK GDPR or the EU GDPR as the context requires;
"Person Escorting Record (PER)"	means a Person Escorting Record (PER) that informs staff and suppliers working in the detention estate how to communicate information about risks of escort or transfer using the Person Escort Record (PER) document;
"Personal Safety Training"	means Personal Safety Training approved by HMPPS;
"PPE"	means Personal Protective Equipment;
"Preceding Services"	has the meaning given in Clause 5.2.2(a) (*Standard of Services*);
"Prescribed Person"	a legal adviser, an MP, or an appropriate body which a whistle-blower may make a disclosure to as detailed in

	'Whistleblowing: list of prescribed people and bodies', available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies, as updated from time to time;
"Price Band", "Pricing Band" or "Band"	means the range of Service User Operating Model Capability Bandings defined in Schedule 2.4 (*Service User Operating Model Capability Bandings*);
"Processor"	has the meaning given to it under the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	means all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Sub-processor engaged in the performance of its obligations under this Contract;
"Profit Share Amount"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Profit Share Calculation"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Profit Share Period"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Prohibited Act"	(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; (c) an offence: (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);

(ii) under legislation or common law concerning fraudulent acts; or

(iii) defrauding, attempting to defraud or conspiring to defraud the Authority (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or

(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

"Protected Characteristic" means the personal characteristics of Service Users as defined in characteristics (as described in the Equality Act 2010);

"Protective Measures" appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it, including those outlined in Schedule 5 (Security Management);

"Project Specific IPRs" (a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema; and/or

(b) Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under this Contract;

but shall not include the Supplier Background IPRs or the Specially Written Software;

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

"Public Sector Dependent Supplier" means a supplier where that supplier, or that supplier's group has Annual Revenue of £50 million or more of which over 50% is generated from UK Public Sector Business;

"Publishable Performance Information"	means any of the information in the Performance Monitoring Report as it relates to a Performance Indicator where it is expressed as publishable in the table in Schedule 13 (*Performance Levels*) Annex 1 which shall not constitute Commercially Sensitive Information;
"Quality Plans"	has the meaning given in Clause 6.1 (*Quality Plans*);
"Quarter"	the first three Service Periods and each subsequent three Service Periods (save that the final Quarter shall end on the date of termination or expiry of this Contract);
"Re-captured Service User"	means any incident of a Service User being recaptured following any incident of a Service User absconding whilst under the Escort function for any period exceeding 15 minutes or less than 15 minutes if a further offence is committed;
"Recipient"	has the meaning given in Clause 19.1 (*Confidentiality*);
"Recall"	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
"Records"	has the meaning given in Schedule 24 (*Reports and Records Provisions*);
"Rectification Plan"	a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;
"Rectification Plan Failure"	(a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in Clauses 25.4 (*Submission of the draft Rectification Plan*) or 25.8 (*Agreement of the Rectification Plan*); (b) the Authority, acting reasonably, rejecting a revised draft of the Rectification Plan submitted by the Supplier pursuant to Clause 25.7 (*Agreement of the Rectification Plan*); (c) the Supplier failing to rectify a material Default within the later of: (i) 30 Working Days of a notification made pursuant to Clause 25.2 (*Notification*); and (ii) where the Parties have agreed a Rectification Plan in respect of that material Default and the Supplier can demonstrate that it is implementing

the Rectification Plan in good faith, the date specified in the Rectification Plan by which the Supplier must rectify the material Default;

(d) a Material KPI Failure re-occurring in respect of the same Key Performance Indicator for the same (or substantially the same) root cause in any of the 3 Measurement Periods subsequent to the Measurement Period in which the initial Material KPI Failure occurred;

(e) the Supplier not Achieving a Key Milestone by the expiry of the Delay Deduction Period; and/or

(f) following the successful Implementation of a Rectification Plan, the same Notifiable Default recurring within a period of 6 months for the same (or substantially the same) root cause as that of the original Notifiable Default;

"Rectification Plan Process"	the process set out in Clauses 25.4 (*Submission of the draft Rectification Plan*) to 25.9 (*Agreement of the Rectification Plan*);
"Registers"	has the meaning given in Schedule 25 (*Exit Management*);
"Reimbursable Expenses"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Release"	means to release a Service User into liberty from the Campus Site, and no longer Detained under the Immigration Act 1971 (as amended);
"Relevant Authority" or "Relevant Authorities"	means the Authority and the Cabinet Office Markets and Suppliers Team or, where the Supplier is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;
"Relevant IPRs"	IPRs used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Authority or a third party in the fulfilment of the Supplier's obligations under this Contract including IPRs in the Specially Written Software, the Supplier Non-COTS Software, the Supplier Non-COTS Background IPRs, the Third Party Non-COTS Software and the Third Party Non-COTS IPRs but excluding any IPRs in the Authority Software, the Authority Background IPRs, the Supplier COTS Software, the Supplier COTS Background IPRs, the Third Party COTS Software and/or the Third Party COTS IPRs;
"Relevant Language"	means in relation to any Service User a language that the Service User is substantially capable of understanding;

"Relevant Preceding Services"	has the meaning given in Clause 5.2.2(b) (*Standard of Services*);
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;
"Relief Notice"	has the meaning given in Clause 29.2 (*Authority Cause*);
"Remedial Adviser"	the person appointed pursuant to Clause 27.2 (*Remedial Adviser*);
"Remedial Adviser Failure"	has the meaning given in Clause 27.6 (*Remedial Adviser*);
"Removal from Association"	means accommodation in the form of a Removal from Association Place as defined in Rule 35, DC Rules;
"Removal Directions"	means a formal document provided by the Home Office to the Service User, informing them of their imminent removal from the UK;
"Re-occupation"	means access by Service User following closure of a defined area of the Site;
"Replacement Services"	any services which are the same as or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or Partial Termination of this Contract, whether those services are provided by the Authority internally and/or by any third party;
"Replacement Supplier"	any third-party service provider of Replacement Services appointed by the Authority from time to time (or where the Authority is providing replacement Services for its own account, the Authority);
"Request For Information"	a Request for Information under the FOIA or the EIRs;
"Required Action"	has the meaning given in Clause 28.1.1 (*Step-In Rights*);

"Required Staffing Levels"	means the minimum levels of staffing required as specified in Schedule 2.1 (*Services Description Operator Services*), Section 13 (Personnel and Staffing) and Annex B;
"Resus Council"	means the regulatory body which provides standards and guidelines on resuscitation;
"Residential Holding Room (RHR)"	means as set out in rule 2(2) of the Short-term Holding Facility (Amendment) Rules 2022 means a STHF where a detained person may be detained for a period of not more than 96 hours unless a longer period is authorised by the Secretary of State (in practice a Home Office official);
"RHR"	See Residential Holding Room (RHR);
"Risk Register"	the register of risks and contingencies that have been factored into any Costs due under this Contract;
"SAMS"	means Safeguarding and Modern Slavery;
"Safeguarding Lead"	means the Authority or Supplier key point of contact for safeguarding concerns / issues;
"Savings"	has the meaning given in Schedule 15.3 (*Service Improvements)*;
"Search Dogs"	means dogs used specifically for the purpose of seeking out contraband and other articles that could pose a threat to the Security of the Centre;
"SECAMB"	means South East Coast Ambulance Service;
"Security Management Plan"	the Supplier's security plan as attached as Annex 2 of Schedule 5 (*Security Management*) and as subsequently developed and revised pursuant to Paragraphs 3 and 4 of Schedule 5 (*Security Management*);
"Self-Audits"	means the Supplier's programme to monitor processes within the Site in relation to the contract;
"Serious KPI Failure"	shall be as set out against the relevant Key Performance Indicator in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);
"Service Charges"	the periodic payments made in accordance with Schedule 15.2 (*Charges and Invoicing)* in respect of the supply of the Operational Services;

"Service Continuity Plan"	any plan prepared pursuant to Paragraph 2 of Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*) as may be amended from time to time;
"Service Continuity Services"	the business continuity, disaster recovery and insolvency continuity services set out in Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);
"Service Credit Cap"	the limit to Service Credits as defined in Schedule 3 (Performance Levels);
"Service Credits"	credits payable by the Supplier due to the occurrence of 1 or more KPI Failures, calculated in accordance with Paragraph 3 of Part C of Schedule 15.2 (*Charges and Invoicing*);
"Service Improvements"	has the meaning given in Schedule 15.3 (*Service Improvements)*;
"Service Improvement Proposal"	has the meaning given in Schedule 15.3 (*Service Improvements)*;
"Service Operating Procedures"	means a set of step-by-step instructions compiled by the Supplier to help staff carry out routine operations;
"Service Period"	a calendar month, save that: (a) the first service period shall begin on the first Operational Service Commencement Date and shall expire at the end of the calendar month in which the first Operational Service Commencement Date falls; and (b) the final service period shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term;
"Services"	any and all of the services to be provided by the Supplier under this Contract, including those set out in Schedule 2.2 (*Services Description Healthcare Services);*
"Service Transfer Date"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Service User"	means a person who the Services are provided to as specified in this contract to the point of Discharge;
"Service User Management System (SUMS)"	means the IT system used by the Supplier's that contains information held on Service Users whilst at the Sites;

"Service User Occupancy"	means the total number of Service User s occupying the available Service User Place(s) in any twenty-four (24) period as measured from 00.01 hours to midnight, adjusted in order to get a figure for the Performance Month;
"Service User of Interest"	means someone who is undergoing enhanced monitoring as they are known, or believed to be, a risk to the security of the Centre;
"Service User Operating Model Capability"	means the number of Service Users that the Supplier should have the capacity to provide the required services for at any given time;
"Service User Place"	means a unit of accommodation for occupation by a single Service User in the RHR;
"Service User Records"	means the personal records of each Service User, prepared and maintained by the Supplier in accordance with: (a) the Detention Centre Rules 2001 (SI 2001/238); (b) the Detention Service Operating Standards Manual; and Detention Service Orders;
"Service User Transferable Document"	means the single continuous record of information about a Service User;
"Services Description"	the services description set out in Schedule 2.2 (*Services Description Healthcare Services*;
"Severe KPI Failure"	shall be as set out against the relevant Key Performance Indicator in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);
"Short-Term Upgrade"	has the meaning given in Schedule 2.4 (*Service User Operating Model Capability Bandings);*
"Short-Term Holding Facility (STHF)"	Shall be where a detained person may be detained for a period of not more than 24 hours, unless a longer period of detention is authorised by the Secretary of State (in practice a Home Office official).
"Site"	means, all that land together with the buildings and other structures which may exist thereon from time to time to this Contract and known as the Manston Campus and Disembarkation Points, from, to or at which the Services are (or are to be) provided;

"Site Management Room"	means the central operational joint control room;
"SME"	an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
"Social Value"	the additional social benefits that can be achieved in the delivery of the Contract, set out in the Authority's Requirements;
"Social Value KPI"	The Social Value key performance indicators set out in Table 1 of Part B of Annex 1 of Schedule 3 (*Performance Levels*);
"Software"	Specially Written Software, Supplier Software and Third-Party Software;
"Software Supporting Materials"	has the meaning given in Paragraph 2.1(b) of Schedule 32 (*Intellectual Property Rights*) (Specially Written Software and Project Specific IPRs);
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Contract.
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
"Staff" or "Supplier Staff"	means persons from time to time who work or perform duties or provide services (whether or not on a full-time basis and whether paid or volunteers) at or in relation to the Manston Reception Centre, Residential Holding Rooms and Disembarkation Points following the Full Operation Date who intend to continue such work or duties or services during the Full Operation Period, including without limitation the Centre Manager and any Detainee Custody Officer whether they are

	an employee, agent, consultant of or otherwise engaged by the Supplier, or an employee, agent, consultant of or otherwise engaged by any Sub-contractor, and a member of staff shall have the like meaning;
"Staffing Information"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Staffing Model"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Standards"	the standards, polices and/or procedures identified in Schedule 4.1 (*Standards*);
"Step-In Notice"	has the meaning given in Clause 28.1 (*Step-In Rights*);
"Step-In Trigger Event"	(a) any event falling within the definition of a Supplier Termination Event; (b) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services; (c) the Authority considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Contract; (d) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under Clause 28 (*Step-In Rights*) is necessary; (e) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or (f) a need by the Authority to take action to discharge a statutory duty;
"Step-Out Date"	has the meaning given in Clause 28.5.2 (*Step-In Rights*);
"Step-Out Notice"	has the meaning given in Clause 28.5 (*Step-In Rights*);
"Step-Out Plan"	has the meaning given in Clause 28.6 (*Step-In Rights*);
"Sterile Area"	means an area designated as out of bounds to Service Users except for Admission, Discharge or Release; typically, the area of the area of the Site where access into and out of is strictly controlled which is used for the purpose of delivery or collection of goods or Service Users;

"Strategic Supplier"	means those suppliers to government listed at https://www.gov.uk/government/publications/strategic-suppliers;
"Sub-contract"	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Supplier (or the Sub-contractor) all or any part of the Services or facilities or services which are material for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
"Sub-contractor"	any third party with whom: (a) the Supplier enters into a Sub-contract; or (b) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party;
"Sub-processor"	any third party appointed to process Personal Data on behalf of the Processor related to this Contract;
"Substantiated Complaint"	means any substantiated or partially substantiated complaint as defined in Table 2 of Part I: Key Performance Indicators of Schedule 3 (*Performance Levels*) which refers to the procedures for handling complaints in line with the DSO 'Handling Complaints';
"Subsidiary Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Successor Body"	has the meaning given in Clause 34.4 (*Assignment and Novation*);
"Supervision"	means the activity undertake by Staff to provide a robust system to ensure that all Service Users are secure, observed and that their health, well-being, and safety are met at all times. Supplier Staff shall pay particular attention to Service User needs such as, but not limited to: • signs of discomfort; • anxiety; • health concerns; • mental health; • mobility issues; and • any other vulnerabilities.

As a minimum, Staff must provide:

- positive engagement;
- assurance;
- empathy; and
- be a source of information.

As part of this, the Supplier shall establish and maintain a robust reporting system to promptly address and report any concerns to the Authority and/or Healthcare Provider, thereby ensuring the safety and well-being of the Service Users.

"Supplier Asset" means assets bought by the Supplier which have not been recorded in the Fixed Cost input sheet of the Financial Pricing Model or charged to the Authority as a result of a Change Authorised Note;

"Supplier Background IPRs"

(a) Intellectual Property Rights owned by the Supplier before the Effective Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or

(b) Intellectual Property Rights created by the Supplier independently of this Contract,

which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;

"Supplier COTS Background IPRs"

Any embodiments of Supplier Background IPRs that:

(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the Supplier save as to price; and

(b) has a Non-trivial Customer Base;

"Supplier COTS Software"

Supplier Software (including open-source software) that:

(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not

typically negotiated by the Supplier save as to price; and

(b) has a Non-trivial Customer Base;

"Supplier Equipment"	the hardware, computer and telecoms devices and equipment used by the Supplier or its Sub-contractors (but not hired, leased or loaned from the Authority) for the provision of the Services;
"Supplier Group"	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
"Supplier Non-COTS Background IPRs"	Any embodiments of Supplier Background IPRs that have been delivered by the Supplier to the Authority and that are not Supplier COTS Background IPRs;
"Supplier Non-COTS Software"	Supplier Software that is not Supplier COTS Software;
"Supplier Non-Performance"	has the meaning given in Clause 29.1 (*Authority Cause*);
"Supplier Personnel"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under this Contract;
"Supplier Profit"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Supplier Profit Margin"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Supplier Representative"	the representative appointed by the Supplier pursuant to Clause 11.3 (*Representatives*);
"Supplier Software"	software which is proprietary to the Supplier (or an Affiliate of the Supplier) and which is or will be used by the Supplier for the purposes of providing the Services, including the software specified as such in Schedule 12 (*Software*);
"Supplier Solution"	the Supplier's solution for the Services set out in Schedule 8 (*Supplier Solution*) including any Annexes of that Schedule;
"Supplier System"	the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration

and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);

"Supplier Termination Event"

(a) the Supplier's level of performance constituting a Critical Performance Failure in accordance with Clause 7.6;

(b) the Supplier committing a Material Default which is irremediable;

(c) as a result of the Supplier's Default, the Authority incurring Losses in any Contract Year which exceed 80% of the value of the aggregate annual liability cap for that Contract Year as set out in Clause 23.6 (*Financial and other Limits*);

(d) a Remedial Adviser Failure;

(e) a Rectification Plan Failure;

(f) where a right of termination is expressly reserved in this Contract, including pursuant to:

(i) Clause 17 (*IPRs Indemnity*);

(ii) Clause 33 (*Compliance*);

(iii) Clause 37.6.2 (*Prevention of Fraud and Bribery*); and/or

(iv) Paragraph 7 of Schedule 18 (*Financial Distress*);

(v) Paragraph 3 of Part B to Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);

(g) the representation and warranty given by the Supplier pursuant to Clauses 3.2.8 or 3.2.9 (*Warranties*) being materially untrue or misleading;

(h) the Supplier committing a material Default under Clause 10.10 (*Promoting Tax Compliance*) or failing to provide details of steps being taken and mitigating factors pursuant to Clause 10.10 (*Promoting Tax Compliance*) which in the reasonable opinion of the Authority are acceptable;

(i) the Supplier committing a material Default under any of the following Clauses:

(i) Clause 5.5 (*Services*);

(ii) Clause 21 (*Protection of Personal Data*);

(iii) Clause 20 (*Transparency and Freedom of Information*);

(iv) Clause 19 (*Confidentiality*); and

(v) Clause 33 (*Compliance*);

(vi) in respect of any security requirements or Cyber Essentials obligations set out in Schedule 2.2 (*Services Description Healthcare Services*), Schedule 5 (*Security Management*) or the Baseline Security Requirements;

(vii) in respect of any requirements set out in Schedule 32 (Intellectual Property Rights); and/or

(viii) in respect of any requirements set out in Schedule 28 (*Staff Transfer*);

(j) any failure by the Supplier to implement the changes set out in a Benchmark Report as referred to in Paragraph 5.9 of Schedule 17 (*Benchmarking*);

(k) an Insolvency Event occurring in respect of the Supplier or the Guarantor;

(l) the Guarantee ceasing to be valid or enforceable for any reason (without the Guarantee being replaced with a comparable guarantee to the satisfaction of the Authority with the Guarantor or with another guarantor which is acceptable to the Authority);

(m) a change of Control of the Supplier or a Guarantor unless:

(i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or

(ii) the Authority has not served its notice of objection within 6 months of the later of the date on which the Change of Control took place or the date on which the Authority was given notice of the change of Control;

(n) a change of Control of a Key Sub-contractor unless, within 6 months of being notified by the Authority that it objects to such change of Control, the Supplier terminates the relevant Key Sub-contract and replaces it with a comparable Key Sub-contract which is approved by the Authority pursuant to Clause 15.10 (*Appointment of Key Sub-contractors*);

(o) any failure by the Supplier to enter into or to comply with an Admission Agreement under Part D of Schedule 28 (Staff Transfer);

(p) the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract;

(q) a failure by the Supplier to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law; or

(r) in relation to Schedule 5 (*Security Management*):

(i) the Authority has issued two rejection notices in respect of the Security Management Plan under Paragraph 6.8(b) (Part B);

(ii) the Supplier fails to implement a change required by the Required Changes Register in accordance with the timescales set out in the Required Changes Register;

(iii) Supplier COTS Software and Third-Party COTS Software is not within mainstream support unless the Authority has agreed in writing.

(iv) the Supplier fails to patch vulnerabilities in accordance with the Security Requirements set out in the Annexes to Schedule 5 (Security Management); and/or,

(v) the Supplier fails to comply with the Incident Management Process.

(s) the Supplier is in Material Default of any Joint Controller Agreement relating to the Contract;

(t) a Default that occurs and continues to occur on one or more occasions within 6 Months following the Authority serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract; or

(u) the Supplier or its Affiliates embarrass or bring the Authority into disrepute or diminish the public trust in them;

"Supply Chain Transparency Report"	means the report provided by the Supplier to the Authority in the form set out in Annex 4 of Schedule 24 (*Reports and Records Provisions*);

"Supporting Documentation"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"Surge Band", "Surge Bandings" or "Band"	means the range of bands from Surge Band A to Surge Band G, as applicable;
"Surge Band A"	[redacted]
"Surge Band B"	[redacted]
"Surge Band C"	[redacted]
"Surge Band D"	[redacted]
"Surge Band E"	[redacted]
"Surge Band F"	[redacted]
"Surge Band G"	[redacted]
"Surge Staff"	means the flexible personnel dedicated to supporting the Core Staff in delivering the Services set out in Schedule 2.2 (*Services Description Healthcare Services)* for the additional Service Users beyond those accommodated by the Core Staffing Model;

"Surge Staffing Model"	has the meaning given in Schedule 15.2 (*Charges and Invoicing*);
"System (or IT System)"	means any IT systems or supporting IT systems use by the Supplier, or any other agent acting on behalf of the Supplier to deliver the Services and which must be maintained in accordance with Schedule 5 (*Security Management*);
"Target Performance Level"	means the minimum level of performance for a Performance Indicator which is required by the Authority, as set out against the relevant Performance Indicator in the tables in Annex 1 of Schedule 3 (*Performance Levels*);
"Temporary Authority to Proceed" OR "TATP"	means the authorisation provided by the Authority to the Supplier to commence the provision of the relevant Operational Services to the Authority and where the Supplier has complied with the requirements of Annex A of Schedule 13 (*Implementation Plan*) categorised as Implementation but not complied with the total requirements of Annex A;
"Temporary Confinement"	means when a Service User who is refractory or violent is temporarily confined, as defined by Rule 35, DC Rules;
"Term"	the period commencing on the Effective Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Contract;
"Termination Assistance Notice"	has the meaning given in Paragraph 5 of Schedule 25 (*Exit Management*);
"Termination Assistance Period"	in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Services as such period may be extended pursuant to Paragraph 5.2 of Schedule 25 (*Exit Management*);
"Termination Date"	the date set out in a Termination Notice on which this Contract (or a part of it as the case may be) is to terminate;
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract (or any part thereof) on a specified date and setting out the grounds for termination;
"Termination Payment"	the payment determined in accordance with Schedule 16 (*Payments on Termination*);

"Termination Services"	the services and activities to be performed by the Supplier pursuant to the Exit Plan, including those activities listed in Annex 1 of Schedule 25 (*Exit Management*), and any other services required pursuant to the Termination Assistance Notice;
"Test Issue"	has the meaning given in Schedule 14 (*Testing Procedures*);
"Tests" and "Testing"	any tests required to be carried out under this Contract, as further described in Schedule 14 (*Testing Procedures*) and "**Tested**" shall be construed accordingly;
"Test Success Criteria"	has the meaning given in Schedule 14 (*Testing Procedures*);
"Third Party Auditor"	an independent third-party auditor as appointed by the Authority from time to time to confirm the completeness and accuracy of information uploaded to the Virtual Library in accordance with the requirements outlined in Schedule 24 (*Reports and Records Provisions*);
"Third Party Beneficiary"	has the meaning given in Clause 41.1 (*Third Party Rights*);
"Third Party COTS IPRs"	Third Party IPRs that: (a) the supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the supplier save as to price; and (b) has a Non-trivial Customer Base;
"Third Party COTS Software"	Third Party Software (including open-source software) that: (a) the supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the supplier save as to price; and (b) has a Non-trivial Customer base;
"Third Party IPRs"	Intellectual Property Rights owned by a third party, but excluding Intellectual Property Rights owned by the third party subsisting in any Third-Party Software, which in any case is, will be or is proposed to be used by the Supplier for the purposes of providing the Services;
"Third Party Non-COTS IPRs"	Third Party IPRs that are not Third-Party COTS IPRs;

"Third Party Non-COTS Software"	Third Party Software that is not Third-Party COTS Software;
"Third Party Provisions"	has the meaning given in Clause 41.1 (*Third Party Rights*);
"Third Party Software"	software which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which in any case is, will be or is proposed to be used by the Supplier for the purposes of providing the Services, including the software specified as such in Schedule 12 (*Software*);
"Transferring Assets"	has the meaning given in Paragraph 7.2.1 of Schedule 25 (*Exit Management*);
"Transferring Authority Employees"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Transferring Former Supplier Employees"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Transferring Supplier Employees"	has the meaning given in Schedule 28 (*Staff Transfer*);
"Transparency Information"	has the meaning given in Clause 20.1 (*Transparency and Freedom of Information*);
"Transparency Reports"	has the meaning given in Schedule 24 (*Reports and Records Provisions*);
"Transition Milestone"	has the meaning given in Schedule 13 (*Implementation Plan*);
"Transition Outstanding List"	has the meaning given in Schedule 13 (*Implementation Plan*) paragraph 8;
"Transition Period"	has the meaning given in Schedule 13 (*Implementation Plan*);
"UK"	the United Kingdom;
"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
"UKHSA"	means UK Health Security Agency;
"UK Public Sector Business"	means any goods, service or works provision to UK public sector bodies, including Central Government Departments and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies,

	police, fire and rescue, education bodies and devolved administrations;
"Unacceptable KPI Failure"	the Supplier failing to achieve the KPI Service Threshold in respect of more than 50% of the Key Performance Indicators that are measured in that Service Period;
"Unconnected Sub-contract"	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017;
"Unconnected Sub-contractor"	any third party with whom the Supplier enters into an Unconnected Sub-contract;
"Unrecovered Payment"	has the meaning given in Schedule 16 (*Payments on Termination*);
"Updates"	in relation to any Software and/or any Deliverable means a version of such item which has been produced primarily to overcome Defects in, or to improve the operation of, that item;
"Update Requirement"	means the occurrence of an event detailed in Schedule 24 (*Reports and Records Provisions*) (Annex 3: *Records to Upload to Virtual Library*) which requires the Supplier to update the relevant information hosted on the Virtual Library;
"Upgrades"	any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third-party software supplier (or any Affiliate of the Supplier or any third party) releases during the Term;
"Use of Force"	means, when an employee of the Supplier uses force against a Service User following the legal standard as set out in Detention Centre Rule 41; either planned in advance or spontaneous;
"Use of Force Report"	means the recorded particulars of every case of use of force required in the manner to be directed by the Secretary of State for the Home Department, as defined in Detention Centre Rule 41;
"Valid"	in respect of an Assurance, has the meaning given to it in Paragraph 2.7 of Part B to Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);

"VAT"	value added tax as provided for in the Value Added Tax Act 1994;
"VCSE"	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Virtual Library"	means the data repository hosted by the Supplier containing the information about this Contract and the Services provided under it in accordance with Schedule 24 (*Reports and Records Provisions*); and
"Visitor(s)"	means those persons visiting the Manston Campus and any permanent Disembarkation Site (or any part thereof);
"Vulnerable Service User"	means a Service User who is at risk of suicide or self-harm, an Adult At Risk, a food or fluid refuser, subject to age dispute or otherwise require safeguarding;
"WJF"	means the Western Jet Foil Disembarkation Point site in Dover;
"Workforce Management System"	means the software tool utilised by the Supplier and fully accessible by the Authority to track and report on the deployment of Supplier staff at the Sites, as further detailed in Schedule 2.2, Section 8.2;
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.
"Year"	means a calendar year unless otherwise specified.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 2.2

Services Description Healthcare Services

Irregular Migration Management Services

[Schedule redacted in full]

[redacted]

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 3

Performance Levels

Irregular Migration Management Services

Schedule 3: Performance Levels

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Critical KPI Failure"	shall be as set out against the relevant Key Performance Indicators in Part A and Part B of Annex 1 to this Schedule;
"Critical Performance Failure Category Value"	means a Critical Performance Failure that gives rise to the Supplier obligation to pay a Service Credit to the value set out in the table in paragraph 2.4 of Part A of this Schedule;
"Improvement Notice"	a notice issued by the Authority which requires the Supplier to improve performance in relation to Low-Level Failures within 7 days;
"KPI Persistent Failure"	has the meaning given in Paragraph 3.5 of Part A of this Schedule;
"Low-Level Failure"	a performance failure that has a low-level adverse impact on the provision of the Services and is not listed within Part A and Part B of Annex 1 to this Schedule;
"Low-Level Repeat Failure"	has the meaning given in Paragraph 4.3 (e) of Part B of this Schedule;
"Low-Level Persistent Failure"	has the meaning given in Paragraph 4.3 (f) of Part B of this Schedule;
"Material KPI Failure"	means one or more of the following failures: (a) a Serious KPI Failure; (b) a Severe KPI Failure; and/or (c) a Critical KPI Failure. as set out against the relevant Key Performance Indicators in Part A and B of Annex 1 to this Schedule;
"Material KPI Persistent Failure"	has the meaning given in Paragraph 3.3 of Part A of this Schedule;
"Minor KPI Failure"	Shall be as set out against the relevant Key Performance Indicator in Part A and B of Annex 1 to this Schedule;

"Performance Failure"	means the Supplier accruing Service Credits or Compensation for Unacceptable KPI Failure which meet or exceed the Service Credit Cap;
"Serious KPI Failure"	shall be as set out against the relevant Key Performance Indicator in Part A and B of Annex 1 to this Schedule;
"Severe KPI Failure"	shall be as set out against the relevant Key Performance Indicator in Part A and B of Annex 1 to this Schedule.

2 Introduction

2.1 This Schedule sets out:

(a) the Key Performance Indicators and other criteria against which the Supplier's fulfilment of the Services Requirements and Social Value shall be measured;

(b) the process by which Key Performance Indicators are added, amended or removed;

(c) the Supplier's obligation to continually improve performance against the Key Performance Indicators;

(d) the Supplier's requirement to report on its performance against the Key Performance Indicators; and

(e) the mechanism for applying Service Credits on the occurrence of a KPI Failure.

3 Performance of the Services

3.1 The Supplier shall perform the Services:

(a) to meet or exceed the performance standards defined in Schedule 2.2 (Services Description Healthcare Services and the Key Performance Indicators (KPIs) defined within this Schedule;

(b) in accordance with Schedule 8 (Supplier Solution);

(c) in accordance with any other Schedule or Clause of this Contract; and

(d) shall ensure that any sub-contractors used by the Supplier do likewise.

3.2 The objective of this Schedule is to:

(a) ensure that the Supplier's performance meets the Authority's business and regulatory requirements;

(b) give prime responsibility to the Supplier for the end-to-end service;

(c) provide a mechanism designed to highlight any failures to perform;

(d) provide measurements and information for identifying causes of failure

and rectifying them;

(e) incentivise the resolution of root causes;

(f) prevent repeated failures to meet Key Performance Indicators; and

(g) address the continuous improvement and achievement of Key Performance Indicators.

Part A: Performance Indicators and Service Credits

1 Performance Indicators

1.1 Annex 1 sets out the Key Performance Indicators which the Parties have agreed shall be used to measure the performance of the Services and Social Value by the Supplier.

1.2 The Supplier shall monitor its performance against each Performance Indicator and shall send the Authority a report detailing the level of service actually achieved in accordance with Part B.

1.3 Service Credit shall accrue for any KPI Failure and shall be calculated in accordance with Paragraphs 2 and 3.

2 Service Credits

2.1 If the level of performance of the Supplier during a Service Period achieves the Performance Level in respect of a Key Performance Indicator, no Service Credit shall accrue to the Supplier in respect of that Key Performance Indicator.

2.2 If the level of performance of the Supplier during a Service Period is below the Performance Level in respect of a Key Performance Indicator, a Service Credit shall accrue to the Supplier in respect of that Key Performance Indicator as detailed within paragraphs 2.3 and 2.4 below, save that no Service Credits shall accrue within the first three months following the Operational Service Commencement Date, except for those that accrue in respect of Critical Performance Failure Category Value.

2.3 The cost value of a Service Credit arising from a Performance Failure Category listed in the table below, will be the relevant percentage (as listed in the Table 1 below), of the Anticipated Average Monthly Service Profit Margin (as set out in Table 5b of Annex 1 Schedule 15.2 (*Charges and Invoicing*)).

Table 1



2.4 The cost value of a Service Credit arising from the Critical Performance Failure Category Value listed in the table below will be the amount set out in the table 2 below:

Table 2



2.5 The Authority shall use the Performance Monitoring Reports provided pursuant to Part B among other things, to verify the calculation and accuracy of the Service Credit(s) (if any) applicable to each Service Period.

3 Persistent Key Performance Indicator Failures

3.1 Where persistent Key Performance Indicator failures occur, the Supplier will, in the first instance, actively seek to resolve those failures quickly and amicably, with a view to ensuring performance to the required performance levels. Where for reasons that the Supplier can properly demonstrate to the Authority's satisfaction, the failures cannot be resolved by the Supplier, the Parties shall actively seek to resolve the failures quickly and amicably, through changing behaviours and/or processes which shall be managed by the Contract Management Team in accordance with Schedule 21 (Governance).

3.2 NOT USED

Material KPI Persistent Failure

3.3 Where the same Material KPI Failure occurs over 3 (three) consecutive Service Periods or 3 (three) Service Periods in a 6 (six) month period and the Supplier has failed to fully resolve such failure, then the Authority shall deem this to be a "**Material KPI Persistent Failure**".

3.3.1 In the event of a Material KPI Persistent Failure:

(a) Clause 7.9 of the Contract shall apply;

(b) the Supplier shall comply with the Rectification Plan Process;

(c) the Supplier will be obliged to pay sums as detailed in Performance Failure Category Credit Value, under the Performance Failure Category Severe; and

(d) for the avoidance of doubt, any "Material KPI Persistent Failure" Service Credit values will be additional to the Service Credit value calculated in respect of the shortfalls in performance in respect of each Performance

Measure.

3.4 Except for Critical Performance Failure Category, any Material KPI Persistent Failure excludes the period from 0 to 3 months from the first Operational Service Commencement Date to occur after the Effective Date.

KPI Persistent Failure

3.5 Where the same Minor KPI Failure, occurs over 3 (three) consecutive Service Periods or 3 (three) Service Periods in a 6 (six) month period and the Supplier has failed to fully resolve such failure, then the Authority shall deem this to be a "**KPI Persistent Failure**".

3.5.1 In the event of a KPI Persistent Failure:

(a) the Supplier will be obliged to pay sums as detailed in Performance Failure Category Credit Value, listed as Severe in paragraph 2.3 table 1; and

(b) for the avoidance of doubt, Service Credit values for KPI Persistent Failures will be additional to the Service Credit value calculated in respect of the shortfall in performance in respect of each Performance Measure.

3.6 KPI Persistent Failure excludes the period from 0 to 3 months from the first Operational Service Commencement Date to occur after the Effective Date.

4 Key Performance Indicators Review

4.1 The Authority has the right to amend, remove, replace, or add KPIs in accordance with Clause 7.7 of the Contract and the following:

(a) subject to agreement with the Supplier, such agreement not to be unreasonably withheld or delayed, from time to time and at no cost, apply one of the following options, which will be implemented, as applicable, by means of a formal contract change made in accordance with the provisions of and procedure set out in Schedule 22 (Change Control Procedure):

(i) amend any existing KPIs as far as is reasonable; and/or

(ii) replace any existing KPIs with any new KPIs, on a reasonable like for like basis; and

(b) the Authority should as far as is reasonable, ensure that where a change is made to a KPI which may vary the current 'Performance Failure Category' the variation shall be no more than one Performance Failure Category higher or lower than the current Performance Failure Category.

4.2 The Key Performance Indicators will be reviewed by the Authority and the Supplier prior to the first anniversary of the Commencement Date and at annual intervals thereafter.

4.3 The review will aim to set challenging targets for the operation of the Sites, using Key Performance Indicators which reflect the Authority's commitment to high standards of

care operation in the Sites and the ability of the Authority to properly establish that the Services are being provided to a high standard.

5 Service Credit Cap

5.1 NOT USED

5.2 Subject to paragraph 2.2 above, in any rolling period of 12 months the Service Credit Cap shall be:

(a) in the period from 0 to the end of month 3 from the first Operational Service Commencement Date to occur after the Effective Date, the Service Credit Cap for Service Credits excluding KPI 1 shall be the value equal to 0% of the Anticipated Average Monthly Service Profit Margin for the month in which the relevant Service KPI Failure occurred, with the option for the Authority to review;

(b) in the period from 0 to the end of month 3 from the first Operational Service Commencement Date to occur after the Effective Date the Service Credit Cap for KPI 2 shall be the value equal to 100% of the Anticipated Average Monthly Service Profit Margin for the month in which the relevant Service KPI Failure occurred. In accordance with paragraph 5.3, KPI 1 shall not be subject to the Service Credit Cap and shall be payable in full;

(c) in the period from the beginning of month 4 to the remainder of the term of the Contract, starting from the first Operational Service Commencement Date to occur after the Effective Date, the Service Level Cap shall be the value equal to 100% of the Anticipated Average Monthly Service Profit Margin, which shall apply to all service failures for the month in which the relevant Service KPI Failure occurred. In accordance with paragraph 5.3, KPI 1 shall not be subject to the Service Credit Cap and shall be payable in full.

5.3 In the context of any Service Credit Cap then the provisions set out in Clause 7.3 of the Contract shall apply on performance failings, with the exception of the following:

(a) **NOT USED**

(b) KPI 1.

5.4 For the purpose of all other measures the Supplier will not be obliged to pay any sums in excess of 100% of the Anticipated Average Monthly Service Profit Margin as set out in Table 5b of Annex 1 of Schedule 15.2 (*Charges and Invoicing*) for any Service Period in which performance failings occur.

6 Dependency on Third Party

6.1 Where there is a failure by the Supplier to meet its obligations under the Contract, including the provision of timely Services and that failure is due to a specific dependency on a third party who is contracted by the Authority (i.e. not a sub-contractor of the Supplier), as far as is reasonable and subject to the following, the Authority may use its discretion, not to apply Service Credits:

6.1.1 each case will be assessed by the Authority according to its circumstances to determine fault,

6.1.2 prior to the making of any decision on this issue the Authority may request from the Supplier such information as it may reasonably need to determine fault; and

6.1.3 by making a decision under this paragraph the Authority is not waiving its right to exercise and enforce any (without limitation) rights, remedies, powers or privileges it may have, if the Supplier is found to be at fault, including the right to apply or not a Service Credit.

Part B: Performance Monitoring

1 Performance Monitoring and Performance Review

1.1 Within 10 Working Days of the end of each Service Period, the Supplier shall provide:

1.1.1 a report to the Authority Representative which summarises the performance by the Supplier against each of the Performance Indicators as more particularly described in Paragraph 1.2 (the "**Performance Monitoring Report**"); and

1.1.2 a report created by the Supplier to the Authority's senior responsible officer which summarises the Supplier's performance over the relevant Service Period as more particularly described in Paragraph 1.3 (the "**Balanced Scorecard Report**").

Performance Monitoring Report

1.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and contain, as a minimum, the following information:

Information in respect of the Service Period just ended

1.2.1 for each Key Performance Indicator, the actual performance achieved over the Service Period, and that achieved over the previous 3 Measurement Periods;

1.2.2 a summary of all Performance Failures that occurred during the Service Period;

1.2.3 the severity level of each KPI Failure which occurred during the Service Period;

1.2.4 which Performance Failures remain outstanding and progress in resolving them;

1.2.5 for any Material KPI Failures occurring during the Service Period, the cause of the relevant KPI Failure and the action being taken to reduce the likelihood of recurrence;

1.2.6 the status of any outstanding Rectification Plan processes, including:

(a) whether or not a Rectification Plan has been agreed; and

(b) where a Rectification Plan has been agreed, a summary of the Supplier's progress in implementing that Rectification Plan;

1.2.7 for any KPI Persistent Failures, actions taken to resolve the underlying cause and prevent recurrence;

1.2.8 the Service Credits to be applied, indicating the KPI Failure(s) to which the Service Credits relate;

1.2.9 the conduct and performance of any agreed periodic tests that have occurred, such as the annual failover test of the Service Continuity Plan;

1.2.10 relevant particulars of any aspects of the Supplier's performance which fail to

meet the requirements of this Contract;

1.2.11 such other details as the Authority may reasonably require from time to time; and

1.2.12 where the Supplier requests that a Service Credit be waived by the Authority, the Supplier shall submit detailed information no later than 48 hours ahead of any Performance Review Meeting, or where possible, detail/information should be declared as soon as is available, explaining the reasons why a Service Credit should not be applied. Such mitigations shall be considered by the Authority at its sole discretion. Where the Authority requests additional information to support the Supplier's request for a Service Credit waiver, that additional information shall be provided by the Supplier within 5 working days of the Performance Review Meeting. The Authority shall agree to a Service Credit waiver only where sufficient mitigating information has been provided by the Supplier in the time allocated and the Authority is satisfied that the circumstances leading to the Performance Failure were outside of the Supplier's control.

Information in respect of previous Service Periods

1.2.13 a rolling total of the number of Performance Failures that have occurred over the past six Service Periods;

1.2.14 the amount of Service Credits that have been incurred by the Supplier over the past six Service Periods; and

1.2.15 the conduct and performance of any agreed periodic tests that have occurred in such Service Period such as the annual failover test of the Service Continuity Plan.

Balanced Scorecard Report

1.3 The Balanced Scorecard Report shall be presented in the form of an online accessible dashboard and, as a minimum, shall contain a high-level summary of the Supplier's performance over the relevant Service Period, including details of the following:

1.3.1 financial indicators;

1.3.2 the Target Performance Levels achieved;

1.3.3 behavioural indicators;

1.3.4 performance against its obligation to pay its Sub-contractors within thirty (30) days of receipt of an undisputed invoice;

1.3.5 performance against its obligation to pay its Unconnected Sub-contractors within sixty (60) days of receipt of an invoice;

1.3.6 Milestone trend chart, showing performance of the overall programme;

1.3.7 sustainability indicators, for example net zero carbon, waste minimisation or performance to support a circular economy; and

1.3.8 Social Value (as applicable).

1.4 The Performance Monitoring Report and the Balanced Scorecard Report shall be reviewed and their contents agreed by the Parties at the next Performance Review Meeting held in accordance with Paragraph 1.5.

1.5 The Parties shall attend meetings on a monthly basis (unless otherwise agreed) to review the Performance Monitoring Reports and the Balanced Scorecard Reports. The Performance Review Meetings shall (unless otherwise agreed):

1.5.1 take place within 5 Working Days of the Performance Monitoring Report being issued by the Supplier;

1.5.2 take place at such location and time (within normal business hours) as the Authority shall reasonably require (unless otherwise agreed in advance); and

1.5.3 be attended by the Supplier Representative and the Authority Representative.

1.6 The Authority shall be entitled to raise any additional questions and/or request any further information from the Supplier regarding any KPI Failure.

2 Performance Records

2.1 The Supplier shall keep appropriate documents and records (including sub-contractors directly involved with this contract, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received etc) in relation to the Services being delivered. Without prejudice to the generality of the foregoing, the Supplier shall maintain accurate records of call histories for a minimum of 12 (twelve) months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Supplier and its sub-contractors directly involved with this contract 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.

2.2 In addition to the requirement in Paragraph 2.1 to maintain appropriate documents and records, the Supplier 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 Supplier both before and after each Operational Service Commencement Date and the calculations of the amount of Service Credits for any specified period.

2.3 The Supplier shall ensure that the Performance Monitoring Report, the Balanced Scorecard Report (as well as historic Performance Monitoring Reports and historic Balance Scorecard Reports) and any variations or amendments thereto, any reports and summaries produced in accordance with this Schedule and any other document or record reasonably required by the Authority are available to the Authority on-line and are capable of being printed.

3 Performance Verification

3.1 If the Authority does not agree with content contained within the Performance Monitoring Report referred to in paragraph 1.2 above, it shall notify the Supplier in writing stating the reason(s). Within 7 working days of receipt of such notification, the Supplier shall submit a written response to the Authority to each point raised and shall provide supporting evidence in mitigation for each disputed point.

3.2 Reference to contract clauses or paragraphs within a contract schedule are for guidance only. Any Key Performance Indicator not referenced to a Clause or paragraph within a contract schedule should be considered to apply to all Services.

4 'Low-Level' Failures

4.1 The Authority reserves the right to decide what is considered as a Low-Level Failure.

4.2 The Authority shall exercise and enforce all or any rights and/or remedies it considers appropriate, where there is a repeated failure to meet Low-Level requirements. The Authority will inform the Supplier of the improvements needed to rectify the repeated failure. If these improvements are not made, the Authority has the right to invoke the Low-Level Failure Measure as detailed in paragraph 4.3.

Low-Level Failure Measure

4.3 Where the Authority identifies a Low-Level Failure:

(a) the Authority will inform the Supplier at the Weekly Performance Review Meeting, of the Low-Level Failure;

(b) the Supplier shall within 7 (seven) working days of the notification either rectify the Low-Level Failure, or provide justification to the Authority at the following Weekly Performance Review Meeting as to why rectification has not occurred;

(c) if the same Low-Level Failure occurs over 3 (three) consecutive weeks and the Supplier has failed to rectify the Low-Level Failure, then:

(i) the Authority will issue an Improvement Notice;

(ii) the Supplier will provide a Resolution Service Plan within 7 (seven) working days of the end of the third week; and

(d) the Supplier shall ensure that any actions that follow the Weekly Performance Review Meeting are undertaken within timescales agreed with the Authority;

(e) in the event of 3 (three) Improvement Notices being issued for the same Low-Level Failure in a 6 (six) month period, the Authority shall deem this to be a "**Low-Level Repeat Failure**";

(f) In the event of 5 (five) Improvement Notices being issued in a 12 (twelve) month period, for the same Low-Level Failure then the Authority shall deem this to be a "**Low-Level Persistent Failure**".

Low-Level Repeat Failure

4.4 In the event of a Low-Level Repeat Failure:

(a) the Supplier will be obliged to apply a Service Credit as detailed in Performance Failure Category Credit Value, under the Performance Failure Category **Minor** as set out in paragraph 4.6.

Low-Level Persistent Failure

4.5 In the event of a Low-Level Persistent Failure:

(b) the Supplier will be obliged to apply a Service Credit as detailed in the Performance Category Credit value under the Performance Failure Category Serious as set out in paragraph 4.6.

(c) the payment set out in 4.6 will be in addition to the payment to the Service Credit as set out in 4.4 in respect of the performance shortfall for Low-Level Repeat Failure.

4.6 The cost value of a Service Credit arising from a Performance Failure Category listed will be the relevant percentage as set out in the table in paragraph 2.3 of Part A: Performance Indicators of this Schedule, and of the Anticipated Average Monthly Service Profit Margin (as set out in Table 5b of Annex 1 Schedule 15.2 (*Charges and Invoicing*)).

5 Administrative Costs

5.1 The Authority shall retain the right to claim reimbursement of any additional administrative costs it incurs, up to a maximum of [redacted] in respect of each Key Performance Indicator in a Service Period where:

(a) there is a Persistent Failure; and/or

(b) there is a Total Service Failure; and/or

(c) a failure results in a genuine financial loss to the Authority.

Annex 1: Key Performance Indicators

Part A: NOT USED

Part B: Key Performance Indicators

The Key Performance Indicators that shall apply to the Healthcare Services are set out in the tables below.

In accordance with paragraphs 2.1 of the general provisions part of this Schedule 3 the Supplier is required to:

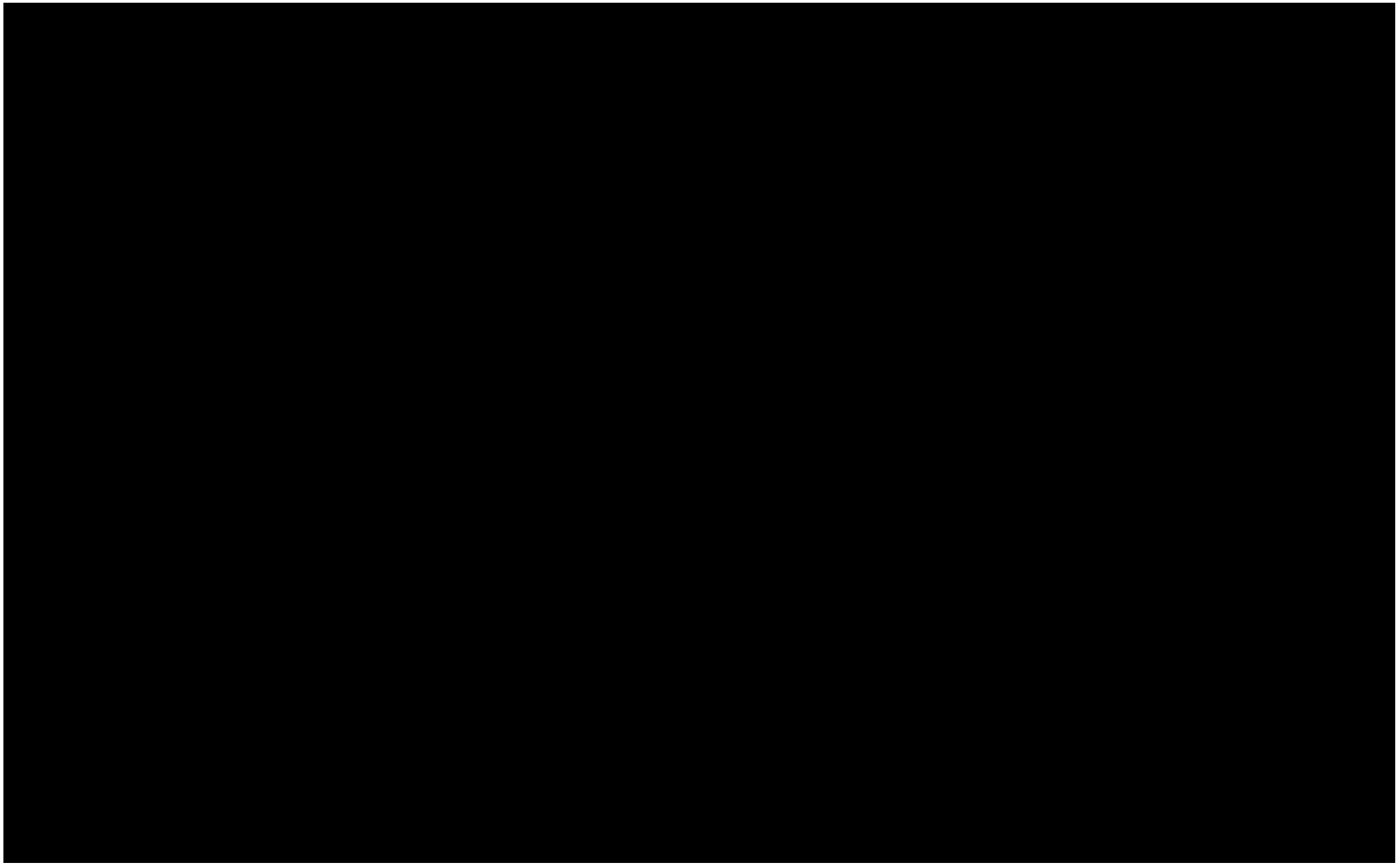
(a) meet the performance standards, and requirements of Schedule 2.2 (Services Description Healthcare Services) and Schedule 8 (Supplier Solution), and any other schedule or Clause of the Contract. Any reference in the Schedule/Clause column of the tables below, shall be construed to also include any relevant part of Schedule 8 (Supplier Solution) for that Key Performance Indicator. For the avoidance of doubt Key Performance Indicators shall apply to Schedule 8 (Supplier Solution), and Service Credits applied where the Supplier fails to deliver obligations within that schedule; and

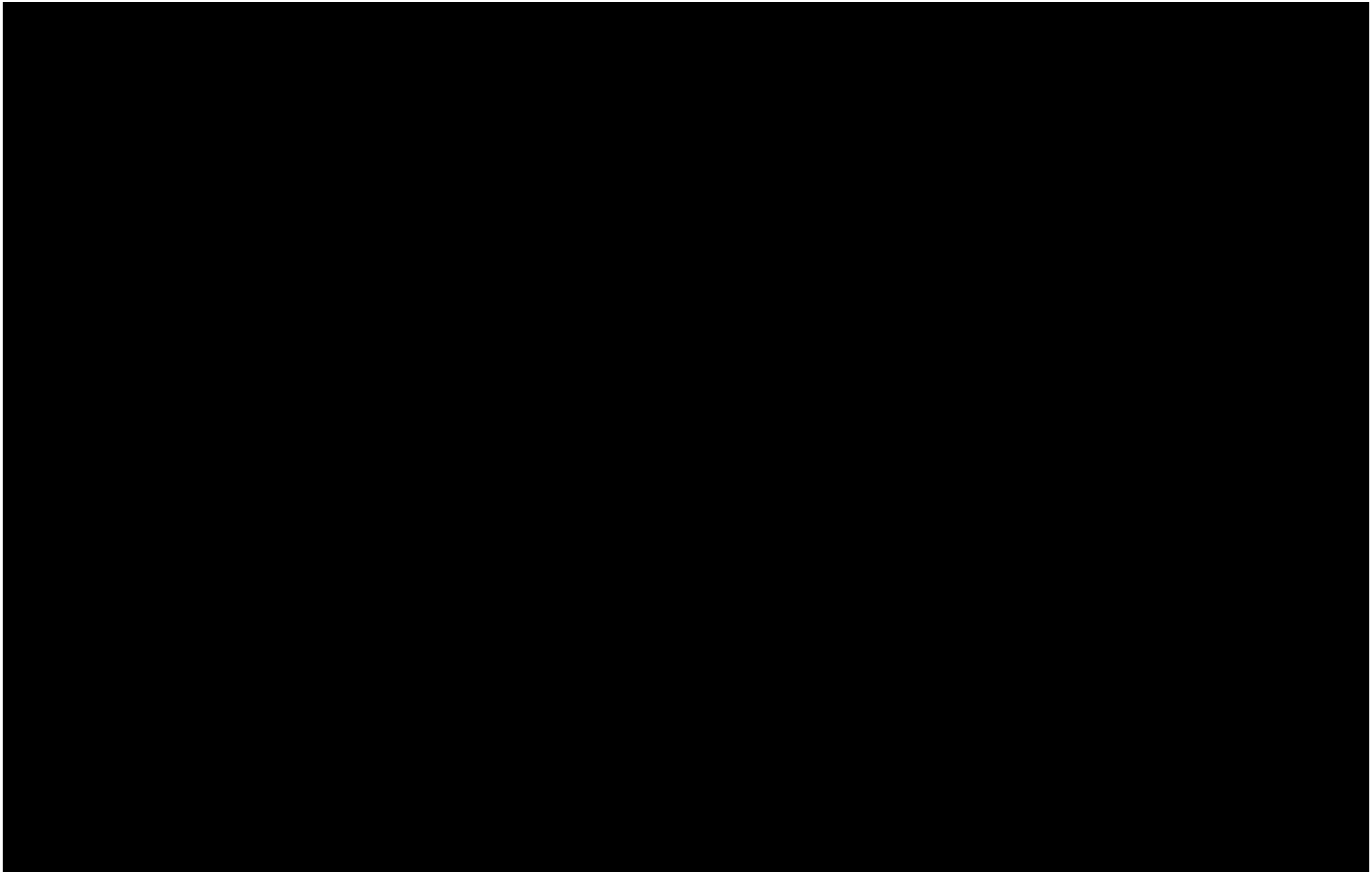
(b) ensure any sub-contractors used by the Supplier meets the performance standards, and requirements of Schedule 2 (Services Description Healthcare Services) and Schedule 8 (Supplier Solution), and any other schedule or Clause of the Contract. For the avoidance of doubt Key Performance Indicators shall apply to services delivered by sub-contractors used by the Supplier, and Service Credits applied against the Supplier where a sub-contractor fails to deliver the required standard of service.

The Authority reserves the right to publish any of the KPIs (including performance against those KPIs) included in the tables below. Publication of KPIs will be at the discretion of the Authority. For the avoidance of doubt any KPI selected by the Authority for publication shall be deemed Publishable Performance Information and shall form part of the Transparency Information under this Contract.

Key Performance Indicators









Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 4.1

Standards

Irregular Migration Management Services

Schedule 4: Standards

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Standards Hub"	the Government's open and transparent standards adoption process as documented at http://standards.data.gov.uk/; and
"Suggested Challenge"	a submission to suggest the adoption of new or emergent standards in the format specified on Standards Hub.

2 General

2.1 Throughout the term of this Contract, the Parties shall monitor and notify each other of any new or emergent standards which could affect the Supplier's provision, or the Authority's receipt, of the Services. Any changes to the Standards, including the adoption of any such new or emergent standard, shall be agreed in accordance with the Change Control Procedure.

2.2 Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Supplier's provision, or the Authority's receipt, of the Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new or emergent standard.

2.3 Where Standards referenced conflict with each other or with Good Industry Practice, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard(s) shall require the prior written agreement of the Authority and shall be implemented within an agreed timescale.

3 Technology and Digital Services Practice

3.1 The Supplier shall (when designing, implementing and delivering the Services) adopt the applicable elements of HM Government's Technology Code of Practice as documented at https://www.gov.uk/service-manual/technology/code-of-practice.html.

4 Open Data Standards & Standards Hub

4.1 The Supplier shall comply to the extent within its control with UK Government's Open Standards Principles as documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles, as they relate to the specification of standards for software interoperability, data and document formats in the IT Environment.

4.2 Without prejudice to the generality of Paragraph 2.2, the Supplier shall, when implementing or updating a technical component or part of the Software or Supplier Solution where there is a requirement under this Contract or opportunity to use a new or emergent standard, submit a Suggested Challenge compliant with the UK Government's Open Standards Principles (using the process detailed on Standards Hub and documented at http://standards.data.gov.uk/). Each Suggested Challenge submitted by the Supplier shall detail, subject to the security and confidentiality provisions in this

Contract, an illustration of such requirement or opportunity within the IT Environment, Supplier Solution and Government's IT infrastructure and the suggested open standard.

4.3 The Supplier shall ensure that all documentation published on behalf of the Authority pursuant to this Contract is provided in a non-proprietary format (such as PDF or Open Document Format (ISO 26300 or equivalent)) as well as any native file format documentation in accordance with the obligation under Paragraph 4.1 to comply with the UK Government's Open Standards Principles, unless the Authority otherwise agrees in writing.

5 Technology Architecture Standards

5.1 The Supplier shall produce full and detailed technical architecture documentation for the Supplier Solution in accordance with Good Industry Practice. If documentation exists that complies with the Open Group Architecture Framework 9.2 or its equivalent, then this shall be deemed acceptable.

6 Accessible Digital Standards

6.1 The Supplier shall comply with (or with equivalents to):

6.1.1 the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.1 Conformance Level AA; and

6.1.2 ISO/IEC 13066-1: 2011 Information Technology – Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability.

7 Service Management Software & Standards

7.1 Subject to Paragraphs 2 to 4 (inclusive), the Supplier shall reference relevant industry and HM Government standards and best practice guidelines in the management of the Services, including the following and/or their equivalents:

7.1.1 ITIL v4;

7.1.2 ISO/IEC 20000-1 2018 "Information technology — Service management – Part 1";

7.1.3 ISO/IEC 20000-2 2019 "Information technology — Service management – Part 2";

7.1.4 ISO 10007: 2017 "Quality management systems – Guidelines for configuration management"; and

7.1.5 ISO 22313:2020 "Security and resilience. Business continuity management systems. Guidance on the use of ISO 22301" and, ISO/IEC 27031:2011 and ISO 22301:2019.

7.2 For the purposes of management of the Services and delivery performance the Supplier shall make use of Software that complies with Good Industry Practice including availability, change, incident, knowledge, problem, release & deployment, request fulfilment, service asset and configuration, service catalogue, service level and service portfolio management. If such Software has been assessed under the ITIL Software

Scheme as being compliant to “Bronze Level,” then this shall be deemed acceptable.

8 Sustainability

8.1 The Supplier shall comply with the sustainability requirements set out in the Annex to this Schedule.

9 Hardware Safety Standards

9.1 The Supplier shall comply with those BS or other standards relevant to the provision of the Services, including the following or their equivalents:

9.1.1 any new hardware required for the delivery of the Services (including printers), shall conform to BS EN IEC 62368-1:2020+A11:2020 or subsequent replacements. In considering where to site any such hardware, the Supplier shall consider the future working user environment and shall position the hardware sympathetically, wherever possible;

9.1.2 any new audio, video and similar electronic apparatus required for the delivery of the Services, shall conform to the following standard: BS EN IEC 62368-1:2020+A11:2020 or any subsequent replacements;

9.1.3 any new laser printers or scanners using lasers, required for the delivery of the Services, shall conform to either of the following safety Standards: BS EN 60825-1:2014 or any subsequent replacements; and

9.1.4 any new apparatus for connection to any telecommunication network, and required for the delivery of the Services, shall conform to the following safety Standard: BS EN 62949:2017 or any subsequent replacements.

9.2 Where required to do so as part of the Services, the Supplier shall perform electrical safety checks in relation to all equipment supplied under this Contract in accordance with the relevant health and safety regulations.

Annex 1: Sustainability

1 Definitions

1.1 In this Annex, the following definitions shall apply:

"Permitted Item"	means those items which are permissible under this Contract to the extent set out in Table B of this Annex
"Prohibited Items"	means those items which are not permissible under this Contract as set out at Table A of this Annex
"Sustainability Reports"	written reports to be completed by the Supplier containing the information outlined in Table C of this Annex
"Waste Hierarchy"	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: (a) Prevention; (a) Preparing for re-use; (b) Recycling; (c) Other Recovery; and (d) Disposal.

1 Public Sector Equality Duty

1.1 In addition to legal obligations, where the Supplier is providing a Service to which the Public Sector Equality duty applies, the Supplier shall support the Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2 advance:

(a) equality of opportunity; and

(b) good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

1.2 In delivering the Service, the Supplier will comply with the Authority's equality, diversity and inclusion requirements, to be provided to the Supplier by the Authority.

1.3 The Supplier shall ensure that it fulfils its obligations under the Contract in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.

2 Environmental Requirements

2.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws Contract regarding the environment.

2.2 The Supplier warrants that it has obtained relevant Environment Management System (EMS) certified to ISO 14001 or an equivalent certification from a UKAS accredited body and shall comply with and maintain certification requirements throughout the Term.

2.3 In performing its obligations under the Contract the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Authority:

2.3.1 demonstrate low carbon resource efficiency, including minimising the use of resources and responding promptly to the Authority's reasonable questions;

2.3.2 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;

2.3.3 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the law;

2.3.4 ensure that it and any third parties used to undertake recycling disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal;

2.3.5 in circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency; minimise the release of greenhouse gases (including carbon dioxide emissions), air pollutants, volatile organic compounds and other substances damaging to health and the environment; and

2.3.6 reduce and minimise carbon emissions by taking into account factors including, but not limited to, the locations from which materials are sourced, the transport of materials, the locations from which the work force are recruited and emissions from offices and on-site equipment.

2.4 In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Authority (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

2.5 The Supplier shall not provide to the Authority Goods or Deliverables which comprise wholly or partly of Prohibited Items unless such item is a Permitted Item.

2.6 The Supplier shall not use anything which comprises wholly or partly of the Prohibited Items to provide the Services under this Contract unless:

2.6.1 it is a Permitted Item; or

2.6.2 the use is primarily related to the management of the Supplier's own facilities or internal operations as opposed to the provision of Services.

2.7 The Supplier must have a documented management system and controls in place to manage the environmental impacts of delivering the Services.

2.8 The Supplier shall ensure that any Services are designed, sourced and delivered in a manner which is environmentally and socially responsible.

2.9 In delivering the Services, the Supplier must comply with the Authority's Green Strategy, to be provided to the Supplier by the Authority.

2.10 In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Authority:

2.10.1 demonstrate that the whole life cycle impacts (including end of use) associated with the Services that extend beyond direct operations into that of the supply chain have been considered and reduced;

2.10.2 minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using re-use and closed loop systems;

2.10.3 demonstrate protection of the environment including understanding and reduction of biosecurity risks (which include risks to plant and tree health from harmful pests and diseases), and reducing and eliminating hazardous/harmful substances to the environment and preventing pollution;

2.10.4 enhance the natural environment and connecting communities with the environment; and

2.10.5 achieve continuous improvement in environmental (and social) performance.

2.11 The Supplier shall inform the Authority within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked.

2.12 The Supplier shall meet the applicable Government Buying Standards applicable to Services which can be found online at:

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

3 Supplier Code of Conduct

3.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf

The Authority expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

4 Reporting Requirements

4.1 The Supplier shall comply with reasonable requests by the Authority for information evidencing compliance:

4.1.1 with Paragraphs 1.1, 2.1 to 2.6 and 3 of this Annex within fourteen (14) days of such request; and

4.1.2 With Paragraphs 1.2, 1.3 and 2.7 to 2.12 of this Annex within thirty (30) days of such request,

provided that such requests are limited to two per Contract Year.

4.2 The Supplier shall complete the Sustainability Report in relation to its provision of the Services under this Contract and provide the Sustainability Report to the Authority on the date and frequency outlined in Table C of this Annex.

Table A – Prohibited Items

The following consumer single use plastics are Prohibited Items:	**Catering** (a) Single use sachets e.g. coffee pods, sauce sachets, milk sachets (b) Take away cutlery (c) Take away boxes and plates (d) Cups made wholly or partially of plastic (e) Straws (f) Stirrers (g) Water bottles
	Facilities (a) Single use containers e.g. hand soap, cleaning products (b) Wipes containing plastic
	Office Supplies (a) Plastic envelopes (b) Plastic wrapping for brochures (c) Paper or card which is bleached with chlorine
	Packaging (a) Single use plastic packaging from deliveries where avoidable e.g. shrink wrapped packaging from office supplier or facilities products. (b) Single use carrier bags
Authority Specific Prohibitions	N/A
Project Specific Prohibitions	**Logistic Hub** Clothing manufactured primarily from non-sustainable or virgin artificial fibres

Table B – Permitted Items

Authority Permitted Items	N/A
Project Specific Permitted Items	N/A

Table C – Sustainability Reports

Sustainability Report Name	Content of Report	Frequency of Report
Sustainability - General	As proportionate and relevant to the Contract, the key sustainability impacts identified; the sustainability improvements planned or delivered; and the risks to the Services of climate change, including mitigation, adaptation and continuity plans employed by the Supplier in response to those risks.	Details to be included in the quarterly Social Value Report described in paragraph 9 of Schedule 4.2 (Social Value)
Waste Created	By type of material the weight of waste categories by each means of disposal in the Waste Hierarchy with separate figures for disposal by incineration and landfill.	Details to be included in the quarterly Social Value Report described in paragraph 9 of Schedule 4.2 (Social Value)
Waste Permits	Copies of relevant permits and exemptions for waste, handling, storage and disposal.	Before the Effective Date, on the anniversary of the Effective Date and within ten (10) Working Days of there is any change or renewal to license or exemption to carry, store or dispose waste
Greenhouse Gas Emissions	Detail the Scope 1 and Scope 2 GHG emissions associated with the delivery of the contract. Scope 3 emissions to be reported as required.	Details to be included in the quarterly Social Value Report described in paragraph 9 of

Sustainability Report Name	Content of Report	Frequency of Report
	Emissions reporting should be in accordance with established best practice and internationally accepted standards. Greenhouse gas reporting from emissions sources (Scope 1, Scope 2 and Scope 3), and specific activities as requested by the Authority. This may include activities such as transportation, energy use and waste disposal.	Schedule 4.2 (Social Value)
Water Use	Volume in metres cubed.	Details to be included in the quarterly Social Value Report described in paragraph 9 of Schedule 4.2 (Social Value)

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 4.2

Social Value

Irregular Migration Management Services

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

"Authority's Sustainability Requirements"	means the 'Authority's Sustainable Development Policy Requirements and Standards' set out in this Schedule and Annexes 1 to 3 to this Schedule 4.2 (Social value);
"Contract Revenue "	means the monetary value (Excluding VAT) received through a contract between the Supplier and a Central Government Department or its Arms Length Bodies (ALBs);
"Plan for Growth"	means the Plan for Growth policy paper published by HM Treasury on 20 March 2013 that can be accessed at: https://www.gov.uk/government/publications/plan-for-growth--5;
"Policy Outcome"	means the policy areas identified in the Social Value Model, Social Value Model Policy Outcomes;
"Social Value"	means the additional social benefits that can be achieved in the delivery of the Contract set out in the Authority's Requirements;
"Social Value Model"	means the policies set out in the Social Value Model (GOV.UK)
"Tier 2"	means the tier in the supply chain between the Supplier delivering this contract to the Authority, and the further tiers of its supply chain. These require more than a light touch management regime; and
"Wider Sustainability Aims"	means the wider sustainability aims that the Supplier is encouraged to support where possible as set out in Annex 1 to Schedule 4.2 (Social Value).

1 INTRODUCTION

1.1 This Schedule sets out the Social Value standards and principles that will apply to the Contract.

1.2 In this Schedule, unless the contrary intention appears, each capitalised term shall have the meaning set out in Schedule 1 (*Definitions*) or paragraph 1 of this Schedule 4.2 (*Social Value*).

1.3 The Public Services (Social Value) Act 2012 ("the Social Value Act") requires the Authority to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes. Where services are contracted out the Authority will place similar obligations on its Suppliers.

1.4 The Authority is required to explicitly evaluate and embed Social Value throughout the commissioning lifecycle by adhering to the Social Value Model (GOV.UK). The Authority must also ensure that value for money is delivered for the taxpayer whilst contributing to the Government's Plan for Growth.

2 SUPPLIER OBLIGATIONS FOR DELIVERING SOCIAL VALUE

2.1 The Supplier shall deliver the Services to the Authority in accordance with the Social Value Act and in accordance with its Social Value commitments set out within Schedule 8 (*Supplier Solution).* The Supplier shall take account of, and comply with, the Authority's Social Value requirements and the Authority's aims, objectives and targets in relation to the Authority's Social Value Strategy set out in this Schedule and within Annexes 1, 2 and 3 including the framework for the Greening Government Commitments 2016 to 2020 policy and any successor arrangements.

2.2 The Supplier shall take account of and comply with any future social value legislation, policies, strategies and codes of practice put in place by the Authority and any relevant Government body (in particular Cabinet Office, Department for Environment, Food and Rural Affairs, Government Property Unit and the Environment Agency).

2.3 The Supplier shall advise the Authority on new technologies and approaches which may be beneficial to the Authority in the delivery of Social Value.

2.4 Changes to the Supplier's Solution and the Service Requirements which are necessary to meet changes occurring after the Effective Date to the Authority's Sustainability Requirements and Social Value Aims, Strategy and Model shall be agreed in accordance with Schedule 22 (*Change Control Procedure*).

3 PRINCIPLES OF ENVIRONMENTAL SOCIAL VALUE TO FIGHT CLIMATE CHANGE

3.1 In delivering the Services the Supplier shall comply with Schedule 4.1 *(Standards)* to support the Authority to deliver the Social Value Model Policy Outcome of "**Effective Stewardship of the Environment**"

3.2 To support this Policy Outcome (referred to in paragraph 3.1 above) the Supplier shall deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions including monitoring and reducing Scope 1, 2 and 3 emissions. The Supplier shall introduce initiatives that contribute to the circular economy including but not limited to reducing waste and eliminating single use plastic.

4 PRINCIPLES OF ECONOMIC SOCIAL VALUE TO TACKLE ECONOMIC INEQUALITY

4.1 In support of the Theme of "**Tackling Economic Inequality**" and the Policy Outcome of **"Increase supply chain resilience and capacity"** the Authority aims to create new businesses, new jobs and new skills and increase supply chain resilience and capacity. To support this Policy Outcome the Supplier shall:

4.1.1 ensure their supply chain is accessible for all including, where appropriate, SMEs and VCSEs and those owned or led by protected characteristics (as described in the Equality Act (legislation.gov.uk));

4.1.2 where applicable to the contract increase the number of sub-contract opportunities for start-ups, SMEs, VCSEs and mutuals;

4.1.3 where applicable, have initiatives in place to improve the gender pay balance;

4.1.4 embedded prompt payment reporting and practices by complying with all applicable legislation, regulations and other government requirements including the Prompt Payment Code (GOV.UK);

4.1.5 where appropriate to the delivery of these Services, have initiatives in place to improve skills development by increasing the quantity and quality of apprenticeship and full-time equivalent opportunities; and

4.1.6 advertise all sub-contracting opportunities above £25k, that are delivering against this contract, on Contracts Finder (GOV.UK) in accordance with clause 15.1 of this Contract.

5 PRINCIPLES TO SUPPORT EQUAL OPPORTUNITY

5.1 In support of the following Policy Outcomes: "Reduce the Disability Employment Gap" and "Tackle Workforce Inequality" and to deliver the Authority's aim to improve employability and skills through the delivery of its contracts. the Supplier shall:

5.1.1 ensure equality and accessibility, without discrimination, to employment and other opportunities and promote them to be fully accessible;

5.1.2 where appropriate to the delivery of these Services, have initiatives in place which aim to increase full-time employment for people with disabilities, Black, Asian and Minority Ethnic (BAME) and Lesbian, Gay, Bisexual & Transgender (LGBTQi+) people;

5.1.3 where appropriate to the delivery of these Services, increase the percentage of disabled, Black, Asian and Minority Ethnic (BAME) and Lesbian, Gay, Bisexual & Transgender (LGBTQi+) people on apprenticeship schemes and other training opportunities;

5.1.4 Practice inclusive and accessible recruitment practices with retention focused activities (including recruitment of staff from the local area);

5.1.5 Offer a range of quality opportunities with routes of progression if appropriate, including but not limited to T Level industry placements, and supporting students into higher level apprenticeships; and

5.1.6 Ensure transparency to promotion, pay and reward processes and regularly conduct equal pay audits.

6 PRINCIPLES TO SUPPORT WELLBEING

6.1 In support of the following Policy Outcomes: "**Improve Health and Wellbeing**" and "**Improve Community Integration**" and to deliver the Authority's aim to improve staff mental health and wellbeing through the delivery of its contracts. the Supplier shall:

6.1.1 have initiatives in place which aim to support local community integration including volunteering opportunities and other community led schemes;

6.1.2 Commit to the Good Work Plan - GOV.UK, 6 Standards of Mental Health and Thriving at Work including the supply chain where applicable;

6.1.3 have initiatives to build trust, gain credibility and build relationships to increase community integration, trust and influence on how the contract is performed; and

6.1.4 engagement plans to engage the contract workforce in deciding the most important issues to address.

7 Not Used

8 SUPPLIER'S SOCIAL VALUE POLICY AND SOCIAL VALUE PLAN

8.1 The Supplier shall provide to the Authority a copy of its Social Value policy or equivalent and shall develop, maintain and implement a Social Value Plan in line with the Authority's Social Value model at Annex 3, the Authority's Wider Social Value Policy Aims in Annex 1, the requirements set out in Schedule 4.1 (*Standards*) and the requirements of this Schedule. The Supplier shall ensure that any Key Sub-contractors comply with the Social Value Plan.

8.2 The Supplier shall submit its Social Value plan for the Authority's approval within 90 calendar Days of the Effective Date. The Social Value Plan shall ensure that all objectives, targets and aims contained therein are ambitious but achievable.

8.3 The Supplier shall ensure that the Social Value Plan complies with the Government Buying Standards (GOV.UK) and with the requirements set out in paragraph 2.12of Schedule 4.1 (*Standards*).

8.4 The Supplier's Social Value Plan shall include the Supplier's approach to delivering the Services which shall incorporate Social Value and the government's Plan for Growth as set out in paragraph 1.4 and shall set out how it will meet, monitor and measure its Social Value targets set out in Annex 1.

8.5 The Social Value Plan should also include the following principles:

a value for money;

b environmental and social benefits;

c more efficient use of resources;

d greater social inclusion;

e support for innovation;

f better risk management; and

g improved supplier relationships.

8.6 In addition to the provision of the Social Value Plan, the Supplier shall set out within its Social Value Plan

a whether the Supplier intends to contract with any Start-ups, Small to Medium-sized Enterprises (SMEs) and/or Voluntary, Community and Social Enterprises (VSCEs) to provide any supplies or services required to deliver the Services;

b the Supplier's projected level of spend in detail relating to the delivery of the Services with Start-ups, SMEs and/or VCSEs;

c any plans the Supplier may have to increase the level of spend relating to the delivery of the Services with Start-ups, SMEs and/or VCSEs;

d confirmation that the Supplier has systems in place to include (as a minimum) 30-day payment terms in all of its supply chain contracts and require that such terms are passed down through its supply chain in accordance with Clause 15.15(a) of the Contract; and

e confirmation that the Supplier has procedures for resolving disputed invoices with those in its supply chain promptly and effectively.

8.7 Carbon Reduction Plan (CRP)

8.7.1 In accordance with paragraph 2.1 of Annex 1: Sustainability of Schedule 4.1 *(Standards),* the Supplier shall provide the Authority with a Carbon Reduction Plan which shall confirm the Supplier's commitment to achieving Net Zero in the UK by 2050.

8.7.2 The Carbon Reduction Plan shall be completed in accordance with the UK Government's Carbon Reduction Plan Guidance (Gov.uk).

8.7.3 The Supplier shall provide the Authority with quarterly updates regarding its progress against the Carbon Reduction Plan as part of the Social Value Report. These updates must include an update of progress against carbon reduction targets using the table within PPN 0621 (Gov.uk).

9 MANAGEMENT INFORMATION

9.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, provide a quarterly report (the **"Social Value Report"**). The Social Value Report shall include;

a a record of the Supplier's progress against its Social Value Plan including any targets set, such as minimising of carbon generating waste streams and tracking waste disposal volumes (i.e. recycled/landfill/incinerated);

b details of the actions taken in the previous reporting period and actions planned for the next reporting period.

c the total contract revenue received directly from this Contract;

d the total value of sub-contracted revenues from this Contract (including revenues for non-SMEs and/or non-VCSEs);

e the number, type and value of sub-contracted revenues to start-ups, SMEs and VCSEs;

f an update on the Supplier's progress against its Carbon Reduction Plan; and

g reporting information detailed in paragraph 4 of Annex 1: Sustainability of Schedule 4.1 (Standards).

9.2 The SME Management Information Reports shall be provided in the format required as set out in guidance issued by the Authority from time to time, in accordance with Annex 3 of Schedule 24 (*Reports and Records Provisions*).

10 MONITORING AND REVIEW

10.1 The Supplier will demonstrate its commitment to Social Value through annual review of its Social Value policy.

10.2 The Supplier and Authority will discuss the Supplier's Social Value Plan and progress against it during meetings of the Quarterly Contract Review Meetings (QCRM) with the Innovation and Social Value Review Group.

10.3 The Authority may request the Supplier to record their Social Value reporting metrics via an online tool. It will be the responsibility of the Supplier to regularly (quarterly) update the tool throughout the Contract Term. The Parties shall review the Suppliers progress in delivering the Social Value set out in its action plan at during meetings of the Quarterly Contract Review Meetings (QCRM) with the Innovation and Social Value Review Group.

10.4 Following the completion of the Social Value Assessment, the Supplier will report on any agreed actions, in a format to be agreed between the Parties.

10.5 In addition, the Authority shall periodically request the Supplier to complete its Carbon Emissions (CE) Assessment, currently undertaken by CARBON Smart data gathering exercise in an agreed format. This will measure against the previous years' score and the Supplier will be required to set out an action plan to improve performance for the following year. The parties shall review the progress of this action plan during meetings of the Quarterly Contract Review Meetings (QCRM) with the Innovation and Social Value Review Group.

10.6 Following the completion of the CE Assessment, the Supplier will report on any agreed actions, in a format to be agreed between the Parties.

10.7 Where the risk of modern slavery is high (as reflected within the Modern Slavery Guidance), the Supplier will provide to the Authority assurance on the processes in place to identify and address modern slavery risks in their supply chains including, where relevant, assurance of legal compliance with the Modern Slavery. An action plan would need to be put in place where there were suspected and confirmed instances of modern slavery to detail how these are to be addressed. Additionally, any recommendations generated by MSAT would need to be included within the Action Plan.

Annex 1

The following sets out the Authority (acting through the Home Office) strategy in relation to Social Value which the Supplier must comply with.

Home Office Social Value Strategy – February 2023

Our Goal

1. **Our Goal**

The HO strategy is supported by a number of government policies outlined below. This enables us to understand our legal obligations and policy requirements in order to achieve positive, sustainable outcomes, in line with best practice and with the highest overall value from our contracts. This includes:

- Adhering to the Social Value Act 2012 (GOV.UK);
- Adhering to the Modern Slavery Act 2015 (GOV.UK);
- Compliance with the Civil Society Strategy (GOV.UK);
- Compliance with the Public Sector Equality Duty (GOV.UK);
- Reducing the environmental impact of our contracts through compliance with Greening Government Commitments 2021 to 2025 - GOV.UK (www.gov.uk), 25 Year Environment Plan (GOV.UK), Sustainable Development Goals (UN) and Government Buying Standards (GOV.UK);
- Compliance with the Greening government: ICT and digital services strategy 2020-2025;
- Supporting the Plan for Growth (GOV.UK);
- Supporting the UK ambition to be net zero by 2050.
- Compliance with the Home Office Wellbeing Strategy 2021 to 2024.
- Supporting the 10 Point Plan for a Green Industrial Revolution;
- Adherence to the law generally, all relevant Government Guidance and Procurement Policy Notes.

We provide reports to Ministry of Justice (MOJ) (Sustainable Cluster Lead for the Home Office), Cabinet Office and Stonewall.

The Social Value Act

The Public Services (Social Value) Act 2012 came into force on 31st January 2013. It requires the Home Office "to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes", see Procurement policy note 10/12: The Public Services (Social Value) Act 2012 (GOV.UK). This means that we must consider where added benefit, in relation to social value aspects, can be delivered

to the department, where relevant and proportionate, above those already delivered as part of the requirements of the specification. To learn how to apply the principles of this Act through a new delivery model please read: PPN 0620 Taking Account of Social Value in the Award of Central Government Contracts (GOV.UK).

The Modern Slavery Act

The Modern Slavery Act 2015 ("The Act") categorises offences of Slavery, Servitude and Forced or Compulsory Labour and Human Trafficking. These are all included in the term 'modern slavery'. The Act requires businesses with a total turnover of £36m or above who carry out all or some of their business in the UK to publish an annual slavery and human trafficking statement. Businesses should set out what action they have taken to tackle modern slavery in their business or supply chains. This will allow consumers, investors and campaigners to hold them to account and call for them to do more.

Civil Society Strategy

This strategy has committed the Government to use its buying power to drive social change. Central Government will take account of social benefits in the award of its contracts. This will have the effect of levelling the playing field for all types of businesses including small businesses, voluntary and community sector organisations and social enterprises, encouraging employment opportunities, developing skills and improving environmental sustainability.

Public Sector Equality Duty

This duty came into force in April 2011. It requires the HO to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The PSED should help to ensure that public goods and services are accessible to and meet the diverse needs of all users to ensure that no one group is disadvantaged in accessing public goods and services. Further information can be found within PPN 01/13 and on the PSED page on Horizon.

Greening Government Commitments (GGC)

The Greening Government Commitments 2021 to 2025 - GOV.UK (Gov.uk) set out the actions UK government departments and their agencies will take to reduce their impacts on the environment in the period 2021 to 2025. They set out targets to reduce their water consumption, greenhouse gas emissions

and minimise waste and promote resource efficiency. They also set out commitments to improve sustainable procurement, develop and deliver nature recovery plans and climate change adaptation strategies and reduce environmental impacts from ICT and digital services.

25 Year Environment Plan

The environment plan sets out our goals for improving the environment, within a generation, and leaving it in a better state than we found it. It details how we in government will work with communities and businesses to do this and sets out what we will be doing over the next 25 years. Single-Use Plastics: Chapter 4 of the 25 Year Environment Plan discusses “Increasing resource efficiency and reducing pollution and waste”. Reduction in the use of Single-Use Plastics in the department’s activities and services it provides is an important part of this. There are an increasing number of multi-use plastics or plastic-free alternatives that we can use and encourage our suppliers to use in their supply chains. By reducing our use of Single-Use Plastics and asking our suppliers to reduce or eliminate their use of these in our supply chains, we can help to achieve the goals of the 25 Year Plan.

Sustainable Development Goals (SDGs)

SDGs were adopted by all United Nations Member States in 2015 providing a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are 17 SDGs, which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognise that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

Government Buying Standards (GBS)

All government departments and their related organisations must make sure that they meet the minimum mandatory GBS standards when buying goods and services and to specify the minimum mandatory standards within tenders. This forms part of sustainable procurement - the process whereby organisations meet their needs for goods, services, works and utilities in a way that benefits not only the organisation, but also society and the economy, while minimising damage to the environment.

Greening government: ICT and digital services strategy 2020-2025

This strategy sets out how the government will work in partnership with industry and other sectors to provide ICT and digital services to help achieve the United Nation’s Sustainable Development Goals, implement Defra’s 25 Year Environment Plan and meet the government’s net zero commitments. The objectives of this strategy is to deliver the following outcomes:

- Reduced carbon and cost.
- Increased resilience.
- Increased responsibility (doing the right thing).
- Increased transparency and collaboration.
- Increased accountability.

Plan for Growth

Government announced a programme of structural reforms to remove barriers to growth for businesses and equip the UK to compete in the global race. These reforms span a range of policies including improving UK infrastructure, cutting red tape, root and branch reform of the planning system and boosting trade and inward investment, to achieve the government's 4 ambitions for growth:

- creating the most competitive tax system in the G20.
- encouraging investment and exports as a route to a more balanced economy.
- making the UK the best place in Europe to start, finance and grow a business.
- creating a more educated workforce that is the most flexible in Europe.

Net Zero by 2050

As part of assessing a supplier's technical and professional ability, from 30th September 2021, there will be a requirement for bidding suppliers to provide a Carbon Reduction Plan confirming their commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilised during the performance of the contract. This will apply to contracts valued above £5m per annum. Please refer to PPN 06/21 for further information.

Health and Wellbeing Strategy 2021 to 2024

The Home Office aspires to be a great place to work where staff will benefit from a positive environment, and physical and emotional health and wellbeing. The Wellbeing Strategy 2021 to 2024 sets out the Home Office aspiration to provide a healthy workplace which prioritises mental and physical health and wellbeing, to enable our people to achieve their full potential.

10 Point Plan for a Green Industrial Revolution

The Ten Point Plan sets firm foundations to potentially deliver up to an estimated £42 billon of private investment by 2030 across energy, buildings, transport, innovation and the natural environment. The Plan will start by supporting 90,000 jobs across the UK within this Parliament, and up to 250,000 by 2030 and will seek to put the UK at the forefront of global markets for clean technology. It will generate new clean power with offshore wind farms, nuclear plants and will invest up to half a billion pounds in new hydrogen technologies. Finally, it will harness nature's ability to absorb carbon by establishing new National Parks and Areas of Outstanding Natural Beauty, making them havens of biodiversity, with the aim of protecting 30% of England's countryside by 2030. The cumulative effect of this plan will be to reduce UK emissions by 180 million tonnes of carbon dioxide equivalent (Mt CO2 e) between 2023 and 2032, equal to taking all of today's cars off the road for around two years, all will help to meet our net zero by 2050 target.

1. **The SME Agenda**

The HO approach is to proactively engage with our SMEs to support the Industrial Strategy aim 'to improve living standards and economic growth by increasing productivity and driving growth across the UK'.

1. Diversity and Inclusion including LGBTQi+ Equality

Civil Service Diversity and Inclusion Strategy 2022 to-2025 (GOV.UK) This strategy is essential to deliver on our shared ambition of a Modern Civil Service where our values to serve with integrity, honesty, objectivity and impartiality: driving our vision to be a skilled, innovative and ambitious Civil Service equipped for the future.

Annex 2 – Home Office Social Value Objectives

The Social Value Model details the Authority's objectives for Social Value, articulating it in terms of high-level themes and strategic policy priorities.

The Supplier shall incorporate the Social Value Model as described within this Schedule 4.2, where relevant and proportionate to the Services and its Social Value solution as described within Schedule 8 (Supplier Solution), within the Supplier's Social Value Plan and Social Value Report.

The Supplier shall set their own benchmarks and targets within their Social Value Plan, for improvements or activities that support the delivery of the Authority's aims as set out within this Schedule.

Annex 3: Carbon Reduction Targets reporting

In accordance with paragraph 8.7 of this Schedule 4.2 (*Social Value*) the Supplier shall deliver to the Authority an update regarding the Supplier's progress against its carbon reduction targets as part of the quarterly Social Value Report.

In the Social Value Report the Supplier shall use Carbon Reduction Plan Template to provide the update regarding the Supplier's progress against its carbon reduction targets.

Home Office

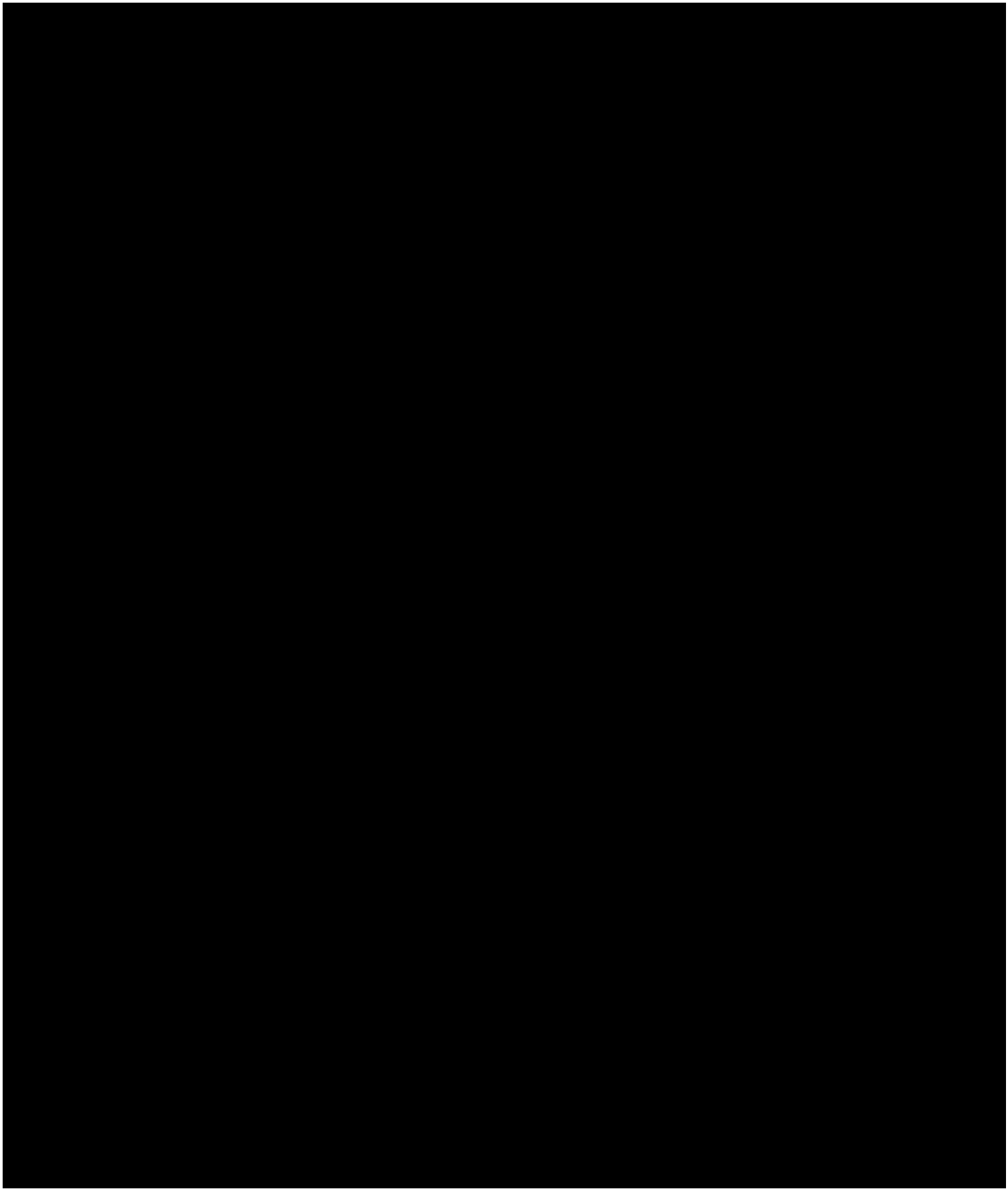
AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 5

Security Management

Irregular Migration Management Services

[Schedule redacted in full]



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AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 6

Insurance Requirements

Irregular Migration Management Services

Schedule 6: Insurance Requirements

1 Obligation to Maintain Insurances

1.1 Without prejudice to its obligations to the Authority under this Contract, including its indemnity and liability obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.

1.3 The Insurances shall be taken out and maintained with insurers who are of good financial standing and appropriately regulated.

1.4 The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Contract and for which the Supplier is legally liable.

2 General Obligations

2.1 Without limiting the other provisions of this Contract, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3 Failure to Insure

3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs

incurred in connection therewith as a debt due from the Supplier.

4 Evidence of Insurances

4.1 The Supplier shall upon the Effective Date and within 15 Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Supplier of any of its liabilities and obligations under this Contract.

5 Insurance for the required amount

5.1 Where the minimum limit of indemnity required, as specified in Annex 1 to this Schedule is specified as being "in the annual aggregate" and a claim or claims which do not relate to this Contract are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party or parties, is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Contract.

6 Cancellation

6.1 The Contractor shall notify the Authority in writing at least five (5) days prior to the cancellation, suspension, termination or non-renewal of any of the required insurances, as specified in Annex 1 to this Schedule. This Clause 6.1 shall not apply where the termination of any required insurances, as specified in Annex 1 to this Schedule, occurs purely as a result of a change of insurer in respect of any of the Required Insurances required to be taken out and maintained in accordance with this Schedule (Insurance Requirements) and Annex 1 (Required Insurance).

7 Insurance Claims, Premiums and Deductibles

7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Services and/or this Contract, the Supplier shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.

7.2 The Supplier shall maintain a register of all claims under the Insurances in connection with this Contract and shall allow the Authority to review such register at any time.

7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

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Schedule 7

Authority Responsibilities

Irregular Migration Management Services

Schedule 7: Authority Responsibilities

1 Introduction

1.1 The responsibilities of the Authority set out in this Schedule shall constitute the Authority Responsibilities under this Contract. Any obligations of the Authority in Schedule 2.2 (*Services Description Healthcare Services*) and Schedule 8 (*Supplier Solution*) shall not be Authority Responsibilities and the Authority shall have no obligation to perform any such obligations unless they are specifically stated to be "Authority Responsibilities".

1.2 The responsibilities specified within this Schedule shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2 General Obligations

2.1 The Authority shall:

2.1.1 perform those obligations of the Authority which are set out in the Clauses of this Contract and the Paragraphs of Schedule 2.2 (*Services Description Healthcare Services)* and Schedule 8 (*Supplier Solution*);

2.1.2 use its reasonable endeavours to provide the Supplier with access to appropriate members of the Authority's staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Term and the Termination Assistance Period;

2.1.3 provide sufficient and suitably qualified staff to fulfil the Authority's roles and duties under this Contract as defined in the Implementation Plan;

2.1.4 use its reasonable endeavours to provide such documentation, data and/or other information that the Supplier reasonably requests that is necessary to perform its obligations under the terms of this Contract provided that such documentation, data and/or information is available to the Authority and is authorised for release by the Authority; and

2.1.5 procure for the Supplier such agreed access and use of the Authority Premises (as a licensee only) and facilities (including relevant IT systems) as is reasonably required for the Supplier to comply with its obligations under this Contract, such access to be provided during the Authority's normal working hours on each Working Day or as otherwise agreed by the Authority (such agreement not to be unreasonably withheld or delayed).

Home Office

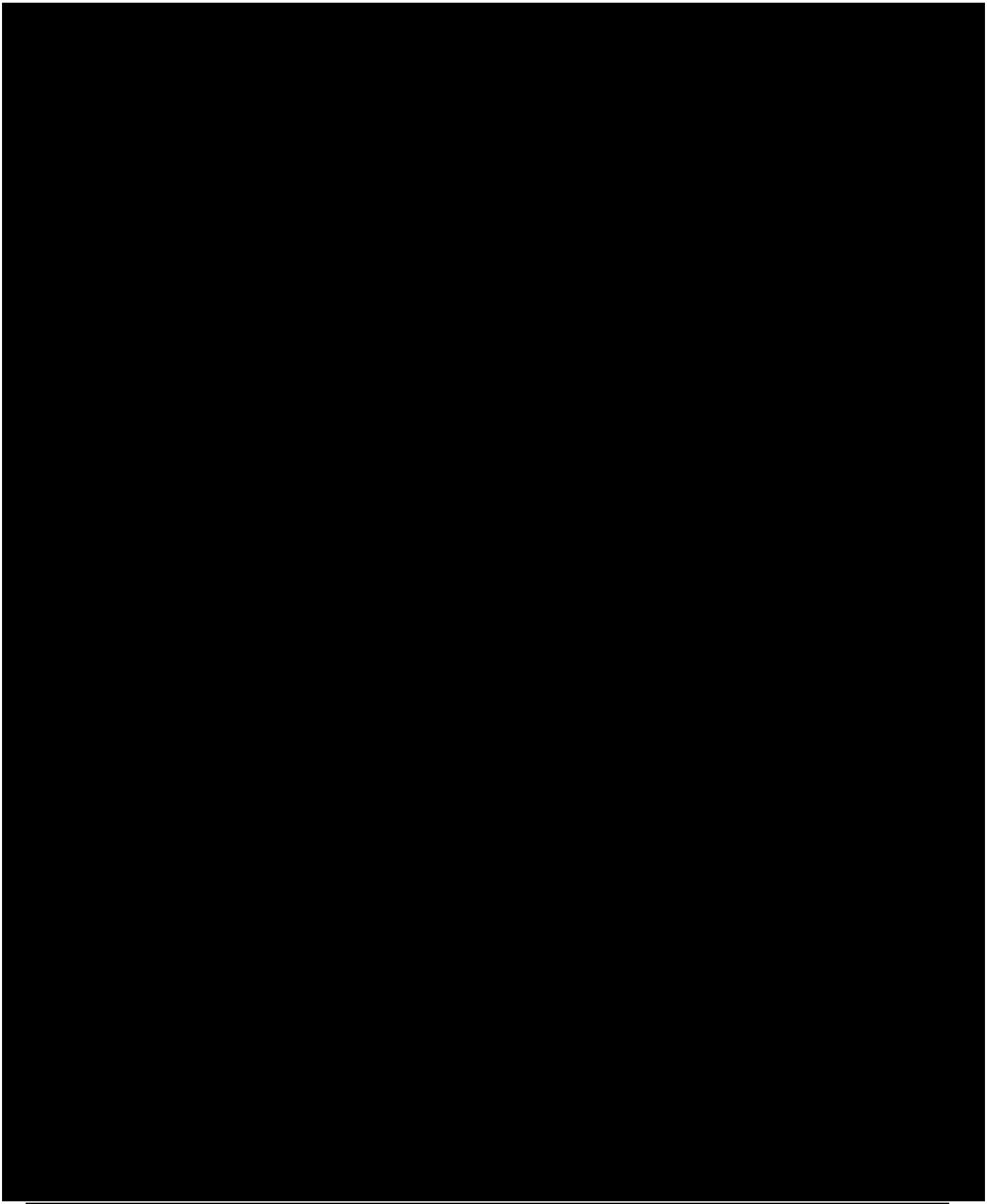
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Schedule 8

Supplier Solution

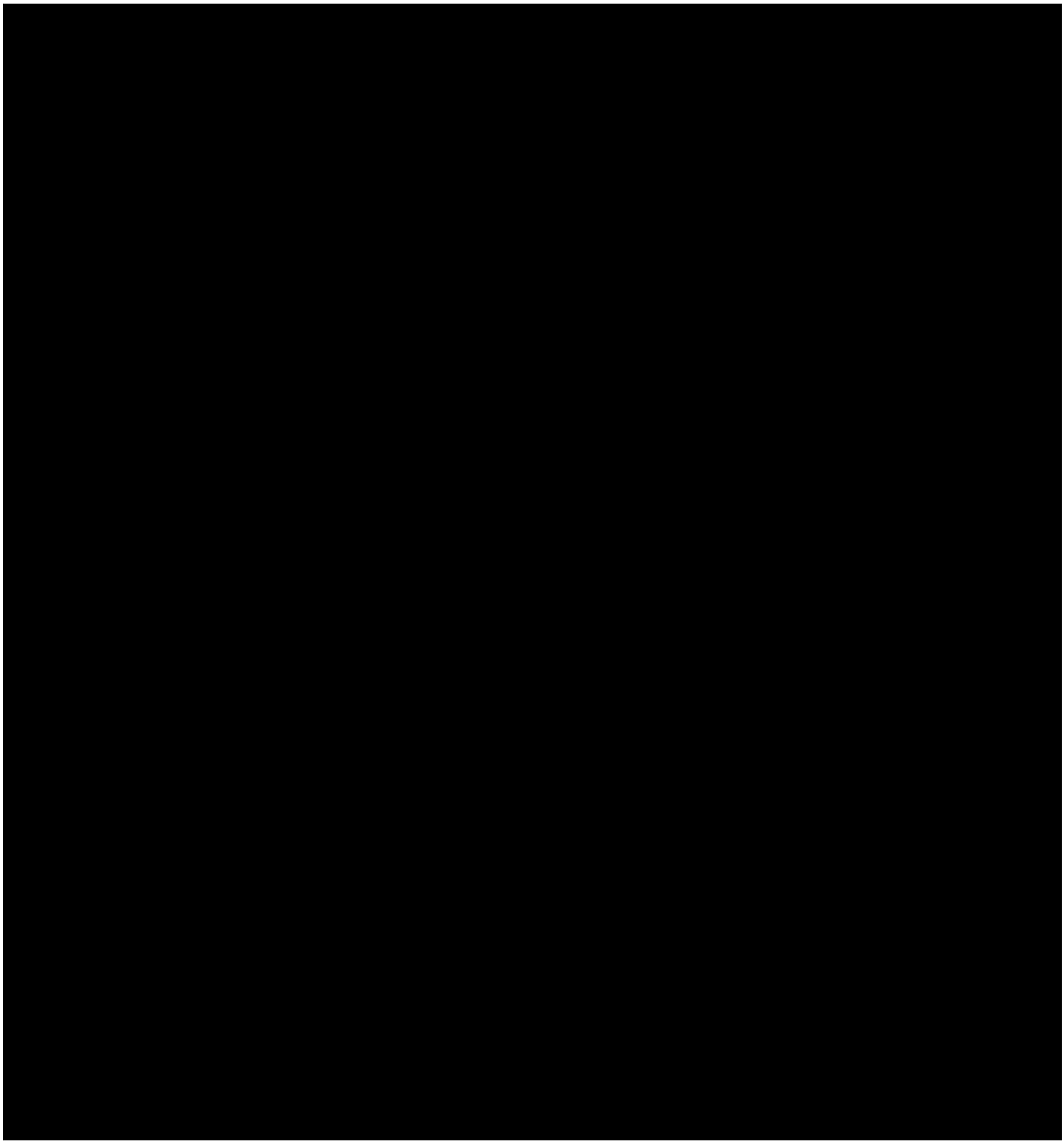
Irregular Migration Management Services

Schedule 8: Supplier Solution









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Schedule 9

Commercially Sensitive Information

Irregular Migration Management Services

Schedule 9: Commercially Sensitive Information

1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.

2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below (please see the column "Duration of Confidentiality").

3 Without prejudice to the Authority's obligation to disclose Information in accordance with FOIA or Clause 19 (*Confidentiality*), the Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

Commercially Sensitive Information



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Schedule 10

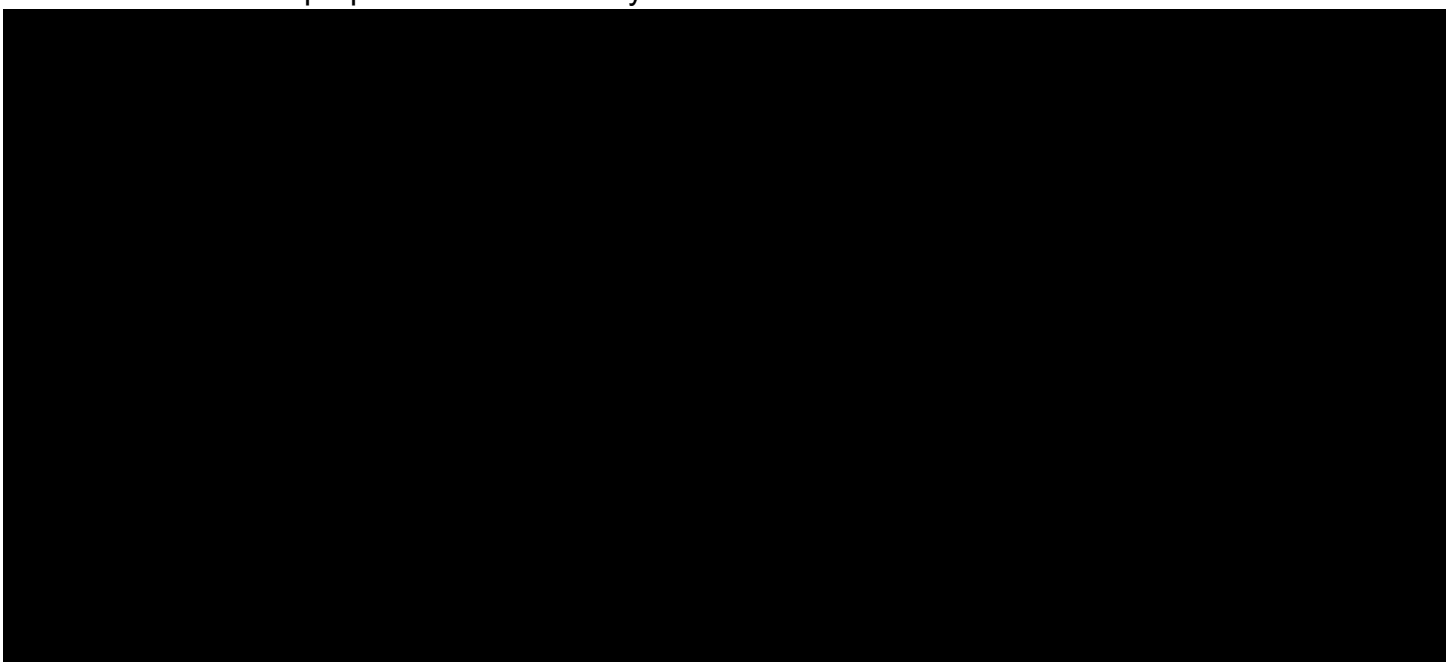
Notified Key Sub-Contractors

Irregular Migration Management Services

Schedule 10: Notified Key Sub-Contractors

1 In accordance with Clause 15.10 (*Appointment of Key Sub-contractors*), the Supplier is entitled to sub-contract its obligations under this Contract to the Key Sub-contractors listed in the table below.

2 The Parties agree that they will update this Schedule periodically to record any Key Sub-contractors appointed by the Supplier with the consent of the Authority after the Effective Date for the purposes of the delivery of the Services.



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Schedule 11.1

Third Party Contracts

Irregular Migration Management Services

Schedule 11: Third Party Contracts

1 The contracts listed in the table below constitute Third Party Contracts entered into exclusively for the purposes of delivering the Services.

2 The Supplier shall be entitled to update this Schedule in accordance with Clause 15.5 (*Appointment of Sub-contractors*).



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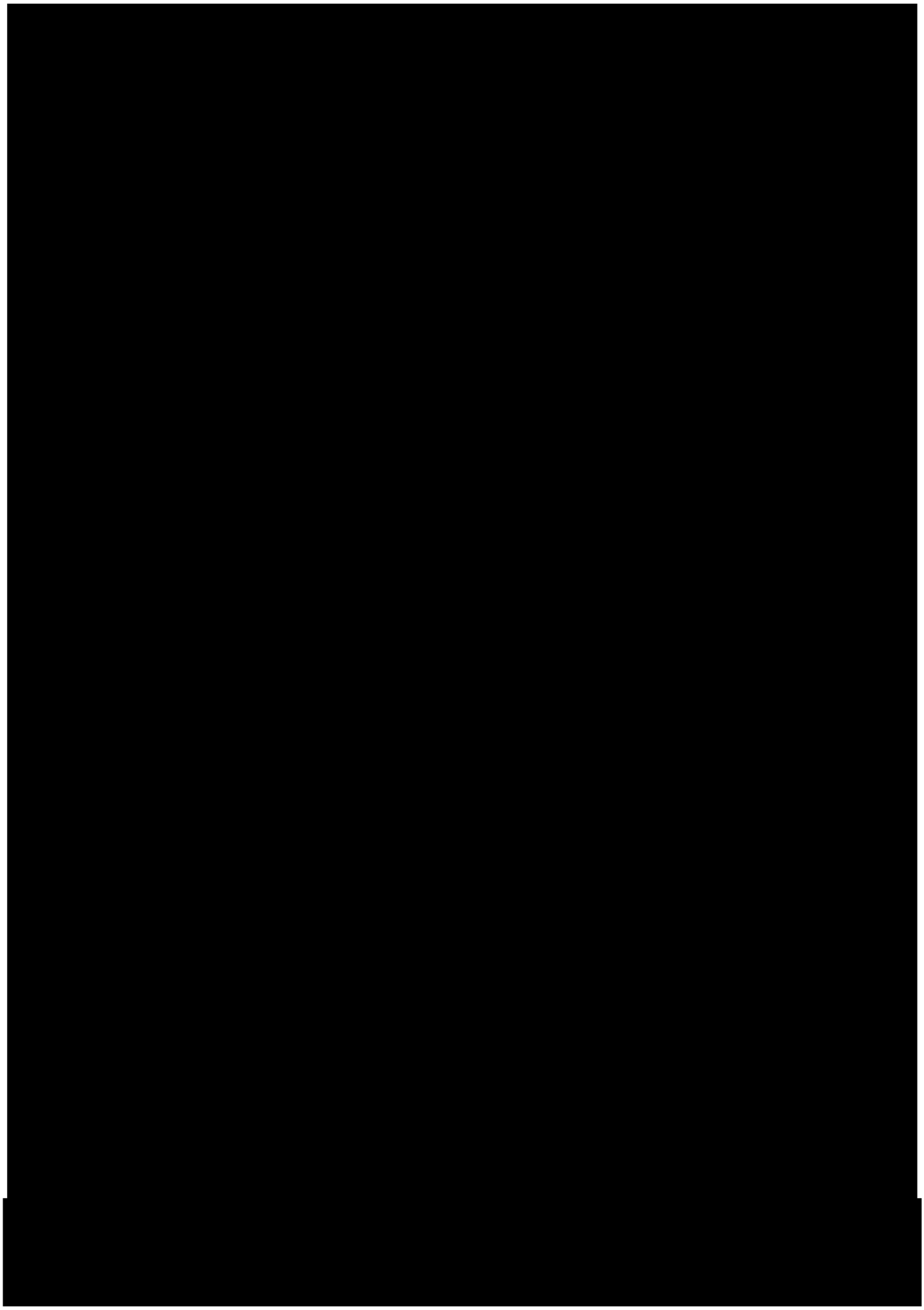
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Schedule 11.2

Authority Third Party Contract

Irregular Migration Management Services

[Schedule redacted in full]



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 12

Software

Irregular Migration Management Services

Schedule 12: Software

1 The Software

1.1 The Software below is licensed to the Authority in accordance with Clause 16 (*Intellectual Property Rights*) and Schedule 32 (*Intellectual Property Rights*).

1.2 The Parties agree that they will update this Schedule regularly, and in any event no less than every 6 (six) Months from the Effective Date, to record any Supplier Software or Third-Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.

2 Supplier Software

2.1 The Supplier Software includes the following items:

[redacted]

3 Third-Party Software

3.1 The Third-Party Software shall include the following items:

[redacted]

Annex 1: Form Of Confidentiality Undertaking

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [redacted]

BETWEEN:

(1) [redacted]

(2) [redacted]

WHEREAS:

(A) The Secretary of State for the Home Department (Home Office) (the "**Authority**") and the Supplier are party to a contract dated [redacted] (the "**Contract**") for the provision by the Supplier of Healthcare Services for the provision of Irregular Migration Management Services to the Authority.

(B) The Authority wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Authority pursuant to the Contract (the "**Sub-licence**").

(C) It is a requirement of the Contract that, before the Authority grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Agreement to protect the Confidential Information of the Supplier.

IT IS AGREED as follows:

1 Interpretation

1.1 In this Agreement, unless the context otherwise requires:

"Confidential Information" means:

(a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Authority to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:

(i) the Supplier; or

(ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;

(b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-

licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Authority pursuant to or in connection with the Sub-licence;

(c) other Information provided by the Authority pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and

(d) Information derived from any of the above,

but not including any Information that:

(a) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Authority;

(b) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or

(c) was independently developed without access to the Information;

"Information" means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

"Sub-licence" has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

1.2.1 a reference to any gender includes a reference to other genders;

1.2.2 the singular includes the plural and vice versa;

1.2.3 the words "include" and cognate expressions shall be construed as if they were immediately followed by the words "without limitation";

1.2.4 references to any statutory provision include a reference to that provision as

modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;

1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and

1.2.6 references to Clauses are to clauses of this Agreement.

1 Confidentiality Obligations

1.1 In consideration of the Authority entering into the Sub-licence, the Sub-licensee shall:

1.1.1 treat all Confidential Information as secret and confidential;

1.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);

1.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;

1.1.4 not transfer any of the Confidential Information outside the United Kingdom;

1.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;

1.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and

1.1.7 upon the expiry or termination of the Sub-licence:

(a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;

(b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and

(c) make no further use of any Confidential Information.

2 Permitted Disclosures

2.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

2.1.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and

2.1.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and

2.1.3 have agreed to terms similar to those in this Agreement.

2.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.

2.3 Before making a disclosure pursuant to Clause 2.2, the Sub-licensee shall, if the circumstances permit:

2.3.1 notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and

2.3.2 ask the court or other public body to treat the Confidential Information as confidential.

3 General

3.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.

3.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:

3.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;

3.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or

3.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.

3.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

3.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.

3.5 The maximum liability of the Sub-licensee to the Supplier for any breach of this Agreement shall be limited to [redacted]

3.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.

3.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.

3.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

4 Notices

4.1 Any notice to be given under this Agreement (each a "**Notice**") shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 4.2.

4.2 Any Notice:

4.2.1 if to be given to the Supplier shall be sent to:

[redacted]

4.2.2 if to be given to the Sub-licensee shall be sent to:

[redacted]

5 Governing law

5.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

5.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of [redacted]

Signature: [redacted] Date: [redacted]

Name: [redacted] Position: [redacted]

For and on behalf of [redacted]

Signature: [redacted]

Date: [redacted]

_____

Name: [redacted]

Position: [redacted]

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 13

Implementation Plan

Irregular Migration Management Services

Schedule 13: Implementation Plan

1 Introduction

1.1 This Schedule:

1.1.1 defines the process for the preparation and implementation of the Outline Implementation Plan and Detailed Implementation Plan; and

1.1.2 identifies the Milestones (and associated Deliverables) including the Milestones which trigger payment to the Supplier of the applicable Milestone Payments following the issue of the applicable Milestone Achievement Certificate.

2 Outline Implementation Plan

2.1 The Outline Implementation Plan is set out in Annex A.

2.2 All changes to the Outline Implementation Plan shall be subject to the Change Control Procedure provided that the Supplier shall not attempt to postpone any of the Milestones using the Change Control Procedure or otherwise (except in accordance with Clause 29 (*Authority Cause*)).

3 Approval of the Detailed Implementation Plan

3.1 The Supplier shall submit a draft of the Detailed Implementation Plan to the Authority for approval within 10 Working Days of the Effective Date.

3.2 The Supplier shall ensure that the draft Detailed Implementation Plan:

3.2.1 incorporates all of the Milestones and Milestone Dates set out in the Outline Implementation Plan;

3.2.2 clearly outlines all the steps required to implement the Milestones to be achieved in the period between the Implementation Start Date and the Implementation End Date, together with a high level plan for the rest of the programme, in conformity with the Authority Requirements;

3.2.3 clearly outlines the required roles and responsibilities of both Parties, including staffing requirements;

3.2.4 is produced using a software tool as specified or agreed by the Authority; and

3.2.5 includes detailed governance arrangements during the Implementation Period covering the following points:

(a) details of status reporting to the Authority on a weekly basis to include progress against Implementation Plan and associated resolution and/or mitigation actions;

(b) a schedule of meetings and reporting requirements required by the Authority during the Implementation Period, which as a minimum, shall include

fortnightly meetings, proposed attendees and up to date progress reports. A standard agenda for the meetings shall be agreed between the parties; and

(c) the contact details for the Supplier's Project Team within Schedule 29 (Key Personnel);

3.3 Prior to the submission of the draft Detailed Implementation Plan to the Authority in accordance with Paragraph 3.1, the Authority shall have the right:

3.3.1 to review any documentation produced by the Supplier in relation to the development of the Detailed Implementation Plan, including:

(a) details of the Supplier's intended approach to the Detailed Implementation Plan and its development;

(b) copies of any drafts of the Detailed Implementation Plan produced by the Supplier;

(c) any other work in progress in relation to the Detailed Implementation Plan; and

3.3.2 to require the Supplier to include any reasonable changes or provisions in the Detailed Implementation Plan.

3.4 Following receipt of the draft Detailed Implementation Plan from the Supplier, the Authority shall:

3.4.1 review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable; and

3.4.2 notify the Supplier in writing that it approves or rejects the draft Detailed Implementation Plan no later than 20 Working Days after the date on which the draft Detailed Implementation Plan is first delivered to the Authority.

3.5 If the Authority rejects the draft Detailed Implementation Plan:

3.5.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and

3.5.2 the Supplier shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Detailed Implementation Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 3.4 and this Paragraph 3.5 shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3.6 If the Authority approves the draft Detailed Implementation Plan, it shall replace the Outline Implementation Plan from the date of the Authority's notice of approval.

4 Updates to And Maintenance of the Detailed Implementation Plan

4.1 Following the approval of the Detailed Implementation Plan by the Authority:

4.1.1 the Supplier shall submit a revised Detailed Implementation Plan to the Authority every 6 weeks starting from submission of the initial detailed implementation plan;

4.1.2 without prejudice to Paragraph 4.1.1, the Authority shall be entitled to request a revised Detailed Implementation Plan at any time by giving written notice to the Supplier and the Supplier shall submit a draft revised Detailed Implementation Plan to the Authority within 20 Working Days of receiving such a request from the Authority (or such longer period as the Parties may agree provided that any failure to agree such longer period shall be referred to the Dispute Resolution Procedure);

4.1.3 any revised Detailed Implementation Plan shall (subject to Paragraph 4.2) be submitted by the Supplier for approval in accordance with the procedure set out in Paragraph 3; and

4.2 Save for any amendments which are of a type identified and notified by the Authority (at the Authority's discretion) to the Supplier in writing as not requiring approval, any material amendments to the Detailed Implementation Plan shall be subject to the Change Control Procedure provided that:

4.2.1 any amendments to elements of the Detailed Implementation Plan which are based on the contents of the Outline Implementation Plan shall be deemed to be material amendments; and

4.2.2 in no circumstances shall the Supplier be entitled to alter or request an alteration to any Milestone Date except in accordance with Clause 29 (*Authority Cause*).

4.3 Any proposed amendments to the Detailed Implementation Plan shall not come into force until they have been approved in writing by the Authority.

5 Government Reviews

5.1 The Supplier acknowledges that the Services may be subject to Government review at key stages of the project. The Supplier shall cooperate with any bodies undertaking such review and shall allow for such reasonable assistance as may be required for this purpose within the Charges.

6 Security requirements before the Operational Commencement Date

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

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

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

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

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

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

7 TEMPORARY AUTHORITY TO PROCEED

7.1 On or prior to the Operational Service Commencement Date the Supplier shall obtain from the Authority either a Temporary Authority to Proceed or an Authority to Proceed.

7.2 Where the Supplier has complied with the requirements of Annex A categorised as Implementation but not complied with the total requirements of Annex A the Authority may, at its sole discretion, allow the Supplier to commence provision of the Services on the Contract Operational Service Commencement Date by issuing a Temporary Authority to Proceed to the Supplier.

7.3 At any time prior to the Operational Service Commencement Date the Supplier becomes aware that the completion of any activity, required for the issuing of a Temporary Authority to Proceed, will not be met within the timescales in the Detailed Implementation Plan, the Supplier shall create an Outstanding List within 24 hours and submit it to the Authority. The Outstanding List shall be regularly reviewed by the Parties and updated where necessary, adding or deleting items listed where appropriate, specifying any remedial actions and agreeing revised timescales.

7.4 The Supplier shall present a final Outstanding List to the Authority at the same time that the Supplier gives notice to the Authority that it has satisfied the requirements for obtaining a Temporary Authority to Proceed.

7.5 Where a Temporary Authority to Proceed is issued, any new Implementation activities that have been identified following the Operational Service Commencement Date will be added to the Outstanding List and the requirements as described in 7.3 for the management and notification of items on the Outstanding List shall apply.

8 AUTHORITY TO PROCEED

8.1 The Authority to Proceed will be issued following the end of the Implementation Period and will only be issued if the Supplier has demonstrated to the satisfaction of the Authority that it has completed all of the activities set out in Annex A, which shall be included in the Detailed Implementation Plan and any activities contained in the Outstanding List.

8.2 Following receipt of any information under this Schedule 13, the Authority shall be entitled to request from the Supplier, and the Supplier shall be obliged to provide, such

information as the Authority may require for the purpose of implementing the Authority to Proceed, provided that any request for such further information shall be made by the Authority as soon as is reasonably practicable following the receipt of the information outlined in this Schedule.

8.3 Notwithstanding anything in the Contract, the Authority shall not issue an Authority to Proceed unless the information required by the Authority has been supplied to it and the necessary approvals (including without limitation final approval of the Detailed Implementation Plan) have been given by the Authority to the Supplier as specified or referred to in this Schedule.

9 Governance

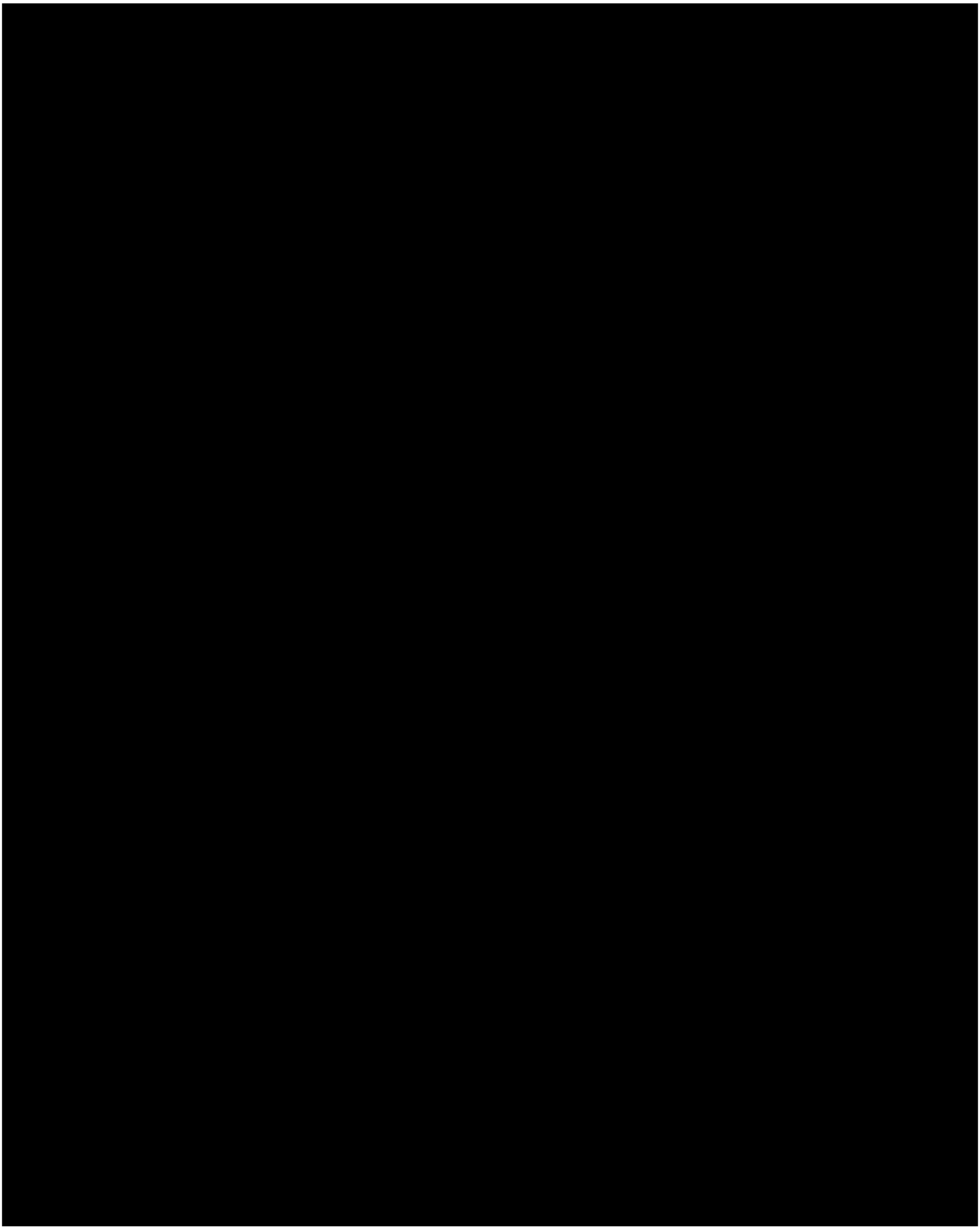
9.1 The Supplier shall:

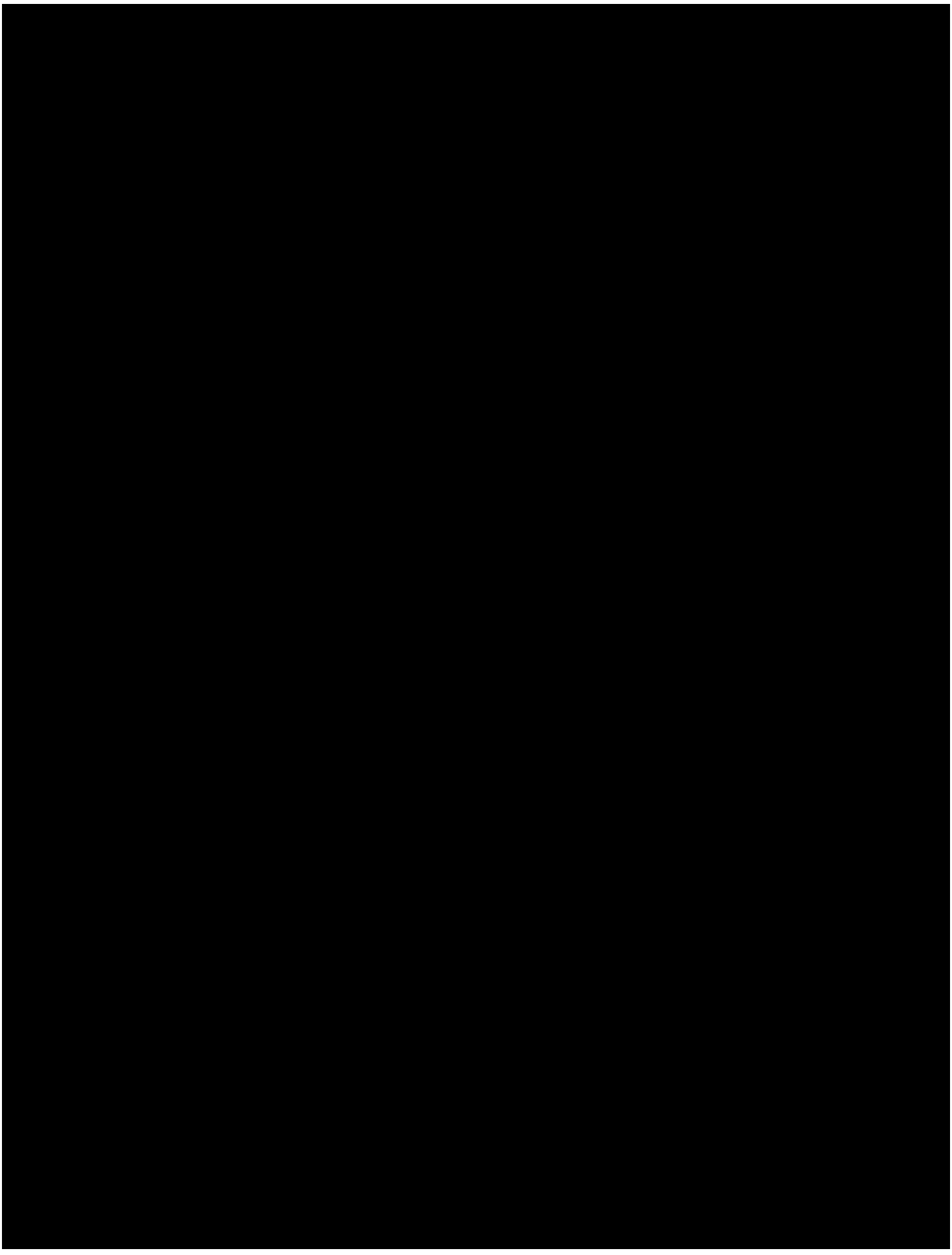
9.1.1 appoint a suitably experienced and empowered Implementation project manager, and provide their contact details to the Authority; and

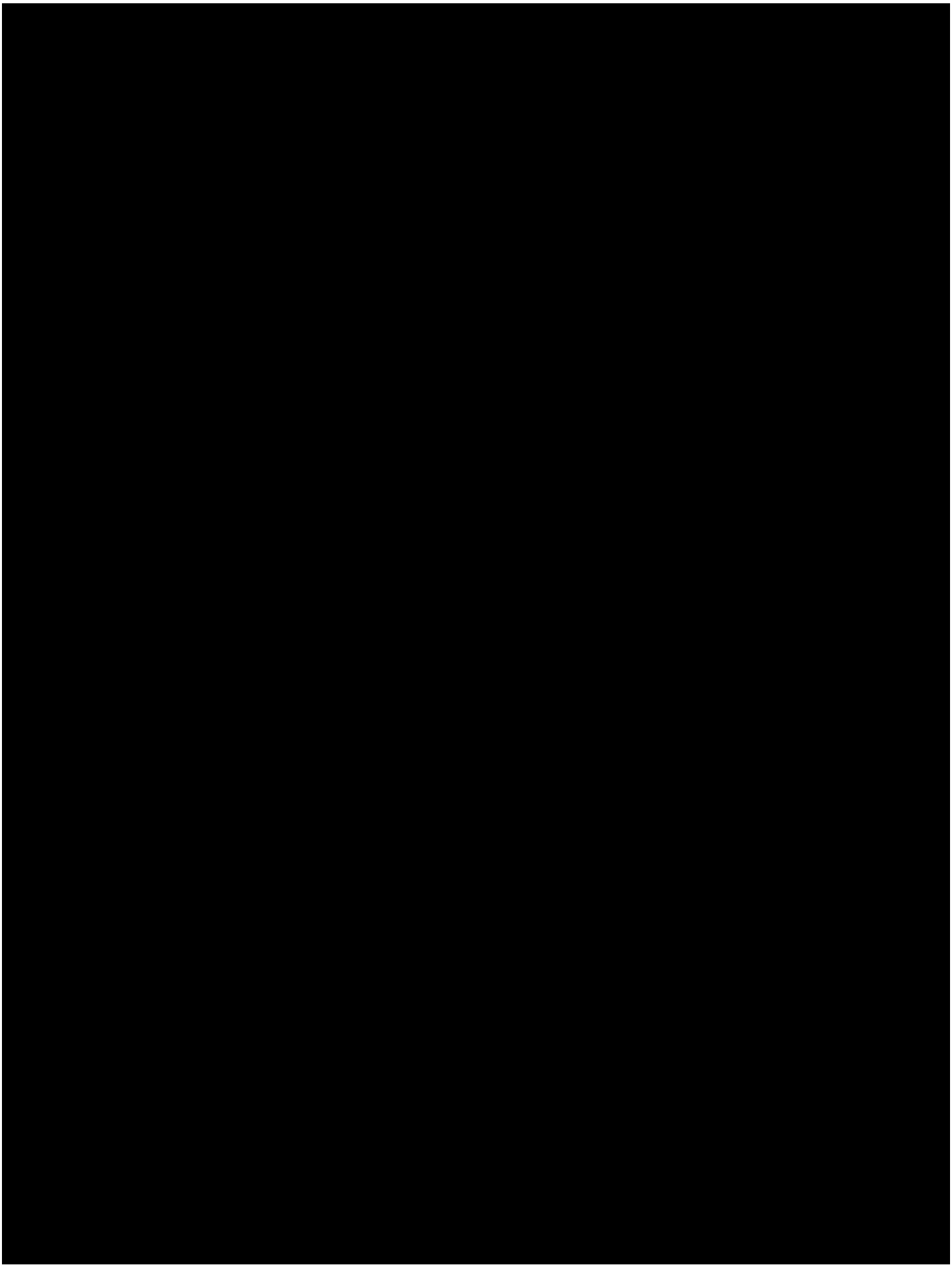
9.1.2 attend Implementation meetings and provide briefing presentations to the Authority on Service delivery.

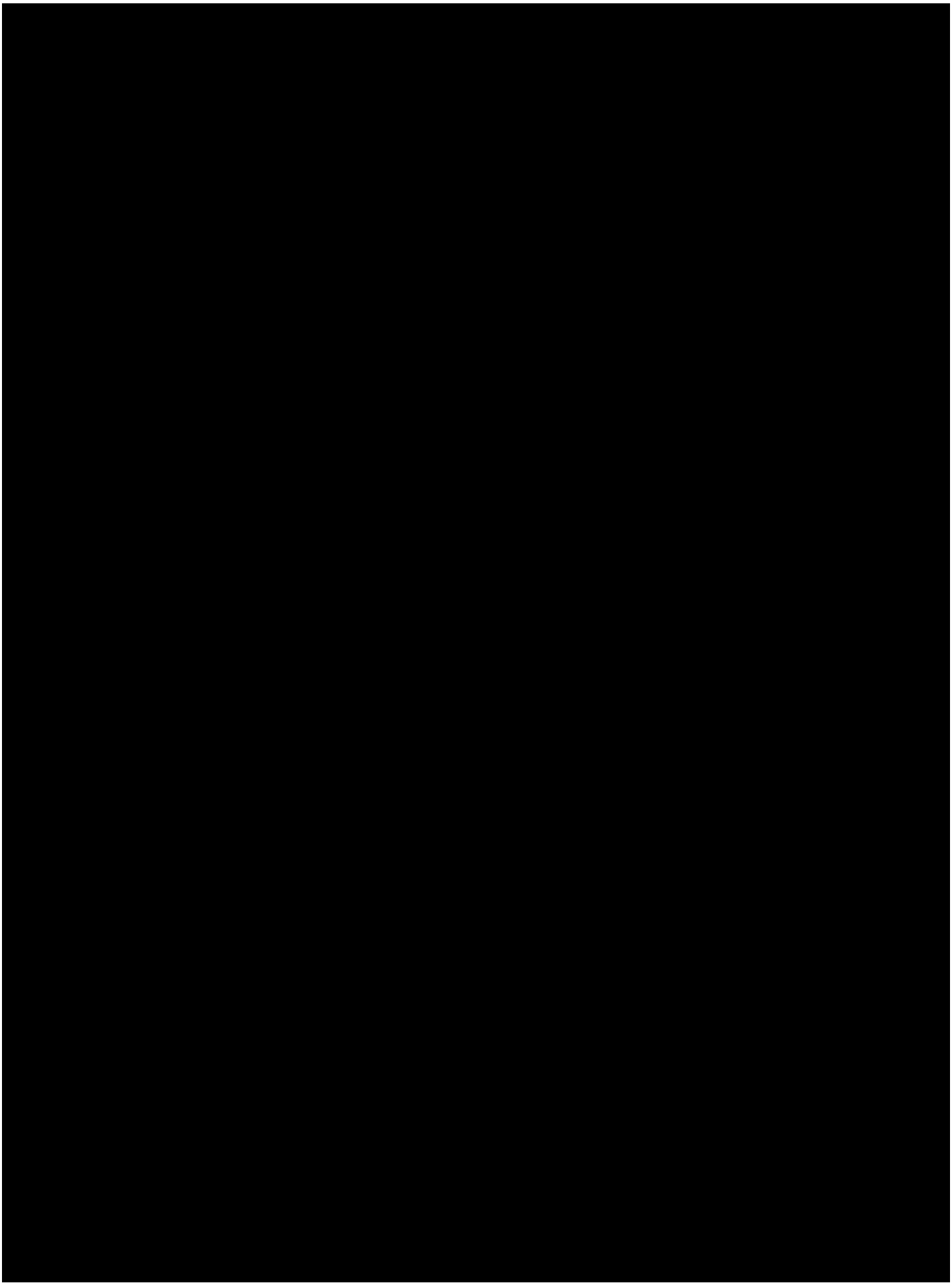
Annex A: NOT USED

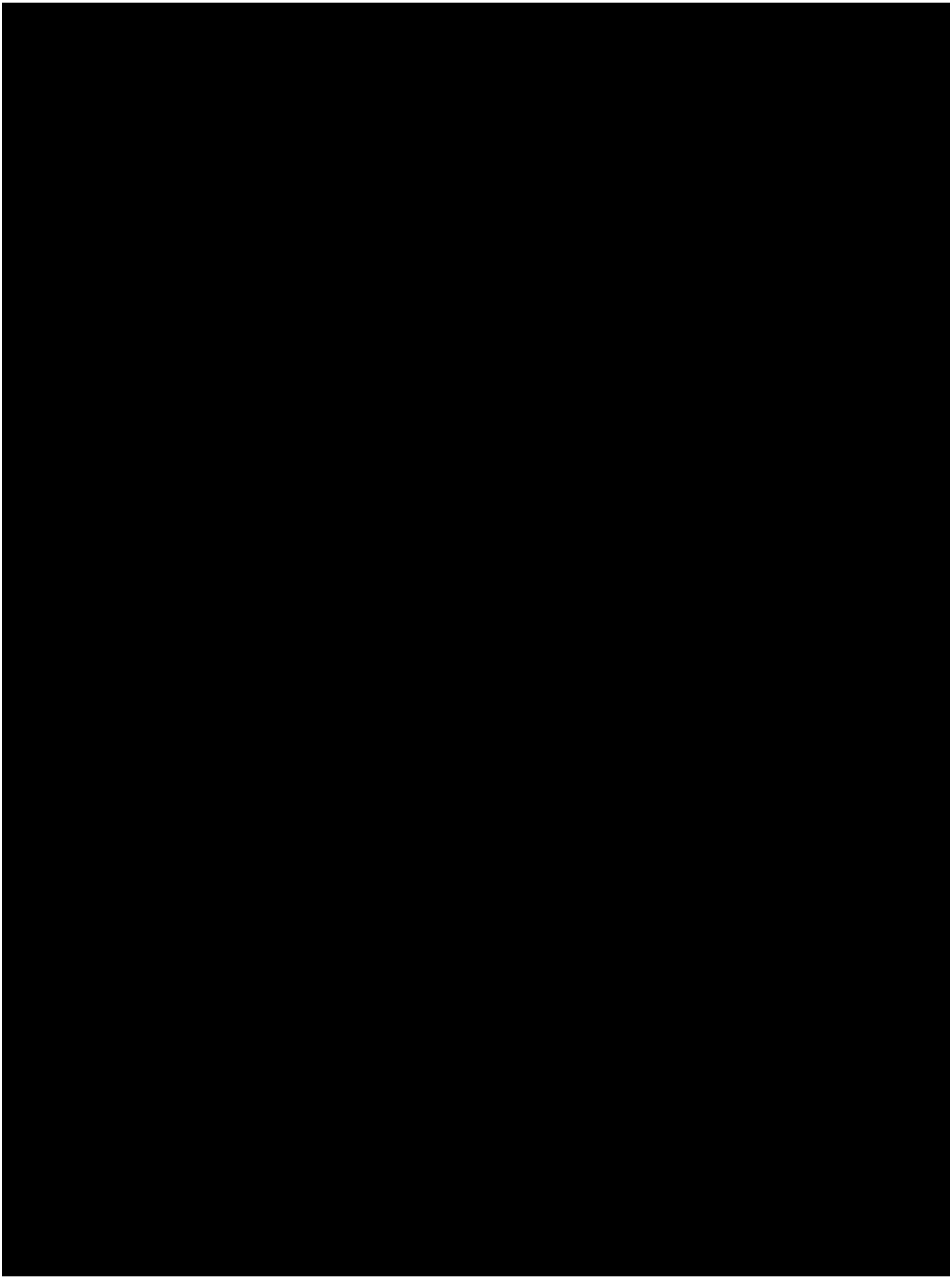
Annex B: Outline Implementation Plan

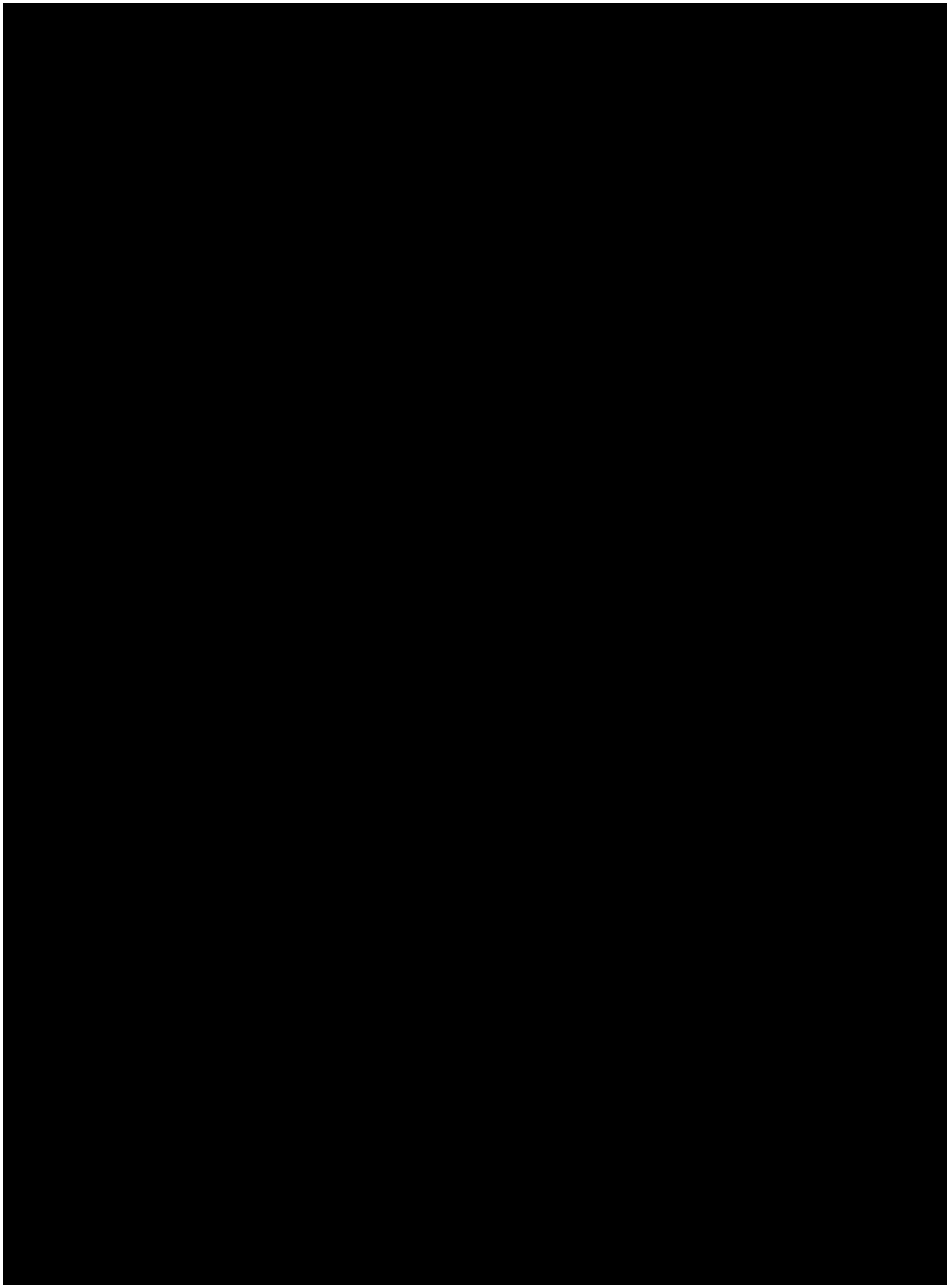


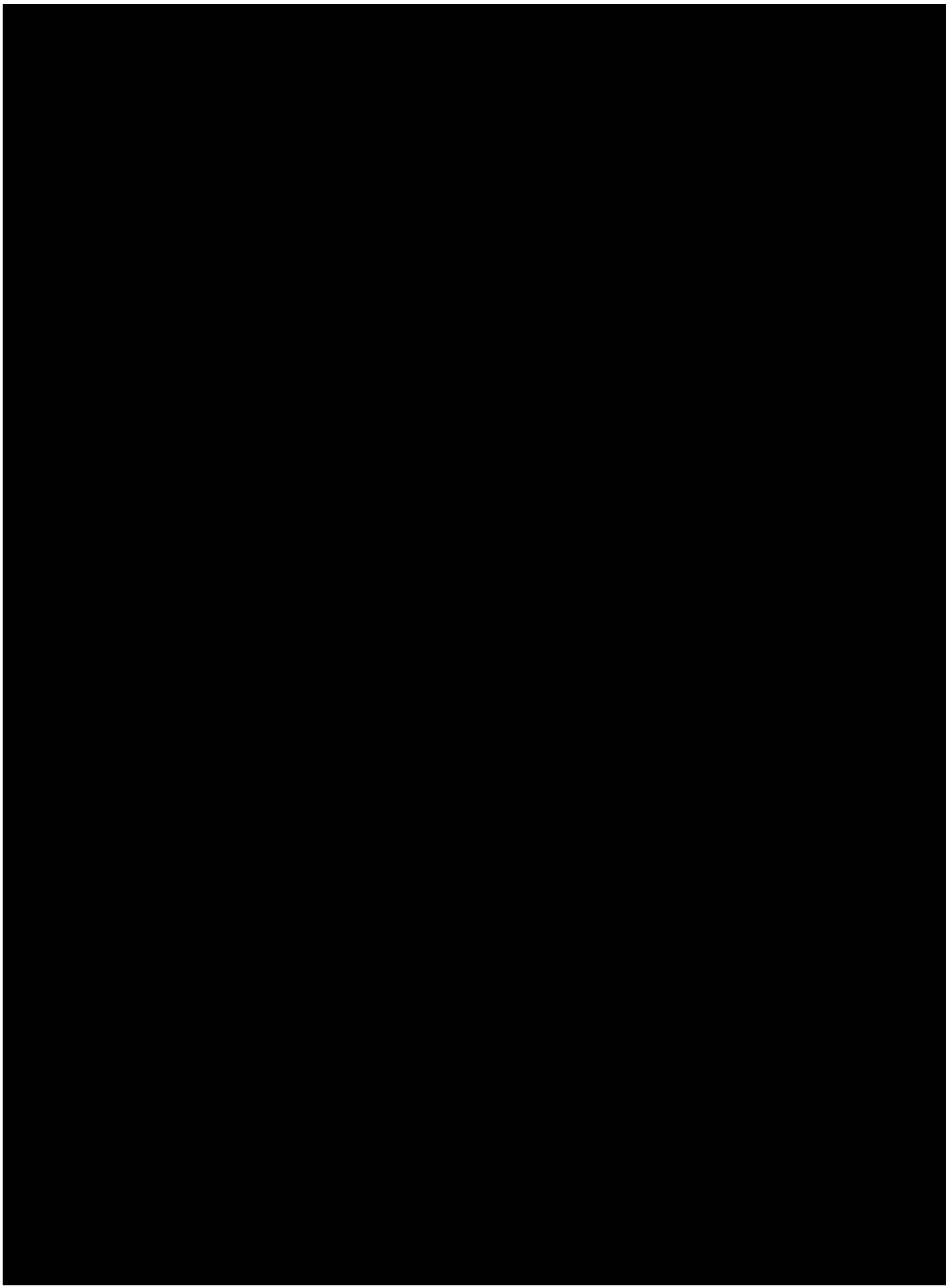


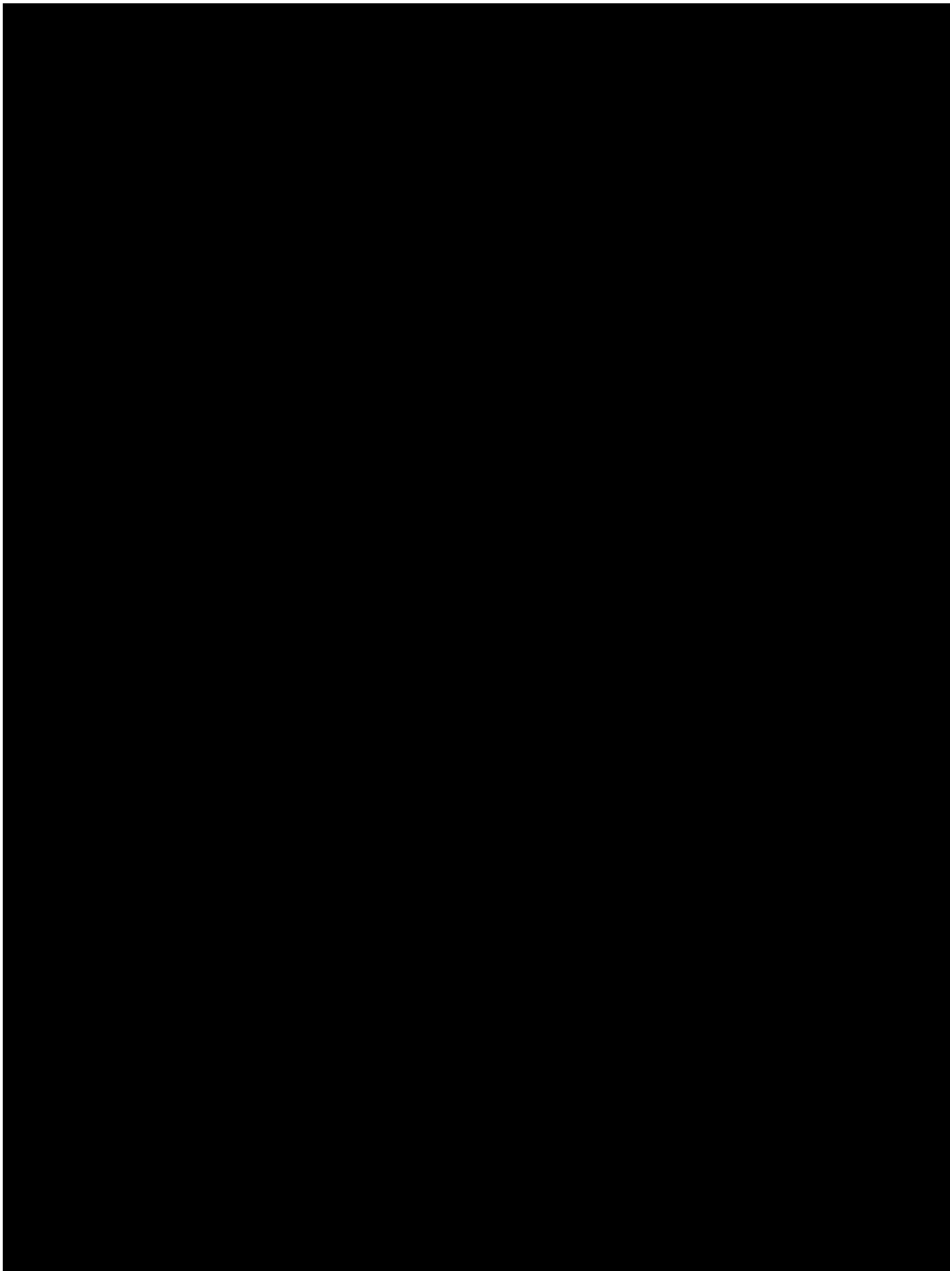


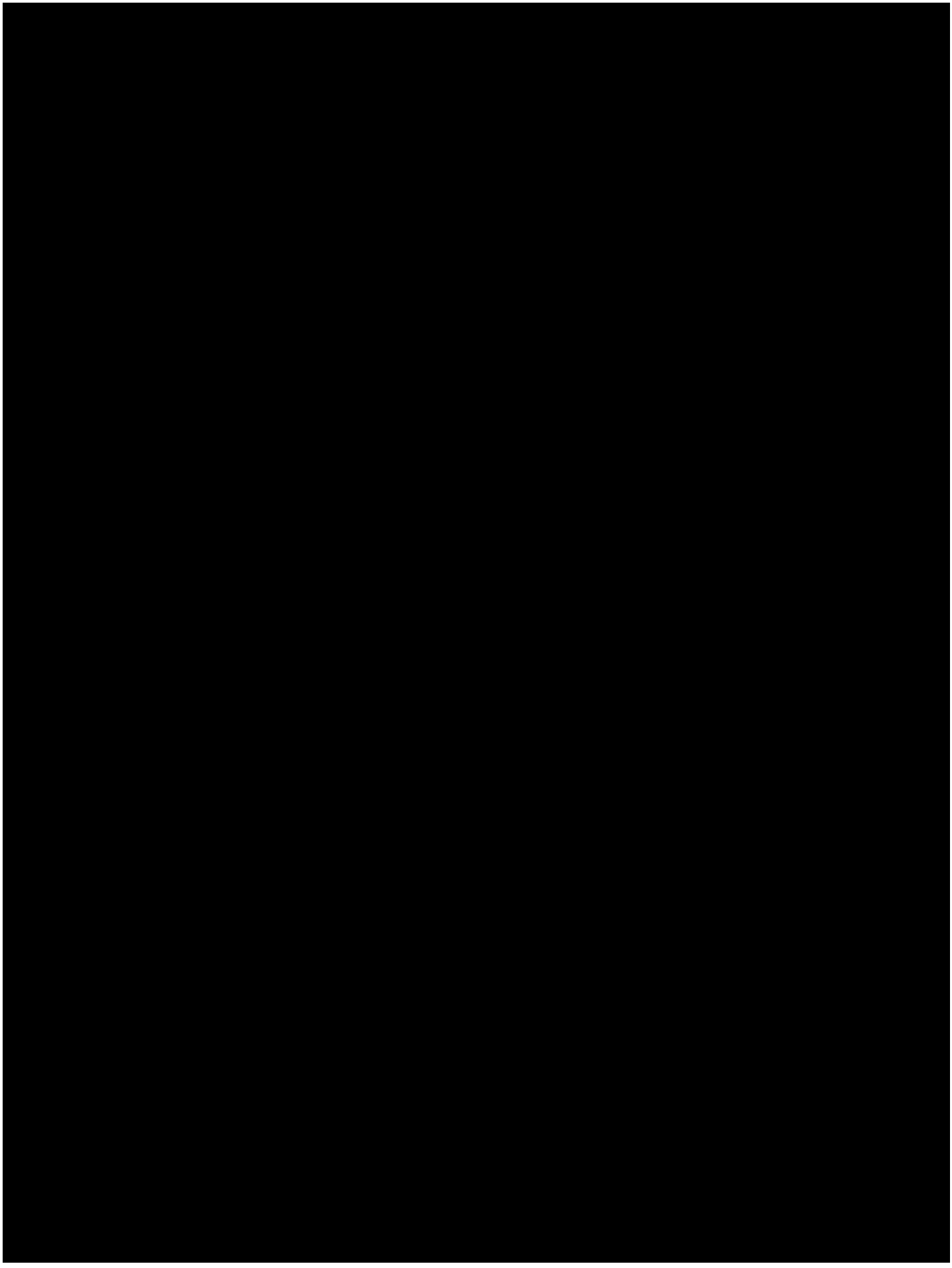


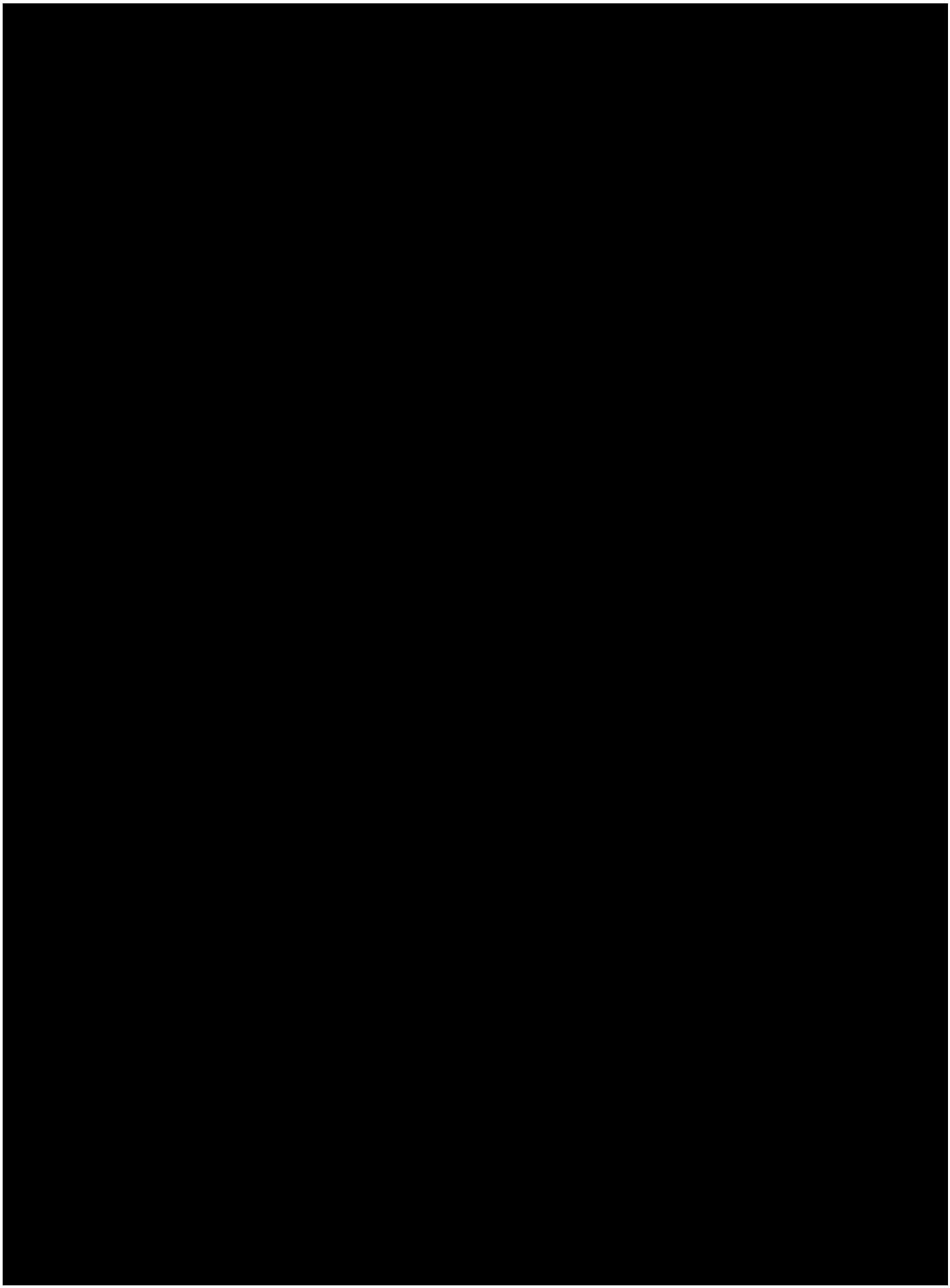


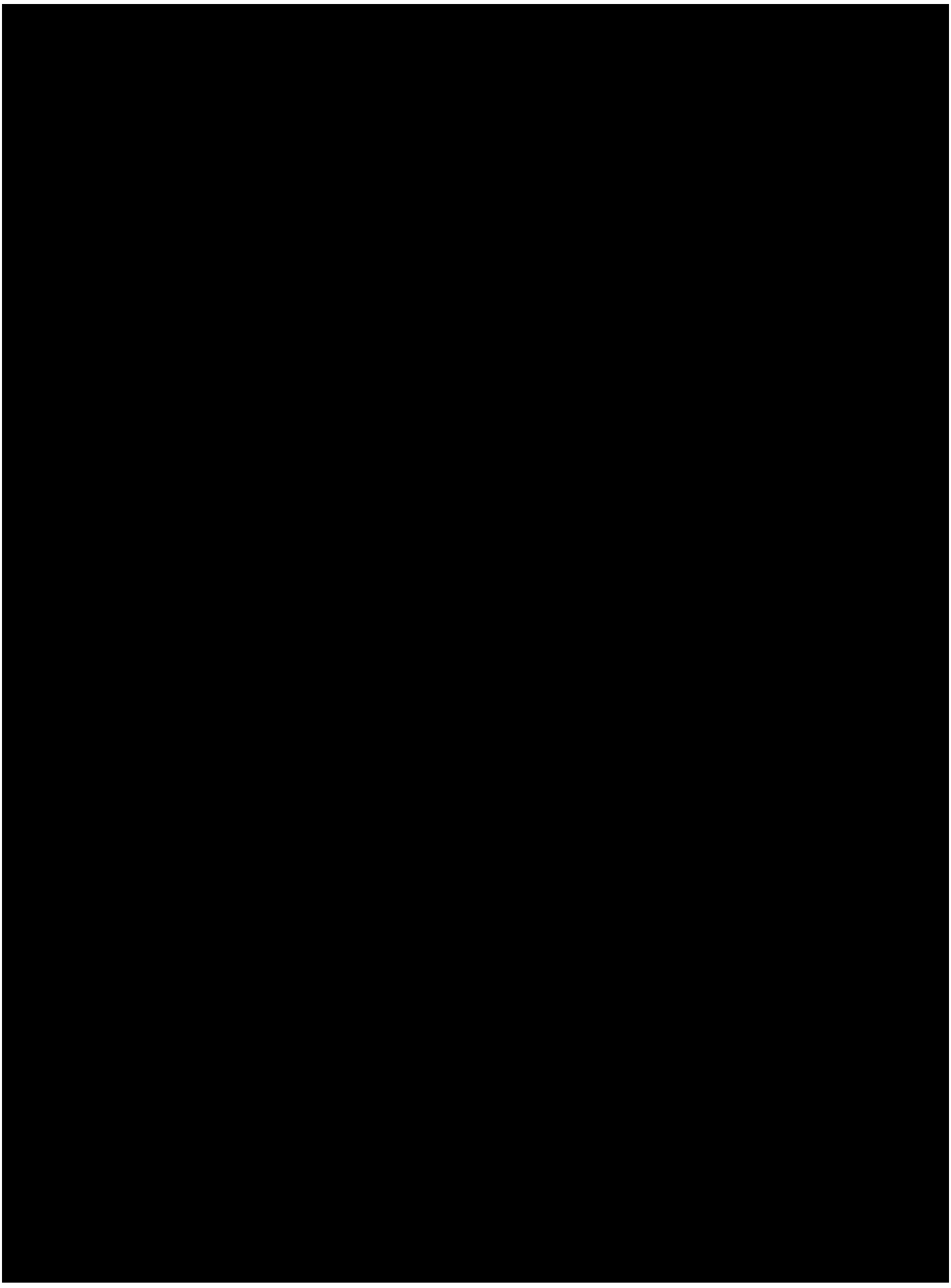


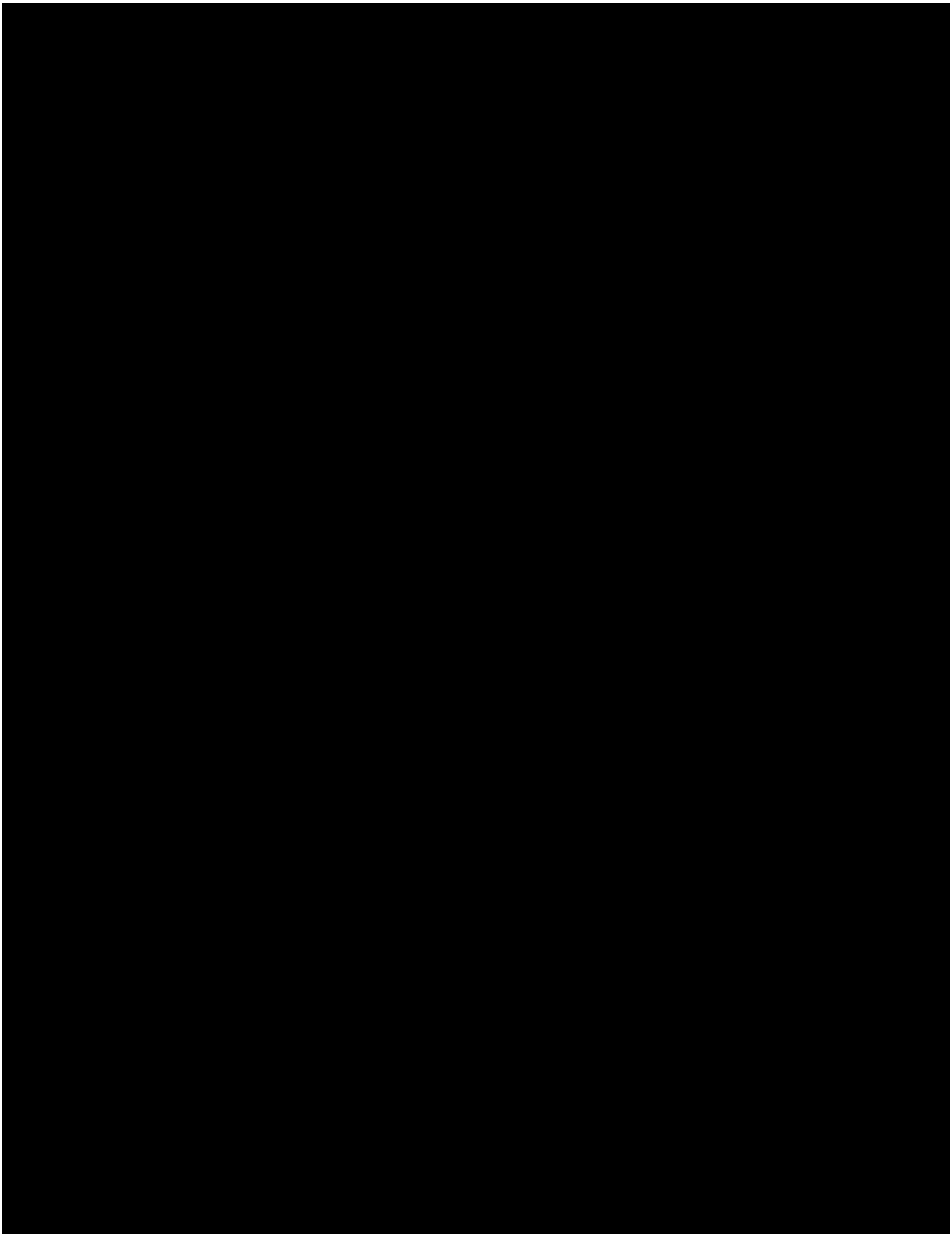












Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 14

Testing Procedures

Irregular Migration Management Services

Schedule 14: Testing Procedures

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Component"	any constituent parts of the infrastructure for a Service, hardware or Software;
"Material Test Issue"	a Test Issue of Severity Level 1 or Severity Level 2;
"Severity Level"	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test Certificate"	a certificate materially in the form of the document contained in Annex 2 issued by the Authority when a Deliverable has satisfied its relevant Test Success Criteria;
"Test Issue"	any variance or non-conformity of a Deliverable from its requirements (such requirements being set out in the relevant Test Success Criteria);
"Test Issue Threshold"	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
"Test Issue Management Log"	a log for the recording of Test Issues as described further in Paragraph 9.1;
"Test Plan"	a plan: (a) for the Testing of Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones, as described further in Paragraph 5;
"Test Reports"	the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 7;
"Test Strategy"	a strategy for the conduct of Testing as described further in Paragraph 4;

"Test Success Criteria"	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 6;
"Test Witness"	any person appointed by the Authority pursuant to Paragraph 10.1; and
"Testing Procedures"	the applicable testing procedures and Test Success Criteria set out in this Schedule.

2 Risk

2.1 The issue of a Test Certificate, a Milestone Achievement Certificate and/or a conditional Milestone Achievement Certificate shall not:

2.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Authority's requirements for that Deliverable or Milestone; or

2.1.2 affect the Authority's right subsequently to reject:

(a) all or any element of the Deliverables to which a Test Certificate relates; or

(b) any Milestone to which the Milestone Achievement Certificate relates.

2.2 Notwithstanding the issuing of any Milestone Achievement Certificate (including the Milestone Achievement Certificate in respect of Authority to Proceed), the Supplier shall remain solely responsible for ensuring that:

2.2.1 the Supplier Solution as designed and developed is suitable for the delivery of the Services and meets the Authority Requirements;

2.2.2 the Services are implemented in accordance with this Contract; and

2.2.3 each Target Performance Level is met from the relevant Operational Service Commencement Date.

3 Testing Overview

3.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, the Test Plans and the Test Specifications.

3.2 The Supplier shall not submit any Deliverable for Testing:

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

3.2.2 until the Authority has issued a Test Certificate in respect of any prior, dependant Deliverable(s); and

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

3.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or

re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.

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

3.5 Any Disputes between the Authority and the Supplier regarding Testing shall be referred to the Dispute Resolution Procedure using the Expedited Dispute Timetable.

4 Test Strategy

4.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case, no later than 20 Working Days (or such other period as the Parties may agree in writing) after the Effective Date.

4.2 The final Test Strategy shall include:

4.2.1 an overview of how Testing will be conducted in accordance with the Implementation Plan;

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

4.2.3 the method for mapping the expected Test results to the Test Success Criteria;

4.2.4 the procedure to be followed if a Deliverable fails to satisfy the Test Success Criteria or produces unexpected results, including a procedure for the resolution of Test Issues;

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

4.2.6 the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports and the Test Issue Management Log, and a sample plan for the resolution of Test Issues;

4.2.7 the names and contact details of the Authority's and the Supplier's Test representatives;

4.2.8 a high level identification of the resources required for Testing, including facilities, infrastructure, personnel and Authority and/or third party involvement in the conduct of the Tests;

4.2.9 the technical environments required to support the Tests; and

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

5 Test Plans

5.1 The Supplier shall develop Test Plans and submit these for the approval of the Authority as soon as practicable but in any case, no later than 20 Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise agree in writing) prior to the start date for the relevant Testing (as specified in the Implementation Plan).

5.2 Each Test Plan shall include as a minimum:

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

5.2.2 a detailed procedure for the Tests to be carried out, including:

(a) the timetable for the Tests, including start and end dates;

(b) the Testing mechanism;

(c) dates and methods by which the Authority can inspect Test results or witness the Tests in order to establish that the Test Success Criteria have been met;

(d) the mechanism for ensuring the quality, completeness and relevance of the Tests;

(e) the format and an example of Test progress reports and the process with which the Authority accesses daily Test schedules;

(f) the process which the Authority will use to review Test Issues and the Supplier's progress in resolving these in a timely basis;

(g) the Test Schedule;

(h) the re-Test procedure, the timetable and the resources which would be required for re-Testing; and

5.2.3 the process for escalating Test Issues from a re-test situation to the taking of specific remedial action to resolve the Test Issue.

5.3 The Authority shall not unreasonably withhold or delay its approval of the Test Plans provided that the Supplier shall incorporate any reasonable requirements of the Authority in the Test Plans.

6 Test Success Criteria

6.1 The Test Success Criteria for:

6.1.1 each Test that must be Achieved for the Supplier to Achieve either the ATP Milestone or a CPP Milestone are set out in Annex 4; and

6.1.2 all other Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 5.

7 Test Specification

7.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise agree in writing) prior to the start of the relevant Testing (as specified in the Implementation Plan).

7.2 Each Test Specification shall include as a minimum:

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

7.2.2 a plan to make the resources available for Testing;

7.2.3 Test scripts;

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

7.2.5 expected Test results, including:

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

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

8 Testing

8.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.

8.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 10.

8.3 The Supplier shall notify the Authority at least 10 Working Days (or such other period as the Parties may agree in writing) in advance of the date, time and location of the relevant Tests and the Authority shall ensure that the Test Witnesses attend the Tests, except where the Authority has specified in writing that such attendance is not necessary.

8.4 The Authority may raise and close Test Issues during the Test witnessing process.

8.5 The Supplier shall provide to the Authority in relation to each Test:

8.5.1 a draft Test Report not less than 2 Working Days (or such other period as the Parties may agree in writing) prior to the date on which the Test is planned to end; and

8.5.2 the final Test Report within 5 Working Days (or such other period as the Parties may agree in writing) of completion of Testing.

8.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:

8.6.1 an overview of the Testing conducted;

8.6.2 identification of the relevant Test Success Criteria that have been satisfied;

8.6.3 identification of the relevant Test Success Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;

8.6.4 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;

8.6.5 the Test Success Criteria that were satisfied, not satisfied or which were not

tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 9.1; and

8.6.6 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.

9 Test Issues

9.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.

9.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Authority upon request.

9.3 The Authority shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

10 Test Witnessing

10.1 The Authority may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Authority, each of whom shall have appropriate skills to fulfil the role of a Test Witness.

10.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.

10.3 The Test Witnesses:

10.3.1 shall actively review the Test documentation;

10.3.2 will attend and engage in the performance of the Tests on behalf of the Authority so as to enable the Authority to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;

10.3.3 shall not be involved in the execution of any Test;

10.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;

10.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Authority to assess whether the Tests have been Achieved;

10.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and

10.3.7 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

11 Test Quality Audit

11.1 Without prejudice to its rights pursuant to Clause 12.2.2 (*Records, Reports, Audits & Open Book Data*), the Authority may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.

11.2 The focus of the Testing Quality Audits shall be on:

11.2.1 adherence to an agreed methodology;

11.2.2 adherence to the agreed Testing process;

11.2.3 adherence to the Quality Plan;

11.2.4 review of status and key development issues; and

11.2.5 identification of key risk areas.

11.3 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.

11.4 The Authority will give the Supplier at least 5 Working Days' written notice of the Authority's intention to undertake a Testing Quality Audit and the Supplier may request, following receipt of that notice, that any Testing Quality Audit be delayed by a reasonable time period if in the Supplier's reasonable opinion, the carrying out of a Testing Quality Audit at the time specified by the Authority will materially and adversely impact the Implementation Plan.

11.5 A Testing Quality Audit may involve document reviews, interviews with the Supplier Personnel involved in or monitoring the activities being undertaken pursuant to this Schedule, the Authority witnessing Tests and demonstrations of the Deliverables to the Authority. Any Testing Quality Audit shall be limited in duration to a maximum time to be agreed between the Supplier and the Authority on a case-by-case basis (such agreement not to be unreasonably withheld or delayed). The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Authority to enable it to carry out the Testing Quality Audit.

11.6 If the Testing Quality Audit gives the Authority concern in respect of the Testing Procedures or any Test, the Authority shall:

11.6.1 discuss the outcome of the Testing Quality Audit with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities; and

11.6.2 subsequently prepare a written report for the Supplier detailing its concerns,

and the Supplier shall, within a reasonable timeframe, respond in writing to the Authority's report.

11.7 In the event of an inadequate response to the Authority's report from the Supplier, the Authority (acting reasonably) may withhold a Test Certificate (and consequently delay the

grant of a Milestone Achievement Certificate) until the issues in the report have been addressed to the reasonable satisfaction of the Authority.

12 Outcome of Testing

12.1 The Authority shall issue a Test Certificate as soon as reasonably practicable when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.

12.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria, then the Authority shall notify the Supplier and:

12.2.1 the Authority may issue a Test Certificate conditional upon the remediation of the Test Issues;

12.2.2 where the Parties agree that there is sufficient time prior to the relevant Milestone Date, the Authority may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or

12.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Authority's other rights and remedies, such failure shall constitute a Notifiable Default for the purposes of Clause 25.1 (*Rectification Plan Process*).

12.3 The Authority shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

13 Issue of Milestone Achievement Certificate

13.1 The Authority shall issue a Milestone Achievement Certificate in respect of a given Milestone as soon as is reasonably practicable following:

13.1.1 the issuing by the Authority of Test Certificates and/or conditional Test Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and

13.1.2 performance by the Supplier to the reasonable satisfaction of the Authority of any other tasks identified in the Implementation Plan as associated with that Milestone (which may include the submission of a Deliverable that is not due to be Tested, such as the production of Documentation).

13.2 The grant of a Milestone Achievement Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of Schedule 15.2 (*Charges and Invoicing*).

13.3 If a Milestone is not Achieved, the Authority shall promptly issue a report to the Supplier setting out:

13.3.1 the applicable Test Issues; and

13.3.2 any other reasons for the relevant Milestone not being Achieved.

13.4 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Authority shall issue a Milestone Achievement Certificate.

13.5 Without prejudice to the Authority's other remedies the following shall constitute a Notifiable Default for the purposes of Clause 25.1 (*Rectification Plan Process*) and the Authority shall refuse to issue a Milestone Achievement Certificate where:

13.5.1 there is one or more Material Test Issue(s); or

13.5.2 the information required under Schedule 24 (*Reports and Records Provisions*) (Annex 3: *Records To Upload To Virtual Library*) has not been uploaded to the Virtual Library in accordance with Paragraph 3 of that Schedule.

13.6 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Authority may at its discretion (without waiving any rights in relation to the other options) choose to issue a Milestone Achievement Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:

13.6.1 any Rectification Plan shall be agreed before the issue of a conditional Milestone Achievement Certificate unless the Authority agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Authority within 10 Working Days of receipt of the Authority's report pursuant to Paragraph 13.3); and

13.6.2 where the Authority issues a conditional Milestone Achievement Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

Annex 1: Test Issues – Severity Levels

1 Severity Levels

1.1 **Severity Level 1 Test Issue:** a Test Issue that causes non-recoverable conditions, e.g. it is not possible to continue using a Component, a Component crashes, there is database or file corruption, or data loss;

1.2 **Severity Level 2 Test Issue:** a Test Issue for which, as reasonably determined by the Authority, there is no practicable workaround available, and which:

1.2.1 causes a Component to become unusable;

1.2.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or

1.2.3 has an adverse impact on any other Component(s) or any other area of the Services;

1.3 **Severity Level 3 Test Issue:** a Test Issue which:

1.3.1 causes a Component to become unusable;

1.3.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or

1.3.3 has an impact on any other Component(s) or any other area of the Services;

but for which, as reasonably determined by the Authority, there is a practicable workaround available;

1.4 **Severity Level 4 Test Issue:** a Test Issue which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Services; and

1.5 **Severity Level 5 Test Issue:** a Test Issue that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Services.

Annex 2: Test Certificate

To: [Name of Supplier]

From: [Name of Authority]

[Date]

Dear Sirs,

TEST CERTIFICATE

Deliverables: [**insert** description of Deliverables]

We refer to the agreement (the "**Contract**") relating to the provision of the Services between the [name of Authority] (the "**Authority**") and [name of Supplier] (the "**Supplier**") dated [date].

Capitalised terms used in this certificate have the meanings given to them in Schedule 1 (*Definitions*) or Schedule 14 (*Testing Procedures*) of the Contract.

[We confirm that the Deliverables listed above have been tested successfully in accordance with the Test Plan relevant to those Deliverables.]

OR

[This Test Certificate is issued pursuant to Paragraph 12.1 of Schedule 14 (*Testing Procedures*) of the Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]*

**delete as appropriate*

Yours faithfully

[Name]

[Position]

acting on behalf of [name of Authority]

Annex 3: Milestone Achievement Certificate

To: [Name of Supplier]

From: [Name of Authority]

[Date]

Dear Sirs,

MILESTONE ACHIEVEMENT CERTIFICATE

Milestone: [**insert** description of Milestone]

We refer to the agreement (the "**Contract**") relating to the provision of the Services between the [name of Authority] (the "**Authority**") and [name of Supplier] (the "**Supplier**") dated [date].

Capitalised terms used in this certificate have the meanings given to them in Schedule 1 (*Definitions*) or Schedule 14 (*Testing Procedures*) of the Contract.

[We confirm that all the Deliverables relating to Milestone [**number**] have been tested successfully in accordance with the Test Plan relevant to this Milestone [or that a conditional Test Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria.]]*

OR

[This Milestone Achievement Certificate is granted pursuant to Paragraph 13.1 of Schedule 14 (*Testing Procedures*) of the Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]*

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with the provisions of Schedule 15.2 (*Charges and Invoicing*)]*

**delete as appropriate*

Yours faithfully

[Name]

[Position]

acting on behalf of [Authority]

Annex 4: Test Success Criteria

1 Tests to be Achieved in order to Achieve the ATP Milestone

Test	Pre-conditions*	Test Success Criteria
[List all Tests relating to ATP Milestone]		

* Note: The Pre-Conditions are that e.g. the Success Criteria for the previous Tests must be satisfied before the ATP Milestone tests are commenced

1 Tests to be Achieved in order to Achieve a CPP Milestone

CPP Milestone Charge No.	Test	Test Success Criteria
	[List all Tests relating to CPP Milestone Charge No.]	

Home Office

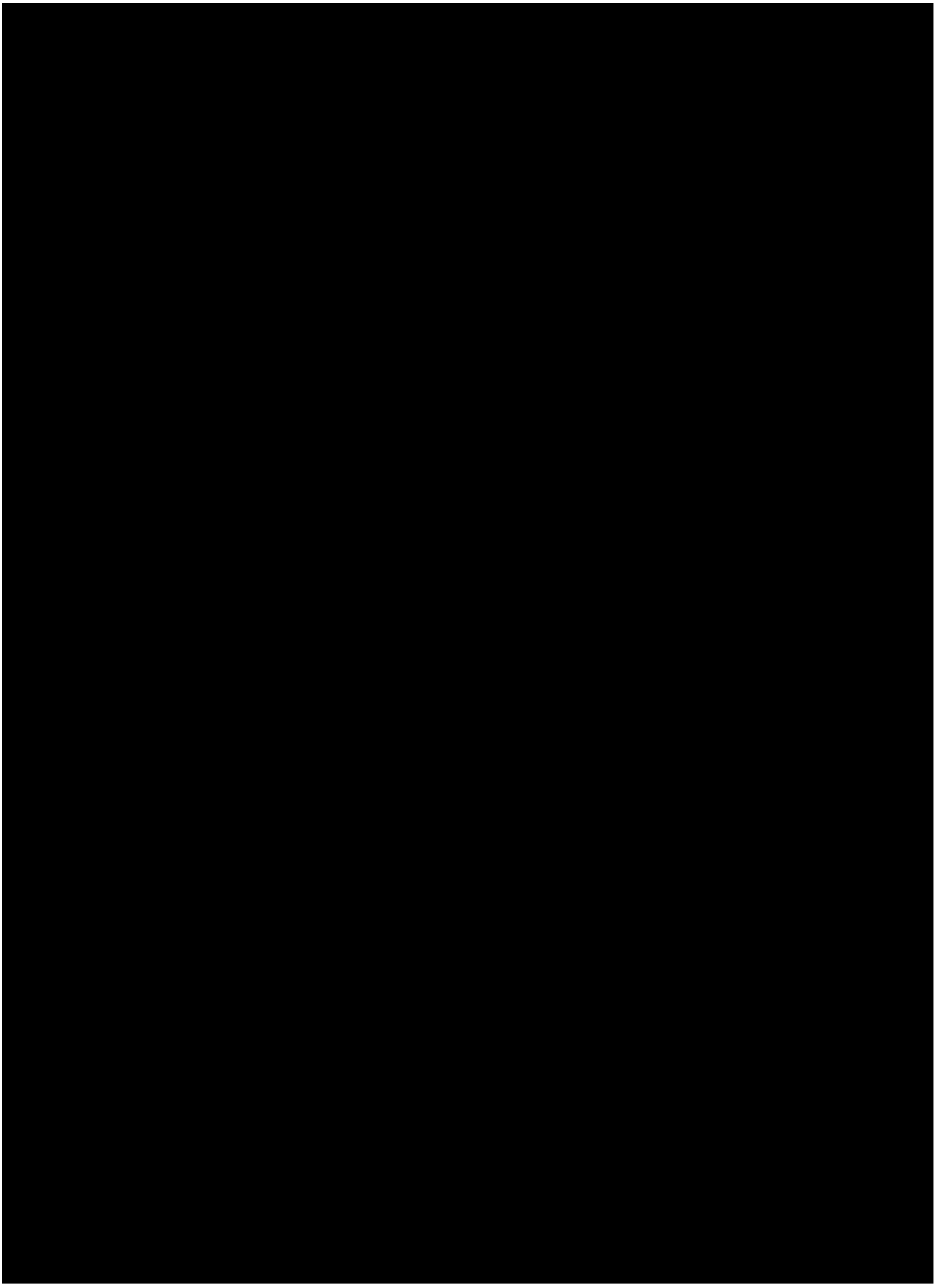
AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 15.2

Charges and Invoicing

Irregular Migration Management Services

[Schedule redacted in full]



Home Office

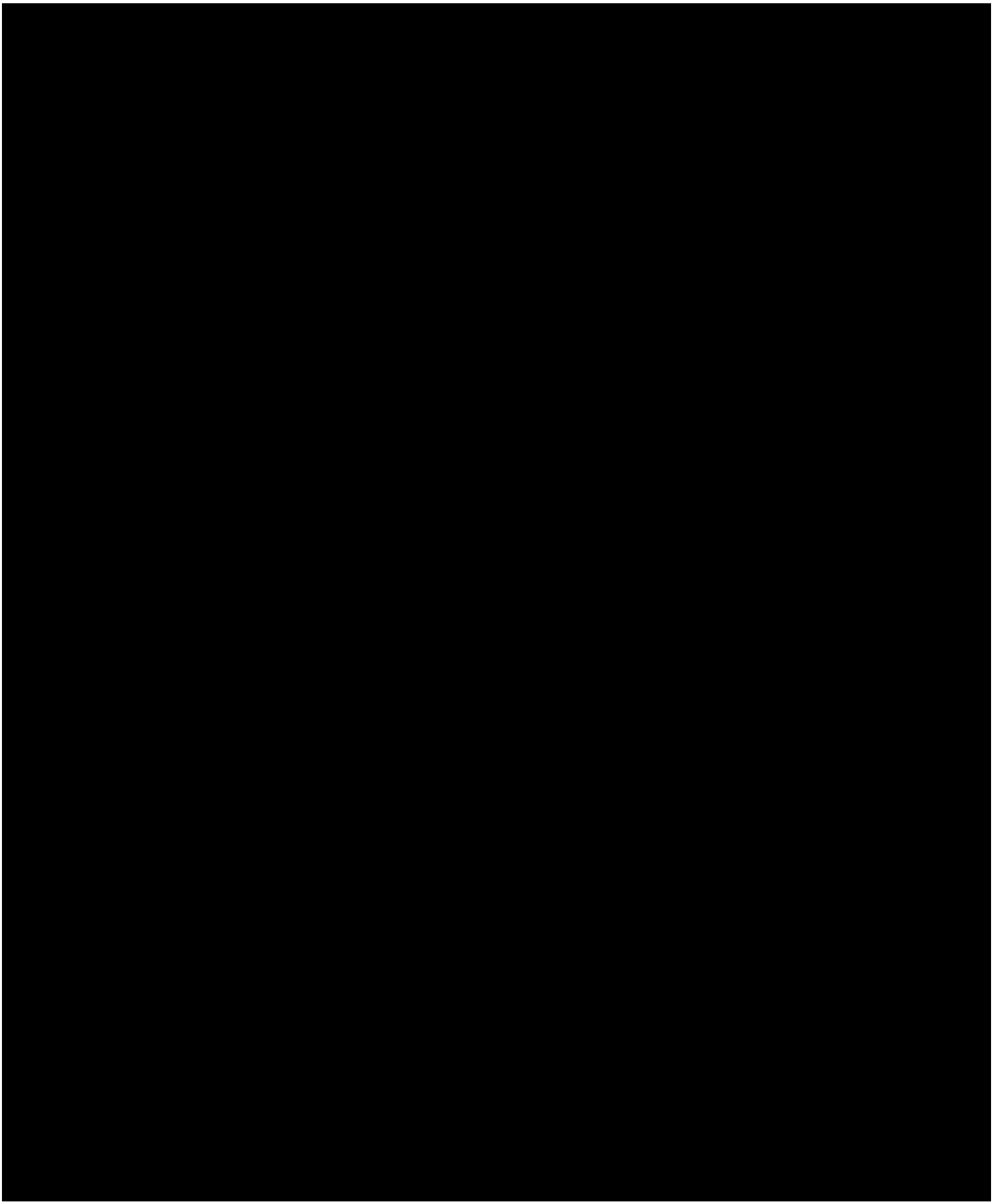
AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 15.3

Service Improvement

Irregular Migration Management Services

[Schedule redacted in full]



Home Office

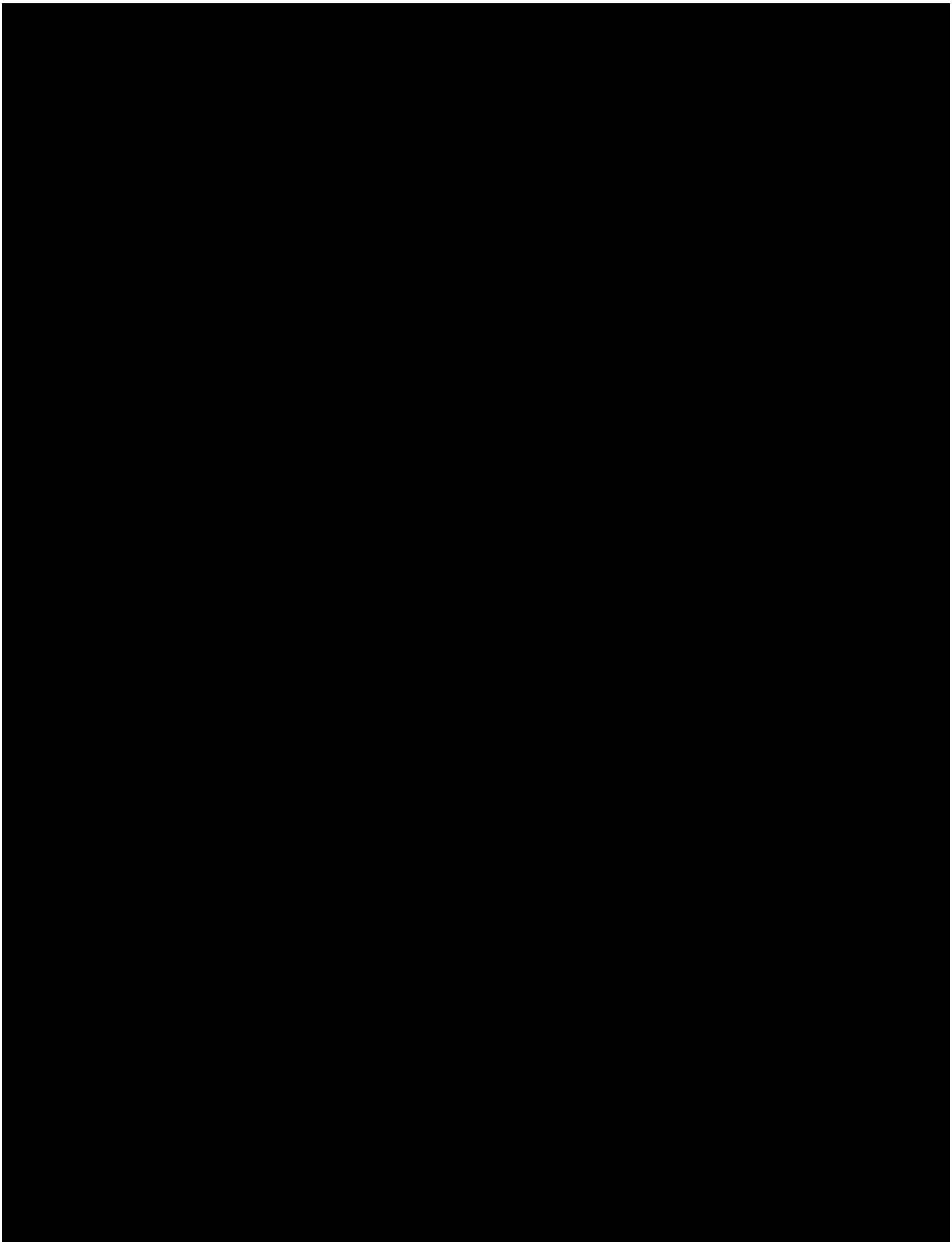
AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 16

Payments on Termination

Irregular Migration Management Services

Schedule redacted in full



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 17

Benchmarking

Irregular Migration Management Services

Schedule 17: Benchmarking

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Benchmarked Service"	a Service that the Authority elects to include in a Benchmark Review under Paragraph 2.3;
"Benchmarker"	the independent third party appointed under Paragraph 3.1;
"Benchmark Report"	the report produced by the Benchmarker following the Benchmark Review as further described in Paragraph 5;
"Benchmark Review"	a review of one or more of the Services carried out in accordance with Paragraph 4 to determine whether those Services represent Good Value;
"Comparable Service"	in relation to a Benchmarked Service, a service that is identical or materially similar to the Benchmarked Service (including in terms of scope, specification, volume and quality of performance);
"Comparison Group"	in relation to a Comparable Service, a sample group of organisations providing the Comparable Service identified by the Benchmarker under Paragraph 4.8 which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be (in the Benchmarker's professional opinion) fair comparators with the Supplier or which, in the professional opinion of the Benchmarker, are best practice organisations and, where there are a reasonable number of such organisations, referencing only those organisations that are carrying on at least a significant part of their business within the United Kingdom;
"Equivalent Services Data"	in relation to a Comparable Service, data derived from an analysis of the Comparable Service provided by the Comparison Group as adjusted in accordance with Paragraphs 4.8.1 and 4.9 provided that the Benchmarker shall not use any such data that relates to a period which ended more than 36 months prior to the date of the appointment of the Benchmarker;
"Good Value"	in relation to a Benchmarked Service, that: (a) having taken into account the Performance Indicators and Target Performance Levels, the value for money of the Charges attributable to that Benchmarked Service is

at least as good as the value for money of the Upper Quartile; and

(b) any Performance Indicators and Target Performance Levels applicable to that Benchmarked Service are, having taken into account the Charges, equal to or better than the median service levels for the Comparable Service using Equivalent Services Data; and

"Upper Quartile" the top 25% of instances of provision of a Comparable Service by members of the Comparison Group ranked by best value for money to the recipients of that Comparable Service.

2 Frequency, Purpose and Scope of Benchmark Review

2.1 The Authority may, by written notice to the Supplier, require a Benchmark Review of any or all of the Services in order to establish whether a Benchmarked Service is, and/or the Benchmarked Services as a whole are, Good Value.

2.2 The Authority shall not be entitled to carry out a Benchmark Review of any Services during the 12 month period from the Operational Service Commencement Date for those Services, nor at intervals of less than 12 months after any previous Benchmark Review relating to the same Services.

2.3 The Services that are to be the Benchmarked Services shall be identified by the Authority in the notice given under Paragraph 2.1.

3 Appointment of Benchmarker

3.1 The Authority shall appoint as the Benchmarker to carry out the Benchmark Review either an organisation on the list of organisations set out in Annex 1 or such other organisation as may be agreed in writing between the Parties.

3.2 The Authority shall, at the written request of the Supplier, require the Benchmarker to enter into a confidentiality agreement with the Supplier in, or substantially in, the form set out in Annex 2.

3.3 The costs and expenses of the Benchmarker and the Benchmark Review shall be shared equally between both Parties provided that each Party shall bear its own internal costs of the Benchmark Review. The Benchmarker shall not be compensated on a contingency fee or incentive basis.

3.4 The Authority shall be entitled to pay the Benchmarker's costs and expenses in full and to recover the Supplier's share from the Supplier.

4 Benchmark Review

4.1 The Authority shall require the Benchmarker to produce, and to send to each Party for approval, a draft plan for the Benchmark Review within 10 Working Days after the date of the appointment of the Benchmarker, or such longer period as the Benchmarker shall reasonably request in all the circumstances. The plan must include:

4.1.1 a proposed timetable for the Benchmark Review;

4.1.2 a description of the information that the Benchmarker requires each Party to provide;

4.1.3 a description of the benchmarking methodology to be used;

4.1.4 a description that clearly illustrates that the benchmarking methodology to be used is capable of fulfilling the benchmarking objectives under Paragraph 2.1;

4.1.5 an estimate of the resources required from each Party to underpin the delivery of the plan;

4.1.6 a description of how the Benchmarker will scope and identify the Comparison Group;

4.1.7 details of any entities which the Benchmarker proposes to include within the Comparison Group; and

4.1.8 if in the Benchmarker's professional opinion there are no Comparable Services or the number of entities carrying out Comparable Services is insufficient to create a Comparison Group, a detailed approach for meeting the relevant benchmarking objective(s) under Paragraph 2.1 using a proxy for the Comparison Services and/or Comparison Group as applicable.

4.2 The Parties acknowledge that the selection and or use of proxies for the Comparison Group (both in terms of number and identity of entities) and Comparable Services shall be a matter for the Benchmarker's professional judgment.

4.3 Each Party shall give notice in writing to the Benchmarker and to the other Party within 10 Working Days after receiving the draft plan either approving the draft plan or suggesting amendments to that plan which must be reasonable Where a Party suggests amendments to the draft plan pursuant to this Paragraph 4.3, the Benchmarker shall, if it believes the amendments are reasonable, produce an amended draft plan. Paragraph 4.1 and this Paragraph 4.3 shall apply to any amended draft plan.

4.4 Failure by a Party to give notice under Paragraph 4.3 shall be treated as approval of the draft plan by that Party. If the Parties fail to approve the draft plan within 30 Working Days of its first being sent to them pursuant to Paragraph 4.1 then the Benchmarker shall prescribe the plan.

4.5 Once the plan is approved by both Parties or prescribed by the Benchmarker, the Benchmarker shall carry out the Benchmark Review in accordance with the plan. Each Party shall procure that all the information described in the plan, together with any additional information reasonably required by the Benchmarker is provided to the Benchmarker without undue delay. If the Supplier fails to provide any information requested from it by the Benchmarker and described in the plan, such failure shall constitute a material Default for the purposes of Clause 25.1.3 (*Rectification Plan Process*).

4.6 Each Party shall co-operate fully with the Benchmarker, including by providing access to records, technical documentation, premises, equipment, systems and personnel at times reasonably requested by the Benchmarker, provided that the Benchmarker shall be

instructed to minimise any disruption to the Services.

4.7 Either Party may provide additional material to the Benchmarker to assist the Benchmarker in conducting the Benchmark Review.

4.8 Once it has received the information it requires, the Benchmarker shall:

4.8.1 finalise the sample of entities constituting the Comparison Group and collect data relating to Comparable Services. The final selection of the Comparison Group (both in terms of number and identity of entities) and of the Comparable Services shall be a matter for the Benchmarker's professional judgment;

4.8.2 derive the Equivalent Services Data by applying the adjustment factors listed in Paragraph 4.9 and from an analysis of the Comparable Services;

4.8.3 derive the relative value for money of the charges payable for the Comparable Services using the Equivalent Services Data and from that derive the Upper Quartile;

4.8.4 derive the median service levels relating to the Comparable Services using the Equivalent Services Data;

4.8.5 compare the value for money of the Charges attributable to the Benchmarked Services (having regard in particular to the applicable Performance Indicators and Target Performance Levels) to the value for money of the Upper Quartile;

4.8.6 compare the Performance Indicators and Target Performance Levels attributable to the Benchmarked Services (having regard to the Charges and Service Credits) with the median service levels using the Equivalent Services Data; and

4.8.7 determine whether or not each Benchmarked Service is and/or the Benchmarked Services as a whole are, Good Value.

4.9 The Benchmarker shall have regard to the following matters when performing a comparative assessment of a Benchmarked Service and a Comparable Service in order to derive Equivalent Services Data:

4.9.1 the contractual and business environment under which the Services are being provided (including the scope, scale, complexity and geographical spread of the Services);

4.9.2 any front-end investment and development costs of the Supplier;

4.9.3 the Supplier's risk profile including the financial, performance or liability risks associated with the provision of the Services as a whole;

4.9.4 the extent of the Supplier's management and contract governance responsibilities;

4.9.5 any other reasonable factors demonstrated by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive (such as erroneous costing, non-sustainable behaviour including excessive consumption of energy or over-aggressive pricing).

5 Benchmark Report

5.1 The Benchmarker shall be required to prepare a Benchmark Report and deliver it simultaneously to both Parties, at the time specified in the plan approved under Paragraph 4, setting out its findings. The Benchmark Report shall:

5.1.1 include a finding as to whether or not each Benchmarked Service is and/or whether the Benchmarked Services as a whole are, Good Value;

5.1.2 include other findings (if any) regarding the quality and competitiveness or otherwise of those Services;

5.1.3 if any Benchmarked Service is not Good Value, or the Benchmarked Services as a whole are not Good Value, specify the changes that would be required to the Charges, Performance Indicators and/or Target Performance Levels, that would be required to make that Benchmarked Service or those Benchmarked Services as a whole Good Value; and

5.1.4 illustrate the method used for any normalisation of the Equivalent Services Data

5.2 The Benchmarker shall act as an expert and not as an arbitrator.

5.3 If the Benchmark Report states that any Benchmarked Service is not Good Value or that the Benchmarked Services as a whole are not Good Value, then the Supplier shall (subject to Paragraphs 5.5 and 5.6) implement the changes set out in the Benchmark Report as soon as reasonably practicable within timescales agreed with the Authority but in any event within no more than 3 months. Any associated changes to the Charges shall take effect only from the same date and shall not be retrospective.

5.4 The Supplier acknowledges and agrees that Benchmark Reviews shall not result in any increase to the Charges, disapplication of the Performance Indicators or any reduction in the Target Performance Levels.

5.5 The Supplier shall be entitled to reject any Benchmark Report if the Supplier reasonably considers that the Benchmarker has not followed the procedure for the related Benchmark Review as set out in this Schedule in any material respect.

5.6 The Supplier shall not be obliged to implement any Benchmark Report to the extent this would cause the Supplier to provide the Services at a loss (as determined, by reference to the Financial Model), or to the extent the Supplier cannot technically implement the recommended changes.

5.7 In the event of any Dispute arising over whether the Benchmarker has followed the procedure for the related Benchmark Review under Paragraph 5.5 and/or any matter referred to in Paragraph 5.6, the Dispute shall be referred to Expert Determination. For the avoidance of doubt in the event of a Dispute between the Parties, the Authority shall continue to pay the Charges to the Supplier in accordance with the terms of this Contract and the Performance Indicators and Target Performance Levels shall remain unchanged pending the conclusion of the Expert Determination.

5.8 On conclusion of the Expert Determination:

5.8.1 if the Expert determines that all or any part of the Benchmark Report

recommendations regarding any reduction in the Charges shall be implemented by the Supplier, the Supplier shall immediately repay to the Authority the difference between the Charges paid by the Authority up to and including the date of the Expert's determination and the date upon which the recommended reduction in Charges should have originally taken effect pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and

5.8.2 if the Expert determines that all or any part of the Benchmark Report recommendations regarding any changes to the Performance Indicators and/or Target Performance Levels shall be implemented by the Supplier:

(a) the Supplier shall immediately implement the relevant changes;

(b) the Supplier shall immediately pay an amount equal to any Service Credits which would have accrued up to and including the date of the Expert's determination if the relevant changes had taken effect on the date determined pursuant to Paragraph 5.3 together with interest thereon at the applicable rate under the Late Payment Of Commercial Debts (Interest) Act 1998; and

(c) the relevant changes shall thereafter be subject to the Change Control Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Contract.

5.9 Any failure by the Supplier to implement the changes as set out in the Benchmark Report in accordance with the relevant timescales determined in accordance with Paragraph 5.3 (unless the provisions of Paragraph 5.6 and/or Paragraph 5.7 apply) or in accordance with Paragraph 5.8 shall, without prejudice to any other rights or remedies of the Authority, constitute a Supplier Termination Event.

Annex 1: Approved Benchmarkers

Annex 2: Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [date]

BETWEEN:

(1) [**insert** name] of [**insert** address] (the "**Supplier**"); and

(2) [**insert** name] of [**insert** address] (the "**Benchmarker**" and together with the Supplier, the "**Parties**").

WHEREAS:

(A) [**insert** name of Authority] (the "**Authority**") and the Supplier are party to a contract dated [**insert** date] (the "**Contract**") for the provision by the Supplier of [**insert** brief description of services] to the Authority.

(B) The Benchmarker is to receive Confidential Information from the Supplier for the purpose of carrying out a benchmarking review for the Authority of one or more of such services pursuant to the terms of the Contract (the "**Permitted Purpose**").

IT IS AGREED as follows:

1 Interpretation

1.1 In this Agreement, unless the context otherwise requires:

"Confidential Information" means:

(a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Supplier to the Benchmarker pursuant to this Agreement that relates to:

(i) the Supplier; or

(ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;

(b) other Information provided by the Supplier pursuant to this Agreement to the Benchmarker that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Benchmarker's attention or into the Benchmarker's possession in connection with the Permitted Purpose;

(c) discussions, negotiations, and correspondence between the Supplier or any of its directors, officers, employees, consultants or professional advisers and the

Benchmarker or any of its directors, officers, employees, consultants and professional advisers in connection with the Permitted Purpose and all matters arising therefrom; and

(d) Information derived from any of the above,

but not including any Information that:

(e) was in the possession of the Benchmarker without obligation of confidentiality prior to its disclosure by the Supplier;

(f) the Benchmarker obtained on a non-confidential basis from a third party who is not, to the Benchmarker's knowledge or belief, bound by a confidentiality agreement with the Supplier or otherwise prohibited from disclosing the information to the Benchmarker;

(g) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or

(h) was independently developed without access to the Confidential Information;

"Information" means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

"Permitted Purpose" has the meaning given to that expression in recital B to this Agreement.

1.2 In this Agreement:

1.2.1 a reference to any gender includes a reference to other genders;

1.2.2 the singular includes the plural and vice versa;

1.2.3 the words "include" and cognate expressions shall be construed as if they were immediately followed by the words "without limitation";

1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;

1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and

1.2.6 references to Clauses are to clauses of this Agreement.

1 Confidentiality Obligations

1.1 In consideration of the Supplier providing Confidential Information to the Benchmarker, the Benchmarker shall:

1.1.1 treat all Confidential Information as secret and confidential;

1.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);

1.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or, if relevant, other owner or except as expressly set out in this Agreement;

1.1.4 not transfer any of the Confidential Information outside the United Kingdom;

1.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;

1.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and

1.1.7 once the Permitted Purpose has been fulfilled:

(a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;

(b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Benchmarker) from any computer, word processor, voicemail system or any other device; and

(c) make no further use of any Confidential Information.

2 Permitted Disclosures

2.1 The Benchmarker may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

2.1.1 reasonably need to receive the Confidential Information in connection with the Permitted Purpose; and

2.1.2 have been informed by the Benchmarker of the confidential nature of the Confidential Information; and

2.1.3 have agreed to terms similar to those in this Agreement.

2.2 The Benchmarker shall be entitled to disclose Confidential Information to the Authority for the Permitted Purpose and to any Expert appointed in relation to a Dispute as referred to in Paragraph 5.7 of this Schedule 17 (*Benchmarking*) to the Contract.

2.3 The Benchmarker shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Benchmarker.

2.4 Before making a disclosure pursuant to Paragraph 2.3, the Benchmarker shall, if the circumstances permit:

2.4.1 notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and

2.4.2 ask the court or other public body to treat the Confidential Information as confidential.

3 General

3.1 The Benchmarker acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.

3.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:

3.2.1 to grant the Benchmarker any licence or rights other than as may be expressly stated in this Agreement;

3.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or

3.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of this Agreement.

3.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

3.4 Without prejudice to any other rights or remedies that the Supplier may have, the Benchmarker acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Benchmarker of any of the provisions of this Agreement. Accordingly, the Benchmarker acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.

3.5 The maximum liability of the Benchmarker to the Supplier for any breach of this Agreement shall be limited to [redacted]

3.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.

3.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.

3.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

4 Notices

4.1 Any notice to be given under this Agreement (each a "**Notice**") shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Paragraph 4.2.

4.2 Any Notice:

4.2.1 if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. "The Finance Director"]

4.2.2 if to be given to the Benchmarker shall be sent to:

[Name of Organisation]

[Address]

Attention: [ ]

5 Governing law

5.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

5.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of [name of Supplier]

Signature: _____ Date:

Name: Position:

For and on behalf of [name of Benchmarker]

Signature: _____ Date:

Name: Position:

Home Office

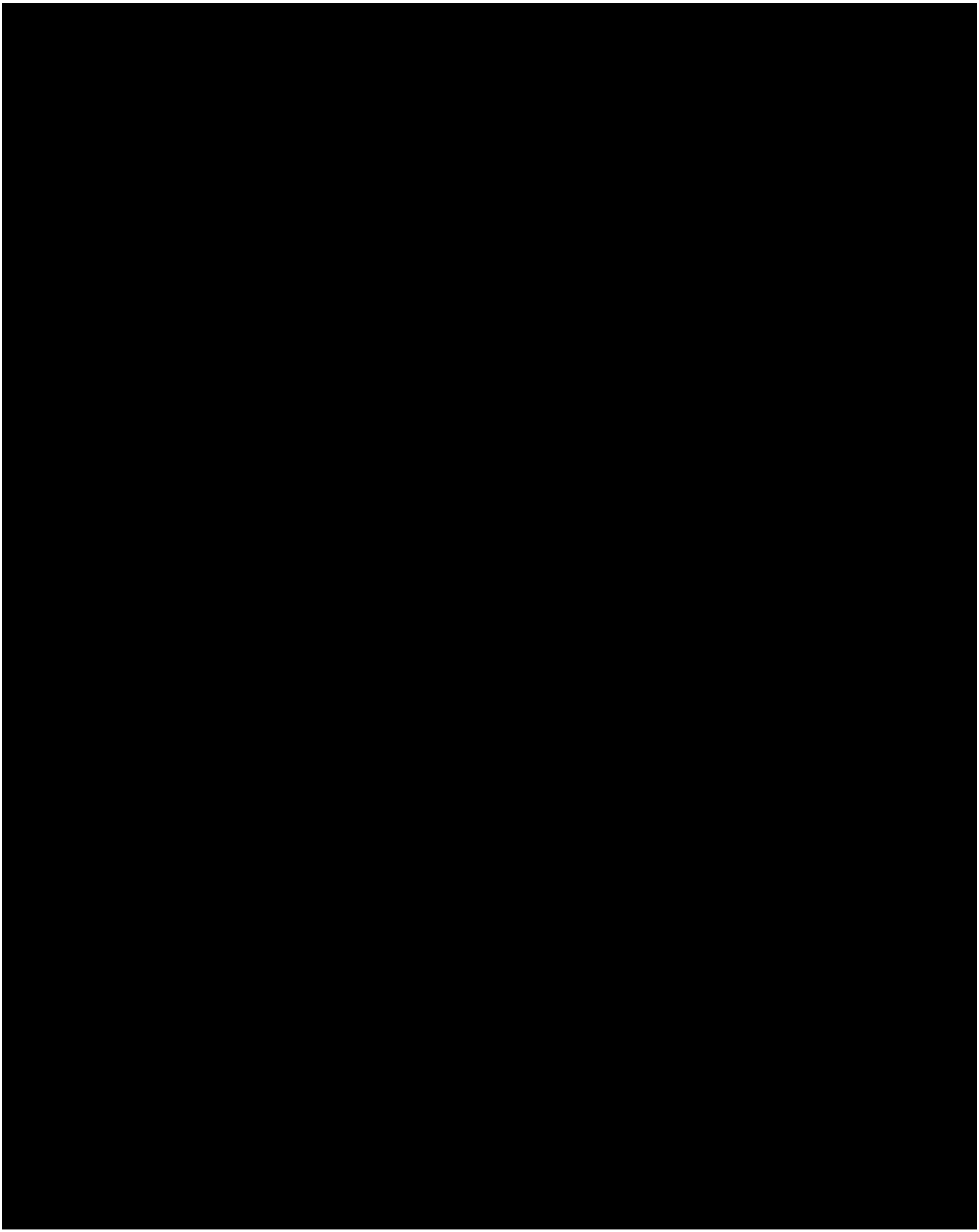
AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 18

Financial Distress

Irregular Migration Management Services

[Schedule redacted in full]



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 19

Financial Reports and Audit Rights

Irregular Migration Management Services

Schedule 19: Financial Reports and Audit Rights

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Annual Contract Report"	the annual contract report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
"Audit Agents"	(a) the Authority's internal and external auditors; (b) the Authority's statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Authority to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
"Contract Amendment Report"	the contract amendment report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
"Dispute"	any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Final Reconciliation Report"	the final reconciliation report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
"Financial Model"	comprises the Contract Inception Report or the latest Contract Amendment Report and the latest Quarterly Contract report or the latest Annual Contract Report, whichever has been most recently approved by the Authority in accordance with Paragraph 2 of Part B;
"Financial Pricing Model"	means the Excel template provided by the Authority in Annex 3 of Schedule 15.2 (*Charges and Invoicing*), for the purpose of returning the Supplier's financial response, which subsequent to any changes arising during due diligence on or before the

	Effective Date, shall be agreed between the Parties and become the Contract Inception Report;
"Financial Reports"	the Contract Inception Report and the reports listed in the table in Paragraph 1.1 of Part B;
"Financial Representative"	a reasonably skilled and experienced member of the Supplier's staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and Financial Reports;
"Financial Transparency Objectives"	has the meaning given in Paragraph 1 of Part A;
"Material Change"	a Change which: (a) materially changes the profile of the Charges; or (b) varies the total Charges payable during the Term (as forecast in the latest Financial Model) by: (i) 5% or more; or (ii) £100k or more;
"Onerous Contract"	means a contract: a) in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it, as defined under International Accounting Standard 37; and b) for which the Supplier has provided the Authority with relevant supporting information supporting that designation;
"Onerous Contract Report"	means a report provided by the Supplier pursuant to Paragraph 3 of Part A to this Schedule;
"Open Book Data"	complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to: (a) the Supplier's Costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs and any reductions in operating costs or other outcomes resulting from

such capital expenditure) and the unit cost and total actual costs of all hardware and software;

(b) operating expenditure relating to the provision of the Services including an analysis showing:

(i) the unit costs and quantity of consumables and bought-in services;

(ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;

(iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin;

(iv) Reimbursable Expenses; and

(v) any other costs; including Pass-Through costs set out in Schedule 15.2 (*Charges and Invoicing)*, Part A Paragraph 5;

(c) Overheads;

(d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;

(e) the Supplier Profit achieved over the Term and on an annual basis;

(f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;

(g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency;

(h) the actual Costs profile for each Service Period; and

(i) the balance sheet for the Contract and associated supporting schedules including fixed asset registers and supporting source documentation information for prepayments, accruals and other items.

Part A: Financial Transparency Objectives and Open Book Data

1 Financial Transparency Objectives

1.1 The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Authority in order to achieve, the following objectives:

1.1.1 **Understanding the Charges**

(a) for the Supplier to provide the Authority with a breakdown of any payment sought from the Authority including an analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Personnel in providing the Services, Pass-Through Costs, Supplier Profit Margin, revenues from Short-Term Upgrades, Incentive Payments and Profit Share amounts;

(b) for the Supplier to provide the Authority with analysis to demonstrate the relationship between the Services performed, the Charges and costs incurred by the Supplier;

(c) for both Parties to be able to understand the Financial Model and Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting assumptions, sensitivities and other techniques;

(d) to support the use of Service Credits, Profit Share, and any other applicable pricing, performance and value for money mechanisms.

1.1.2 **Demonstrating the Supplier Solution is sufficiently resourced and sustainable**

(a) demonstrating to the satisfaction of the Authority that the Supplier has planned for and has access to enough resources (its own and through its supply chain) to deliver the Services at the required Target Performance Levels.

(b) demonstrating sustainable value for money both for Services delivered and future Services to be delivered, facilitated by the provision of a transparent, comprehensive and detailed understanding of how the Supplier has 'sized' its resource capacity (including, but not limited to labour and technology) to meet the demand for Services set out by the Authority in a way that is efficient and in accordance with the required service levels and associated Key Performance Indicators.

1.1.3 **Agreeing the impact of Change**

(a) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges;

(b) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

1.1.4 **Continuous improvement**

(a) for the Parties to challenge each other with ideas for efficiency and improvements; and

(b) for the Supplier to demonstrate to the Authority that it is achieving value for money for the taxpayer relative to current market prices, and the realisation of operational and financial benefits.

(together the "**Financial Transparency Objectives**").

2 Open Book Data

2.1 The Supplier acknowledges the importance to the Authority of the Financial Transparency Objectives and the Authority's need for complete transparency in the way in which the Charges are calculated.

2.2 During the Term, and for a period of 7 years following the end of the Term, the Supplier shall:

2.2.1 maintain and retain the Open Book Data for the Term, including sufficient evidence to support any charges and underlying costs such as, but, not restricted to trial balances, general ledgers, third party invoices, payroll records, allocation calculations, asset registers, journals and other supporting files (that would meet the requirements of Auditing Standards); and

2.2.2 disclose and allow the Authority and/or the Audit Agents access to the Open Book Data.

3 Onerous Contracts

3.1 If the Supplier publicly designates the Contract as an Onerous Contract (including where the Supplier has identified the Contract as such in any published accounts or public reports and announcements), the Supplier shall promptly notify the Authority of the designation and shall prepare and deliver to the Authority within the timescales agreed by the Parties (an in any event, no later than 2 months following the publication of the designation) a draft Onerous Contract Report which includes the following:

3.1.1 An initial root cause analysis of the issues and circumstances which may have contributed to the Contract being designated as an Onerous Contract;

3.1.2 An initial risk analysis and impact assessment on the provision of the Services as a result of the Supplier's designation of the Contract as an Onerous Contract;

3.1.3 the measures, required resources and timeframe for which the Supplier intends to put in place to minimise and mitigate any adverse impact on the provision on the Services;

3.1.4 details of any other mitigating actions by the Supplier which could be put in place to remove the designation of the Contract as an Onerous Contract and/or which could minimise and mitigate any adverse impact on the provision of the Services.

3.2 Following receipt of the Onerous Contract Report, the Authority shall review and comment on the report as soon as reasonably practicable and the Parties shall cooperate in good faith to agree the final form of the report, which shall be submitted to the Authority's Commercial Assurance Board (or designated proxy), such final form report to be agreed no later than 1 month following the Authority's receipt of the draft Onerous Contract Report.

3.3 The Commercial Assurance Board shall meet within 10 Working Days of the final Onerous Contract Report being agreed by the Parties to discuss the contents of the report; and the Parties shall procure the attendance at the meeting of any key participants where reasonably required (including the Cabinet Office Markets and Suppliers team where the Supplier is a Strategic Supplier; representatives from any Key Sub-contractors/Monitored Suppliers; and the project's senior responsible officers (or equivalent) for each Party).

3.4 The Supplier acknowledges and agrees that the report is submitted to the Authority's Commercial Assurance Board on an information only basis and the Authority's Commercial Assurance Board's receipt of and comments in relation to the report shall not be deemed to be an acceptance or rejection of the report nor shall it relieve the Supplier of any liability under this Contract. Any Changes to be agreed by the Parties pursuant to the report shall be subject to the Change Control Procedure.

Part B: Financial Reports

1 Provision of the Financial Reports

1.1 The Supplier shall provide:

1.1.1 the Contract Inception Report on or before the Effective Date; and

1.1.2 during the Term the following financial reports to the Authority, in the frequency specified below:

Financial Report	When to be provided	Purpose
Contract Inception Report	On or before the Effective Date	This will show how the Charges are built up from the Costs and mark-ups. The format of this report shall be based on the final Financial Pricing Model.
Contract Amendment Report	Within 10 Working Days of a Material Change being agreed between the Supplier and the Authority. This shall include material changes arising from but not limited to the following events: - Service Improvement Plans provided in accordance with Schedule 15.3 (*Service Improvements)*; - Any Flexible Staffing Model changes requested by the Authority in accordance with the provisions of Schedule 2.2 (*Service Description Healthcare Services*)	This shall be an iteration of the Contract Inception Report and will show how the Charges are built up from the Costs and mark-ups, including the variation to the Charges of any Change Authorisation Note agreed. The format and content of this report shall be based on the updated Financial Pricing Model. If there are material changes arising from the events set out, or any other material changes that result in a change to the Staffing Model, the Supplier shall provide updated Staffing Models for all Bands. The updated Staffing Models must be in the same format as the Financial Pricing Model, detailing any changes to labour roles, the number of staff per role, the standard hours per staff per week, overtime hours per staff per week, and surge days as applicable to the Lot.

Quarterly Contract Report	Within 10 Working Days of the end of each Quarter	This will be used as a performance management tool during the life of this Contract. The format of this report shall be agreed between the Authority and the Supplier in accordance with paragraph 1.2 below. The report shall identify the key cost drivers to financial performance, including the actual days each Surge Band was requested, appropriate variance analyses (including variance against Contract Inception Report) and forecast contract costs for the current contract/fiscal year and to contract completion. The report shall also include a summary of any Service Credits, agreed Incentive Payments and Gain Share Amount.
Annual Contract Report	Within 10 Working Days of the end of the Contract Year to which that report relates	This will be used as a performance management tool and will support any annual mechanisms during the life of this Contract. The format of this report shall be agreed between the Authority and the Supplier in accordance with paragraph 1.2 below. The report shall identify the key cost drivers to financial performance, include appropriate variance analyses (including variance against Contract Inception Report) and forecast contact costs for the current contract/fiscal year and to contract completion.
Final Reconciliation Report	Within 60 Working Days after the end of the Term	The format of this report shall be agreed between the Authority and the Supplier in accordance with paragraph

		1.2 below. This report will show actual Costs and Charges for the duration of this Contract.

1.2 The Supplier and the Authority shall agree the format of the Financial Reports for financial reporting purposes. The Supplier shall be responsible for maintaining the Financial Reports, however, any changes or modifications to the Financial Reports shall be agreed between the Supplier and the Authority and only implemented by the Supplier following written notice by the Authority to the Supplier.

1.3 A copy of each Financial Report shall be held by both the Authority and the Supplier. If there is a Dispute regarding a Financial Report, the Authority's copy of the relevant Financial Report shall be authoritative.

1.4 Each Financial Report shall:

1.4.1 be completed by the Supplier using reasonable skill and care;

1.4.2 incorporate and use the same defined terms as are used in this Contract;

1.4.3 quote all monetary values in pounds sterling;

1.4.4 quote all Costs as exclusive of any VAT; and

1.4.5 quote all Costs and Charges based on current prices.

1.5 Each Financial Report and the Final Reconciliation Report shall be certified by the Supplier's Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Authority in advance of issue of the relevant Financial Report), acting with express authority, as:

1.5.1 being accurate and not misleading;

1.5.2 having been prepared in conformity with generally accepted accounting principles within the United Kingdom;

1.5.3 being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and

1.5.4 compliant with the requirements of Paragraph 1.6.

1.6 The Supplier shall:

1.6.1 prepare each Financial Report using the same methodology as that used for the Contract Inception Report;

1.6.2 to the extent permitted by Law, ensure that each Quarterly Contract Report, annual Contract Report and each Contract Amendment Report (if any) is a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;

1.6.3 to the extent permitted by Law, ensure that the Final Reconciliation Report is a true and fair reflection of the Costs; and

1.6.4 not have any other internal financial model in relation to the Services inconsistent with the Financial Model.

1.7 During the Term, and for a period of 18 months following the end of the Term, the Supplier shall make available the Financial Representative at reasonable times and on reasonable notice to answer any queries that the Authority may have on any of the Financial Reports and/or Open Book Data.

1.8 If the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:

1.8.1 the Costs incurred (or those forecast to be incurred) by the Supplier; and/or

1.8.2 the forecast Charges for the remainder of the Term,

the Supplier shall, as soon as practicable, notify the Authority in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph 1.8 shall not have the effect of amending any provisions of this Contract.

2 Financial Model

2.1 Following the delivery by the Supplier of any Contract Amendment Report, each Quarterly Contract Report and Annual Contract Report:

2.1.1 the Parties shall meet to discuss its contents within 15 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting;

2.1.2 within 10 Working Days of receipt (or such other period as the Parties shall agree), the Authority shall advise the Supplier of any particular aspects or issues it would wish explained at the meeting;

2.1.3 the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the Contract Inception Report or immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the satisfaction of the Authority; and

2.1.4 the Authority shall either within 20 Working Days of the meeting referred to in Paragraph 2.1.1 notify the Supplier that:

(a) the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any necessary modifications to the Financial Report and/or supply the Authority with such supporting evidence as is required to address the Authority's concerns within 10 Working Days of such notification and the Authority shall following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or

(b) the Authority has approved the relevant Financial Report.

2.2 Following approval by the Authority of the relevant Financial Report in accordance with

Paragraph 2.1.4, that version shall become, with effect from the date of such approval, the current approved version of the Financial Model for the purposes of this Contract, a version of which shall be held by both the Authority and the Supplier. If there is a Dispute regarding a Financial Report, the Authority's copy of the relevant Financial Report shall be authoritative.

2.3 The approved version of the latest Annual Contract Report shall then be subject to the provisions of Part D (*Excessive Supplier Profit Margin*) of Schedule 15.2 (*Charges and Invoicing*).

2.4 If the Parties are unable to reach agreement on any Financial Report within 45 Working Days of its receipt by the Authority, the matter shall be referred for determination in accordance with Schedule 23 (*Dispute Resolution Procedure*).

2.5 If at a later date evidence becomes available that any Financial Report contains errors or omissions that have not been previously raised and resolved, the Authority reserves the right to seek clarification and the Supplier shall promptly provide further information setting out the cause and financial impacts of such errors or omissions as is necessary.

3 Discussion of Final Reconciliation Report

3.1 Following the delivery by the Supplier of the Final Reconciliation Report:

3.1.1 the Parties shall meet to discuss its contents within 20 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting;

3.1.2 within 10 Working Days of receipt of the Final Reconciliation Report (or such other period as the Parties shall agree), the Authority shall advise the Supplier of any particular aspects or issues it would wish explained at the meeting;

3.1.3 the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the Final Reconciliation Report and the Contract Inception Report or the immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the satisfaction of the Authority; and

3.1.4 the Authority shall either within 20 Working Days of the meeting referred to in Paragraph 3.1.1 (or such other period as the Parties shall agree) notify the Supplier that:

(a) the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any necessary modifications to the Financial Report and/or supply the Authority with such supporting evidence as is required to address the Authority's concerns within 20 Working Days of such notification (or such other period as the Parties shall agree) and the Authority shall following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or

(b) the Authority has approved the Final Reconciliation Report.

3.2 Following approval by the Authority of the relevant Financial Report in accordance with Paragraph 3.1.4, that version shall become, with effect from the date of such approval, the approved version of the Final Reconciliation Report for the purposes of this Contract , a version of which shall be held by both the Authority and the Supplier. If there is a Dispute regarding a Financial Report, the Authority's copy of the relevant Financial Report shall be authoritative.

3.3 The approved version of the Final Reconciliation Report shall then be subject to the provisions of Part D (*Excessive Supplier Profit Margin*) of Schedule 15.2 (*Charges and Invoicing*).

3.4 If the Parties are unable to reach agreement on any Financial Report within 60 Working Days of its receipt by the Authority, the matter shall be referred for determination in accordance with Schedule 23 (*Dispute Resolution Procedure*).

4 Key Sub-contractors

4.1 The Supplier shall, if requested by the Authority, provide (or procure the provision of) a report or reports including the level of information set out in the Financial Reports in relation to the costs and expenses to be incurred by any of its Key Sub-contractors.

4.2 Without prejudice to Paragraph 1.1 of Part C, the Supplier shall:

4.2.1 be responsible for auditing the financial models/reports of its Key Sub-contractors and for any associated costs and expenses incurred or forecast to be incurred; and

4.2.2 on written request by the Authority, provide the Authority or procure that the Authority is provided with:

(a) full copies of audit reports for the Key Sub-contractors. The Authority shall be entitled to rely on such audit reports; and

(b) further explanation of, and supporting information in relation to, any audit reports provided.

Part C: Audit Rights

1 Audit Rights

1.1 The Authority, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of 18 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors of the Supplier's obligations under this Contract, including for the following purposes:

1.1.1 to verify the integrity and content of any Financial Report;

1.1.2 to verify the accuracy of the Charges and any other amounts payable by the Authority under this Contract (and proposed or actual variations to such Charges and payments);

1.1.3 to validate assessments carried out in relation to any Contract Change(s);

1.1.4 to verify the Costs (including the amounts paid to all Sub-contractors and any third party suppliers) and Revenues;

1.1.5 to verify the Certificate of Costs and/or the Open Book Data;

1.1.6 to verify the Supplier's and each Key Sub-contractor's compliance with this Contract and applicable Law;

1.1.7 to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;

1.1.8 to identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Guarantor and/or any Key Sub-contractors or their ability to perform the Services;

1.1.9 to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

1.1.10 to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;

1.1.11 to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;

1.1.12 to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

1.1.13 to verify the accuracy and completeness of any Management Information delivered or required by this Contract;

1.1.14 to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the

Supplier's own internal reports and records;

1.1.15 to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);

1.1.16 to review the accuracy and completeness of the Registers;

1.1.17 to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;

1.1.18 to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);

1.1.19 to review the Supplier's compliance with the Standards;

1.1.20 to inspect the Authority Assets, including the Authority's IPRs, equipment and facilities, for the purposes of ensuring that the Authority Assets are secure and that any register of assets is up to date; and/or

1.1.21 to review the integrity, confidentiality and security of the Authority Data.

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

1.3 Nothing in this Contract shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

2 Conduct of Audits

2.1 The Authority shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Authority deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.

2.2 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:

2.2.1 all information requested by the Authority within the permitted scope of the audit;

2.2.2 reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

2.2.3 access to the Supplier System; and

2.2.4 access to Supplier Personnel.

2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance

with the Performance Indicators.

2.4 The Authority shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention to conduct an audit.

2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in connection with the audit.

3 Use of Supplier's Internal Audit Team

3.1 As an alternative to the Authority's right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, the Authority may require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1.

3.2 Following the receipt of a request from the Authority under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Authority has unfettered access to:

3.2.1 the resultant audit reports; and

3.2.2 all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

4 Response to Audits

4.1 If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:

4.1.1 the Supplier has committed a Default, the Authority may (without prejudice to any rights and remedies the Authority may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;

4.1.2 there is an error in a Financial Report, the Supplier shall promptly rectify the error;

4.1.3 the Authority has overpaid any Charges, the Supplier shall pay to the Authority:

(a) the amount overpaid;

(b) interest on the amount overpaid at the applicable rate under the *Late Payment of Commercial Debts (Interest) Act 1998*, accruing on a daily basis from the date of overpayment by the Authority up to the date of repayment by the Supplier; and

(c) the reasonable costs incurred by the Authority in undertaking the audit,

the Authority may exercise its right to deduct such amount from the Charges if it prefers; and

4.1.4 the Authority has underpaid any Charges, the Supplier shall not be entitled to increase the Charges paid or payable by the Authority.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 20

Anticipated Savings

Irregular Migration Management Services

Schedule 20: Anticipated Savings

This Schedule defines the key benefit categories in which savings are anticipated.



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 21

Governance

Irregular Migration Management Services

Schedule 21: Governance

1. SCOPE

1.1. The Supplier and the Authority shall comply with the management principles set out within this Schedule with respect to the delivery of the Services and the management of this Contract.

1.2. This Schedule covers the following topics:

1.2.1. The objectives and relationship principles of the Governance arrangement;

1.2.2. The management plans and policies which the Authority requires the Supplier to develop, maintain and use to manage the operation of this Contract;

1.2.3. The management framework required for monitoring and managing the performance of this Contract;

1.2.4. The organisational structure to be adopted by the parties to deliver the Contract management function; and

1.2.5. Contractual Risk Management.

2. OBJECTIVES

2.1. The primary objective of the Governance process is to ensure that the delivery of the Services is planned, monitored and controlled effectively, in the manner set out in this Schedule.

2.2. The objective is achieved through management of the relationship between the Authority and the Supplier that is structured to achieve:

2.2.1. The regular review of strategic progress of this Contract and the addressing of any issues arising;

2.2.2. The day-to-day management of this Contract;

2.2.3. The effective and regular review of the Suppliers current and future delivery of the Services, including the identification and agreement of any shortfalls and improvements; and

2.2.4. Effective Risk Management.

3. RELATIONSHIP PRINCIPLES

3.1. Both Parties shall observe the following relationship principles throughout the duration of the Contract:

3.1.1. The Parties shall operate under shared objectives, values and behaviours which shall be agreed between the Parties from time to time;

3.1.2. Mutual trust based on openness and honesty about how the relationship is working and what issues in relation to it need to be resolved;

3.1.3. Recognition that the successful delivery of the Services relies on the strength of the relationships between the Parties and a commitment to work together to deliver the Services and any agreed or required Service improvements;

3.1.4. Regular communication between Parties in relation to continuous improvement, innovation, and future strategy that will be beneficial for the delivery of the Contract and potentially beyond.

3.2. The task of the Authority's Contract Managers and the Authority's Home Office Compliance Manager is principally to ensure that the Supplier is complying with its contractual obligations.

3.3. The Supplier shall ensure that both the Authority's Contract Managers and the Authority's Compliance Manager:

(a) Have unfettered access, at any time, to all areas of Manston Site and Disembarkation Point;

(b) Are provided with full assistance, including access to all records considered relevant by the Authority; and

(c) Have access to any relevant information that would assist in the investigation of any complaint against any member of Staff at Manston Site and Disembarkation Point.

3.4. The Authority and the Supplier shall ensure Healthcare and Operator Services representation in all Governance Groups covering both the Manston Site and Disembarkation Point.

3.5. The Authority's Contract Managers will consist of a team representing both Disembarkation Point and Manston Site from both an operational and healthcare services perspective.

3.6. The Supplier shall attend other Governance meetings as agreed with the Authority's Contract Managers, this may include but is not limited to meeting with external parties.

4. GOVERNANCE FRAMEWORK

4.1. The Governance framework shall be formed of three groups further explained in paragraph 5. The three groups are:

4.1.1. An **Operational Review Group** (which shall mean the Authority's Contract Managers, the Authority's Service Delivery Manager, the Supplier's Contract Manager, the Authority's Compliance Manager and any such individuals as agreed between the Parties from time to time) which will be responsible for day-to-day matters regarding the management and performance of this Contract.

4.1.2. A **Strategic Review and Executive Oversight Group** (which shall mean the Authority's Contract Sponsor (SRO), the Authority's Site Director(s), the Supplier's Account Director, the Authority's Service Delivery Manager, the Authority's Commercial Lead, the Authority's Contract Managers, the Supplier's Contract Manager, the Authority's Compliance Manager and any such individuals as agreed between the Parties from time to time) which will be responsible alignment between organisations, strategic projects and development, and any escalations from Operator Services.

4.1.3. An **Innovation & Social Value Review Group** (which shall mean the Authority's Commercial Lead, the Authority's Contract Managers, the Supplier's Contract Manager, the Authority's Service Delivery Manager, the Authority's Compliance Manager and any such individuals as agreed between the Parties from time to time) which will be responsible alignment between organisations, strategic projects and development, and any escalations from Operator Services.

5. GOVERNANCE STRUCTURE

Operational Review Group

5.1. Both Parties shall nominate a Contract Manager who, in conjunction with the Authority's Compliance Manager, shall have prime responsibility for the provision of the Services.

5.2. The major responsibilities for discharging routine day-to-day Contract management functions lie with the Authority's Contract Managers, the Authority's Compliance Manager, the Authority's Service Delivery Manager and the Supplier's Contract Manager and shall include:

5.2.1. Attending a monthly Operational Review meeting, the purpose of which includes but is not limited to discussing operational delivery to resolve any operational issues and discussing proposed Notices of Change;

5.2.2. Attending a quarterly Healthcare Partnership Board governance meeting, the purpose of which includes, but is not limited to, review and discuss healthcare related service delivery and any issues that require attention;

5.2.3. Review of performance data and key Performance Measures;

5.2.4. Agreement of Service Credits associated with Schedule 3 (*Performance Levels*);

5.2.5. Processing of Change Control Procedure in accordance with Schedule 22 (*Change Control Procedure*);

5.2.6. Verification and authorisation of invoices in accordance with Schedule 15.2 (*Charges and Invoicing)*;

5.2.7. Keeping the Contract continually up to date; and

5.2.8. Review of key reports in accordance with Schedule 24 (*Reports and Records Provisions*), the Supplier shall provide the reports to the Authority 5 working days before the Operational Review Group meets.

5.3. The Authority Contract Manager and the Supplier Contract Manager shall be responsible for:

5.3.1. initial discussions and attempts to resolve any dispute or problem; and

5.3.2. the co-ordination of communication and action relating to all aspects of this Contract.

5.4. The Parties shall ensure that the Operational Review Group fulfil and comply with the following requirements:

5.4.1. An Operational Review meeting shall be held monthly and usually not later than the end of the second full week of each Month. The Authority or the Supplier may call "Ad hoc" meetings on reasonable notice at any time to address specific issues.

5.4.2. The Supplier shall lodge a Site Manager(s) Report at least 2 working days in advance of the date of each Operational Review meeting. The Site Manager(s) Report shall include a redacted version which shall omit any details where exemptions are allowed under FOIA Act, which shall include but is not limited to section 31 (Law Enforcement), section 40 (Personal Information) and section 43 (Commercial Interests) of the Freedom of Information Act 2000.

5.4.3. The Parties shall jointly review the performance of the Services including but not limited to managing risk, incidents, complaints and Change Control.

5.4.4. All Parties shall make reasonable endeavours to ensure the effective and direct lines of communication are maintained between, and otherwise to, the Contract Manager(s), the Authority's Service Delivery Manager and the Authority's Compliance Manager at all times during Working Hours. If for any reason, these lines of communication cannot be maintained at any time, the relevant party shall ensure that an alternative point of contact is established with the other so that any issue for which action is required is progressed during the relevant Parties' unavailability.

5.4.5. All Parties shall establish effective and direct lines of communication at all times outside of Working Hours. They shall ensure that an executive decision capability is provided during those periods for the purposes of emergency response and administering the Services to be delivered under this Contract.

5.4.6. The Operator Services Provider and the Healthcare Provider will commit to using informal and formal processes to work collaboratively and problem-solve issues.

5.4.7. The Operational Review meeting is the formal forum where issues related to shared occupancy and operations are tabled, addressed and recorded.

5.4.8. The Operator Services Provider and the Healthcare Provider will convene at the quarterly Healthcare Partnership Board (referred to in paragraph 5.2.2 above) to escalate issues which have not been resolved between the two providers.

5.4.9. The relevant heads of the respective providers (meaning the Site Manager for Operator Services Provider and Head of Healthcare Operations for Healthcare Provider) will meet outside of Operational Review meetings to attempt to resolve issues that arise in that meeting. Where necessary unresolved issues shall be escalated as appropriate.

5.5. Operational Review meetings shall be chaired by the Authority's Compliance Manager.

5.5.1. Minutes shall be taken by the Supplier's Contract Manager and, following approval by the Authority, they shall be circulated with an action log detailing agreed actions to be carried out, to the **Strategic Review and Executive Oversight Group** and copied to the Authority's Strategic and Commercial Director.

5.5.2. Actions arising from the Governance meetings shall only be deemed closed when the Parties have agreed them to be closed at an Operational Review Group meeting or expressly in writing.

5.5.3. In the event that a Contract Manager, Authority's Service Delivery Manager or Authority's Compliance Manager is unable to attend the Operational Review meetings, such meeting shall be attended by a suitably empowered deputy, or a representative who is equivalent of, or more senior member of the Supplier's personnel than the Contract Manager.

Strategic Review and Executive Oversight Group

5.6. The Strategic Review and Executive Oversight Group shall be responsible for developing the strategic direction of the Contract and assessment of performance of the Contract in regard to:

5.6.1. Service provision;

5.6.2. Performance and quality management;

5.6.3. Reviewing and agreeing strategic plans;

5.6.4. Risk management;

5.6.5. Commercial, legal and media issues; and

5.6.6. Other issues that may affect the strategic direction of the Contract from time to time.

5.7. Quarterly Contract Review Meetings (QCRM) will be attended by:

5.7.1. The Supplier's Site Manager(s) and the Authority's Contract Managers;

5.7.2. The Authority's Service Delivery Manager and Authority's Compliance Manager;

5.7.3. Any such other persons as the parties may agree or the Authority shall reasonably require.

5.8. The purpose of the QCRM will be to discuss contractual matters including contractual change requests and key issues including but not limited to health and safety matters, movement statistics, regime overview and Performance Level statistics.

5.8.1. The content of the QCRM report shall be agreed between the Parties during Implementation but shall include as a minimum the following:

Commercial Matters:

a) Relationship Status Between Supplier and the Authority
b) Finance Breakdown
c) SME Spend
d) Contractual Efficiencies/Joint Initiatives
e) Escalations to Contract Management Team

Performance Evaluation:

a) Service Credits Levied & Impact on Margin
b) Staffing
c) Supplier's Progress against Action Plans
d) Supplier's Progress against Audits:

5.8.2. The Supplier shall produce a report detailing statistics on the previous quarter at least 2 working days in advance of the QCR Meeting.

5.8.3. The Supplier shall maintain a log of issues discussed at the QCRM including the progress of Change Requests and report to the Authority on new and continuing issues from inception to resolution, showing escalation as appropriate. The Supplier shall provide updates on any action plans and joint risk registers.

5.8.4. the Supplier will ensure the Authority has, at all times, an up-to-date and accurate copy of the Asset Register which shall be held on the Virtual Library.

5.9. On a Quarterly basis the Authority's Commercial Business Partner (from the Commercial Directorate) will meet with the Senior Leadership team of the Supplier to discuss Performance and Risks. A completed report prior to this meeting will be jointly produced by the Authority's appropriate representative and the Supplier's appropriate representative. The report to include high level activity and risk as a minimal. Any risks identified as "Black" will be discussed and strategies put into place.

Innovation & Social Value Review Group

5.10. The Innovation & Social Value Review Group (held every 6 months) shall be responsible for

reviewing innovation / sustainability initiatives and progress against innovation / sustainability metrics of the Contract and assessment of performance of the Contract in regard to:

5.10.1. Innovation initiatives including efficiency proposals and savings;

5.10.2. Social Value initiatives and metrics in accordance with Schedule 4.2 (*Social Value*);

5.10.3. Sustainability initiatives and metrics;

5.10.4. Staffing model including uplift or reduction; and

5.10.5. Sustainability - including progress against Government Greening Commitment (GGC) https://www.gov.uk/government/publications/greening-government-ict-strategy.

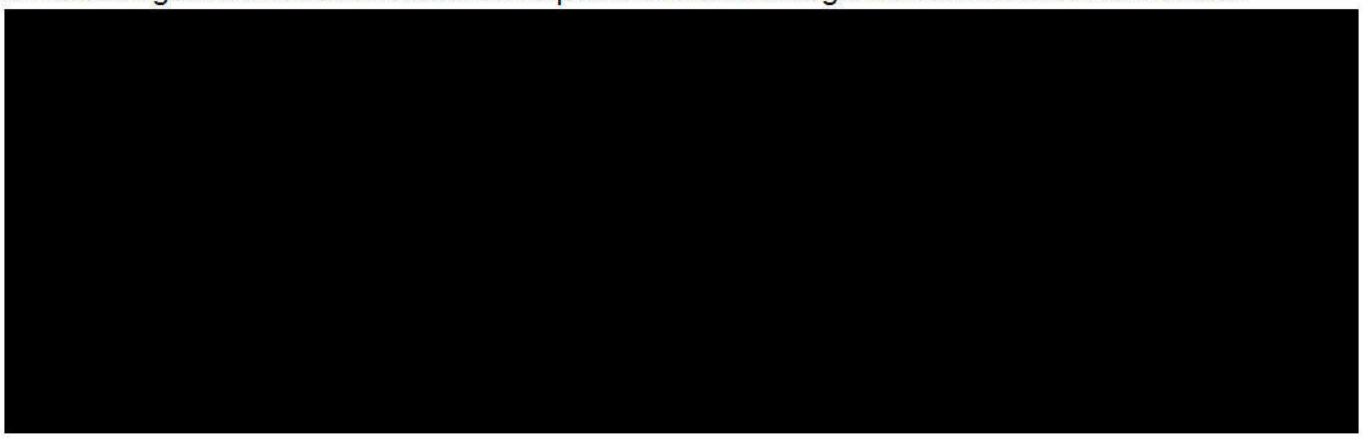
5.11. Innovation & Social Value Review Group meetings shall be chaired by the Authority's Compliance Manager.

5.11.1. Minutes shall be taken by the Supplier's Contract Manager and, following approval by the Authority, they shall be circulated with an action log detailing agreed actions to be carried out, to the Strategic Review and Executive Oversight Group and copied to the Authority's Strategic and Commercial Director.

5.11.2. Actions arising from the Governance meetings shall only be deemed closed when the Parties have agreed them to be closed at an Operational Review Group meeting or expressly in writing.

5.11.3. In the event that a Contract Manager, Authority's Service Delivery Manager or Authority's Compliance Manager is unable to attend the Innovation & Social Value Review Group, such meeting shall be attended by a suitably empowered deputy, or a representative who is equivalent of, or more senior member of the Supplier's personnel than the Contract Manager.

The following summarises the minimum required contract management interaction at each level.



6. ESCALATION

6.1. In the event of any queries, issues, complaints relating to the performance of the Contract the following escalation process shall be adhered to prior to the utilisation of Schedule 23 (*Dispute Resolution Procedure)*.

Operational issues



7. RISK MANAGEMENT

7.1. The Supplier and Authority shall work collaboratively to ensure that any risks in relation to Service provision are managed effectively to minimise potential impacts to the Authority's business and welfare of those in its' charge.

7.2. The Supplier shall adopt the Authority's approved processes, and documentation for managing and reporting contractual risks, including but not limited to:

7.2.1. Proactively managing the identification and management of risks.

7.2.2. Reporting risks to the Authority for inclusion in the Contract Risk Register, including an assessment of likelihood and impact of the risk and the likely effect should the risk materialise.

7.2.3. Taking ownership of assigned risks to ensure that mitigations are put in place, and where required contingency plans are created and agreed with the Authority.

7.2.4. Report to the Authority, at the agreed timescales upon any changes in the severity of the risks assigned, and immediately should there be material change in the risk.

7.2.5. Participation in regular formal reviews of the Risk Register, which shall be a shared document maintained by the Authority.

7.2.6. Participation in risk workshops as required.

7.2.7. Report any Modern Slavery risk.

7.3. The Supplier shall immediately report to the Authority any significant risks, along with an initial assessment. These risks shall include, but not be limited to:

7.3.1. Significant risks affecting safety, or security.

7.3.2. Significant risks to Service User welfare or regime provision.

7.3.3. Significant risks to Authority assets, or risks that could have a significant financial impact upon the Authority.

7.3.4. Any risk associated with the contract that could expose the Authority to reputational damage, or publicity.

7.3.5. Any risk associated with the Supplier, Sub-contractor, or wider Supplier Group (e.g. Parent Company) that could expose the Authority to reputational damage, or publicity.

7.3.6. A significant change in the Supplier's financial standing which could impact the delivery of the Contract.

7.3.7. Any other significant risk.

For any risk under paragraph 7.3 of this schedule, the Supplier shall formulate mitigation plans, and produce contingency plans for approval by the Authority with 5 days, or other timescale specified by the Authority.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 22

Change Control Procedure

Irregular Migration Management Services

Schedule 22: Change Control Procedure

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Authority Change Manager"	the person appointed to that position by the Authority from time to time and notified in writing to the Supplier or, if no person is notified, the Authority Representative;
"Change Request"	a written request for a Contract Change which shall be substantially in the form of Annex 1;
"Change Communication"	any Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule;
"Drafting Party"	the Party that will prepare two copies of a Change Authorisation Note which it shall sign and deliver to the Receiving Party for its signature;
"Fast-track Change"	any Contract Change which the Parties agree to expedite in accordance with Paragraph 8;
"Impact Assessment"	an assessment of a Change Request in accordance with Paragraph 5;
"Impact Assessment Estimate"	has the meaning given in Paragraph 4.3;
"Receiving Party"	the Party which receives a proposed Change Authorisation Note for signature pursuant to Paragraph 6.2; and
"Supplier Change Manager"	the person appointed to that position by the Supplier from time to time and notified in writing to the Authority or, if no person is notified, the Supplier Representative.

2 General Principles of Change Control Procedure

2.1 This Schedule sets out the procedure for dealing with Changes.

2.2 Operational Changes shall be processed in accordance with Paragraph 9. If either Party is in doubt about whether a change falls within the definition of an Operational Change, then it must be processed as a Contract Change.

2.3 The Parties shall deal with Contract Change as follows:

2.3.1 either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4;

2.3.2 unless this Contract otherwise requires, the Supplier shall assess and document the potential impact of a proposed Contract Change in accordance with Paragraph 5 before the Contract Change can be either approved or implemented;

2.3.3 the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 6;

2.3.4 the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 7;

2.3.5 save as otherwise provided in this Contract, no proposed Contract Change shall be implemented by the Supplier until a Change Authorisation Note has been signed and issued by the Authority in accordance with Paragraph 6.2; and

2.3.6 if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 8.

2.4 To the extent that any Contract Change requires testing and/or a programme for implementation, then the Parties shall follow the procedures set out in Schedule 14 (*Testing Procedures*), and, where appropriate, the Change Authorisation Note relating to such a Contract Change shall specify Milestones and/or a Key Milestone and Milestone Date(s) in respect of such Contract Change for the purposes of such procedures.

2.5 Until a Change Authorisation Note has been signed and issued in accordance with Paragraph 6.2, then:

2.5.1 unless the Authority expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply; and

2.5.2 any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.

2.6 Unless the Authority directs otherwise, the Supplier shall:

2.6.1 within 10 Working Days of the final signature and issue of a Change Authorisation Note, deliver to the Authority a copy of this Contract updated to reflect all Contract Changes agreed in the relevant Change Authorisation Note and annotated with a reference to the Change Authorisation Note pursuant to which the relevant Contract Changes were agreed; and

2.6.2 thereafter provide to the Authority such further copies of the updated Contract as the Authority may from time to time request.

3 Costs

3.1 Subject to Paragraph 3.3:

3.1.1 the costs of preparing each Change Request shall be borne by the Party making the Change Request; and

3.1.2 the costs incurred by the Supplier in undertaking an Impact Assessment shall be borne by the Supplier.

3.2 The cost of any Contract Change shall be calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Schedule 15.2 (*Charges and Invoicing*). The Supplier shall be entitled to increase the Charges only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Contract Change.

3.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Supplier shall be paid for by the Supplier.

4 Change Request

4.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.

4.2 If the Supplier issues the Change Request, then it shall also provide an Impact Assessment to the Authority as soon as is reasonably practicable but in any event within 10 Working Days of the date of issuing the Change Request.

4.3 If the Authority issues the Change Request, then the Supplier shall provide as soon as reasonably practical and in any event within ten (10) Working Days of the date of receiving the Change Request an estimate ("**Impact Assessment Estimate**") of the cost of preparing an Impact Assessment and the timetable for preparing it. The timetable shall provide for the completed Impact Assessment to be received by the Authority within ten (10) Working Days of acceptance of the Impact Assessment Estimate or within any longer time period agreed by the Authority.

4.4 If the Authority accepts an Impact Assessment Estimate then following receipt of notice of such acceptance the Supplier shall provide the completed Impact Assessment to the Authority as soon as is reasonably practicable and in any event within the period agreed in the Impact Assessment Estimate. If the Supplier requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Authority and provided that sufficient information is received by the Authority to fully understand:

4.4.1 The nature of the request for clarification; and

4.4.2 The reasonable justification for the request;

the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

5 Impact Assessment

5.1 Each Impact Assessment shall be completed in good faith and shall include:

5.1.1 details of the proposed Contract Change including the reason for the Contract Change; and

5.1.2 details of the impact of the proposed Contract Change on the Services, the Optional Services (if any) and the Supplier's ability to meet its other obligations under this Contract;

5.1.3 any variation to the terms of this Contract that will be required as a result of that impact, including changes to:

(a) the Services Description, the Performance Indicators and/or the Target Performance Levels;

(b) the format of Authority Data, as set out in the Services Description;

(c) the Milestones, Implementation Plan and any other timetable previously agreed by the Parties;

(d) other services provided by third party contractors to the Authority, including any changes required by the proposed Contract Change to the Authority's IT infrastructure;

5.1.4 details of the cost of implementing the proposed Contract Change;

5.1.5 details of the ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;

5.1.6 a timetable for the implementation, together with any proposals for the testing of the Contract Change;

5.1.7 details of how the proposed Contract Change will ensure compliance with any applicable Change in Law; and

5.1.8 such other information as the Authority may reasonably request in (or in response to) the Change Request.

5.2 If the Contract Change involves the processing or transfer of any Personal Data outside the UK, in the event of the Personal Data being subject to UK GDPR, or the EU, in the event of the Personal Data being subject to EU GDPR, the preparation of the Impact Assessment shall also be subject to Clause 21 (*Protection of Personal Data*).

5.3 Subject to the provisions of Paragraph 5.4, the Authority shall review the Impact Assessment and respond to the Supplier in accordance with Paragraph 6 within 15 Working Days of receiving the Impact Assessment, it.

5.4 If the Authority receives a proposed Contract Change from the Supplier and the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, then within 5 Working Days of receiving the Impact Assessment, it shall notify the Supplier of this fact and detail the further information that it requires. The Supplier shall then re-issue the relevant Impact Assessment to the Authority within 10 Working Days of receiving such notification. At the Authority's discretion, the Parties may

repeat the process described in this Paragraph 5.4 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.

5.5 The calculation of costs for the purposes of Paragraphs 5.1.4 and 5.1.5 shall:

5.5.1 be based on the Financial Model;

5.5.2 facilitate the Financial Transparency Objectives;

5.5.3 include estimated volumes of each type of resource to be employed and the applicable rate card;

5.5.4 include full disclosure of any assumptions underlying such Impact Assessment;

5.5.5 include evidence of the cost of any assets required for the Change; and

5.5.6 include details of any new Sub-contracts necessary to accomplish the Change.

6 Authority's Right of Approval

6.1 Within 15 Working Days of receiving the Impact Assessment from the Supplier or within 10 Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:

6.1.1 approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;

6.1.2 in its absolute discretion reject the Contract Change, in which case it shall notify the Supplier of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Supplier or the Services to comply with any Changes in Law. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or

6.1.3 in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within 5 Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within 10 Working Days.

6.2 If the Authority approves the proposed Contract Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in accordance with Paragraph 7, then it shall inform the Supplier and, unless otherwise directed by the Authority, the Supplier shall be the Drafting Party. Following receipt by the Receiving Party of the Change Authorisation Note, it shall sign both copies and return one copy to the Drafting Party. Unless otherwise specified, on the Receiving Party's signature the Change Authorisation Note shall constitute (or, where the Authority has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Contract.

6.3 If the Receiving Party does not sign the Change Authorisation Note within 10 Working Days of receipt, then the Drafting Party shall have the right to notify the Receiving Party and if the Receiving Party does not sign the Change Authorisation Note within 5 Working Days of such notification, then the Drafting Party may refer the matter to the Expedited Dispute Timetable pursuant to the Dispute Resolution Procedure.

7 Supplier's Right of Approval

7.1 Following an Impact Assessment, if:

7.1.1 the Supplier reasonably believes that any proposed Contract Change which is requested by the Authority would:

(a) materially and adversely affect the risks to the health and safety of any person; and/or

(b) require the Services to be performed in a way that infringes any Law; and/or

7.1.2 the Supplier demonstrates to the Authority's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and neither the Supplier Solution nor the Services Description state that the Supplier does have the technical capacity and flexibility required to implement the proposed Contract Change,

then the Supplier shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within 5 Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 4.3.

8 Fast-Track Changes

8.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

8.2 If:

8.2.1 the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 month period; and

8.2.2 both Parties agree the value of the proposed Contract Change over the remaining Term and any period for which Termination Services may be required does not exceed [redacted] and the proposed Contract Change is not significant (as determined by the Authority acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4, 5, 6 and 7 but with reduced timescales, such that any period of 15 Working Days is reduced to 5 Working Days, any period of 10 Working Days is reduced to 2 Working Days and any period of 5 Working Days is reduced to 1 Working Day.

8.3 The Parties may agree in writing to revise the parameters set out in Paragraph 8.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed 4 in a 12 month period.

9 Operational Change Procedure

9.1 Any Operational Changes identified by the Supplier to improve operational efficiency of the Services may be implemented by the Supplier without following the Change Control Procedure for proposed Contract Changes provided they do not:

9.1.1 have an impact on the business of the Authority;

9.1.2 require a change to this Contract;

9.1.3 have a direct impact on use of the Services; or

9.1.4 involve the Authority in paying any additional Charges or other costs.

9.2 The Authority may request an Operational Change by submitting a written Request for Operational Change ("**RFOC**") to the Supplier Representative.

9.3 The RFOC shall include the following details:

9.3.1 the proposed Operational Change; and

9.3.2 the time-scale for completion of the Operational Change.

9.4 The Supplier shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.

9.5 The Supplier shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC, and shall promptly notify the Authority when the Operational Change is completed.

10 Communications

10.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Authority Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 42 (*Notices*) shall apply to a Change Communication as if it were a notice.

Annex 1: Change Request Form

CR No.:	Title:	Type of change:
Contract:	Required by date:	
Action:	Name:	Date:
Raised by:		
Area(s) impacted (optional field):		
Assigned for impact assessment by:		
Assigned for impact assessment to:		
Supplier reference no.:		
Full description of requested contract change (including proposed changes to the wording of the contract):		
Details of any proposed alternative scenarios:		
Reasons for and benefits and disadvantages of requested contract change:		
Signature of requesting change owner:		
Date of request:		

Annex 2: Change Authorisation Note

CR No.:	Title:	Date raised:
Contract:	Type of change:	Required by date:
Key milestone date: [if any]		
Detailed description of contract change for which impact assessment is being prepared and wording of related changes to the contract:		
Proposed adjustment to the charges resulting from the contract change:		
Details of proposed one-off additional charges and means for determining these (e.g. fixed price basis):		
Signed on behalf of the authority:	Signed on behalf of the supplier:	
Signature:_____	Signature:_____	
Name:_____	Name:_____	
Position:_____	Position:_____	
Date:_____	Date:_____	

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 23

Dispute Resolution Procedure

Irregular Migration Management Services

Schedule 23: Dispute Resolution Procedure

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre 1 Patternoster Lane, St Paul's, London, EC4M 7BQ;
"Counter Notice"	has the meaning given in Paragraph 7.2;
"Expert"	in relation to a Dispute, a person appointed in accordance with Paragraph 6.2 to act as an expert in relation to that Dispute;
"Expert Determination"	determination by an Expert in accordance with Paragraph 6;
"Mediation Notice"	has the meaning given in Paragraph 4.2;
"Mediator"	the independent third party appointed in accordance with Paragraph 5.2 to mediate a Dispute;
"Multi--Party Dispute"	a Dispute which involves the Parties and one or more Related Third Parties;
"Multi--Party Dispute Representatives"	has the meaning given in Paragraph 9.6;
"Multi--Party Dispute Resolution Board"	has the meaning given in Paragraph 9.6;
"Related Third Party"	a party to: (a) another contract with the Authority or the Supplier which is relevant to this Contract; or (b) a Sub-contract; and
"Supplier Request"	a notice served by the Supplier requesting that the Dispute be treated as a -Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

2 Dispute Notices

2.1 If a Dispute arises then:

2.1.1 the Authority Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute; and

2.1.2 if such attempts are not successful within a reasonable period, not being longer than 20 Working Days, either Party may issue to the other a Dispute Notice.

2.2 A Dispute Notice:

2.2.1 shall set out:

(a) the material particulars of the Dispute;

(b) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and

(c) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the reason why; and

2.2.2 may specify in accordance with the requirements of Paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of the Authority) or considers (in the case of the Supplier) that the Dispute is a -Multi-Party Dispute, in which case Paragraph 2.3 shall apply.

2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a -Multi-Party Dispute pursuant to Paragraph 2.2.2, then:

2.3.1 if it is served by the Authority, it shall be treated as a -Multi-Party Procedure Initiation Notice; and

2.3.2 if it is served by the Supplier, it shall be treated as a Supplier Request,

and in each case the provisions of Paragraph 9 shall apply.

2.4 Subject to Paragraphs 2.5 and 3.2 and so long as the Authority has not served a -Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:

2.4.1 first by commercial negotiation (as prescribed in Paragraph 4);

2.4.2 then, if either Party serves a Mediation Notice, by mediation (as prescribed in Paragraph 5); and

2.4.3 lastly by recourse to arbitration (as prescribed in Paragraph 7) or litigation (in accordance with Clause 44 (*Governing Law and Jurisdiction*)).

2.5 Specific issues shall be referred to Expert Determination (as prescribed in Paragraph 6) where specified under the provisions of this Contract and may also be referred to Expert Determination where otherwise appropriate as specified in Paragraph 6.1.

2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Contract regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a -Multi-Party Procedure Initiation Notice or proceedings under Paragraph 8 (*Urgent Relief*).

3 Expedited Dispute Timetable

3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within 5 Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.

3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of Paragraph 3.1 or is otherwise specified under the provisions of this Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable Paragraphs:

3.2.1 in Paragraph 4.2.3, 10 Working Days;

3.2.2 in Paragraph 5.2, 10 Working Days;

3.2.3 in Paragraph 6.2, 5 Working Days; and

3.2.4 in Paragraph 7.2, 10 Working Days.

3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within 2 Working Days after the deadline has passed, the Authority may set a revised deadline provided that it is no less than 5 Working Days before the end of the period of time specified in the applicable Paragraphs (or 2 Working Days in the case of Paragraph 6.2). Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Authority fails to set such a revised deadline, then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

4 Commercial Negotiation

4.1 Following the service of a Dispute Notice, then, so long as the Authority has not served a -Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Authority and the Supplier shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between the Authority's Commercial Manager and [redacted]

4.2 If:

4.2.1 either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution;

4.2.2 the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this Paragraph 4; or

4.2.3 the Parties have not settled the Dispute in accordance with Paragraph 4.1 within 30 Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation in accordance with Paragraph 5 (a "**Mediation Notice**").

5 Mediation

5.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with the version of CEDR's Model Mediation Procedure which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).

5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within 20 Working Days from (and including) the service of a Mediation Notice, then either Party may apply to CEDR to nominate such a person.

5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.

5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

6 Expert Determination

6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with Paragraph 4 or, if applicable, mediation in accordance with Paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.

6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within 10 Working Days of the relevant request made pursuant to Paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:

6.2.1 if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);

6.2.2 if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or

6.2.3 if the Dispute relates to a matter of a technical nature not falling within Paragraphs 6.2.1 or 6.2.2, on the instructions of the president (or equivalent) of:

(a) an appropriate body agreed between the Parties; or

(b) if the Parties do not reach agreement on the relevant body within 15 Working Days of the relevant request made pursuant to Paragraph 6.1, such body as may be specified by the President of the Law Society on application by either Party.

6.3 The Expert shall act on the following basis:

6.3.1 they shall act as an expert and not as an arbitrator and shall act fairly and impartially;

6.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;

6.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within 30 Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;

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

6.3.5 the process shall be conducted in private and shall be confidential; and

6.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7 Arbitration

7.1 Subject to compliance with its obligations under Paragraph 4.1 and to the provisions of Paragraph 6, the Authority may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of Paragraph 7.5.

7.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Authority of its intentions and the Authority shall have 15 Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with Paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Supplier shall not commence any court proceedings or arbitration until the expiry of such 15 Working Day period.

7.3 If the Authority serves a Counter Notice, then:

7.3.1 if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of Paragraph 7.5 shall apply; or

7.3.2 if the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Supplier shall not commence arbitration proceedings.

7.4 If the Authority does not serve a Counter Notice within the 15 Working Day period referred to in Paragraph 7.2, the Supplier may either commence arbitration proceedings in accordance with Paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.

7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to Paragraphs 7.1 to 7.4:

7.5.1 the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration ("**LCIA**") (subject to Paragraphs 7.5.5, 7.5.6 and 7.5.7);

7.5.2 the arbitration shall be administered by the LCIA;

7.5.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

7.5.4 if the Parties fail to agree the appointment of the arbitrator within 10 Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;

7.5.5 the chair of the arbitral tribunal shall be British;

7.5.6 the arbitration proceedings shall take place in London and in the English language; and

7.5.7 the seat of the arbitration shall be London.

8 Urgent Relief

8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

8.1.1 for interim or interlocutory remedies in relation to this Contract or infringement by the other Party of that Party's Intellectual Property Rights; and/or

8.1.2 where compliance with Paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

9 Multi--Party Disputes

9.1 All -Multi-Party Disputes shall be resolved in accordance with the procedure set out in this Paragraph 9 (the "**Multi--Party Dispute Resolution Procedure**").

9.2 If at any time following the issue of a Dispute Notice, the Authority reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Authority shall be entitled to determine that the Dispute is a -Multi-Party Dispute and to serve a notice on the Supplier which sets out the Authority's determination that the Dispute is a -Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the -Multi-Party Dispute Resolution Procedure, such notice a "**Multi--Party Procedure Initiation Notice**".

9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with Paragraph 7, the Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Supplier may serve a Supplier Request on the Authority.

9.4 The Authority shall (acting reasonably) consider each Supplier Request and shall determine within 5 Working Days whether the Dispute is:

9.4.1 a -Multi-Party Dispute, in which case the Authority shall serve a -Multi-Party Procedure Initiation Notice on the Supplier; or

9.4.2 not a -Multi-Party Dispute, in which case the Authority shall serve written notice of such determination upon the Supplier and the Dispute shall be treated in accordance with Paragraphs 3 to 8.

9.5 If the Authority has determined, following a Supplier Request, that a Dispute is not a -Multi-Party Dispute, the Supplier may not serve another Supplier Request with reference to the same Dispute.

9.6 Following service of a -Multi-Party Procedure Initiation Notice a -Multi-Party Dispute shall be dealt with by a board (in relation to such -Multi-Party Dispute, the "**-Multi-Party Dispute Resolution Board**") comprising representatives from the following parties to the -Multi-Party Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the -Multi-Party Dispute:

9.6.1 the Authority;

9.6.2 the Supplier;

9.6.3 each Related Third Party involved in the -Multi-Party Dispute; and

9.6.4 any other representatives of any of the Parties and/or any Related Third Parties whom the Authority considers necessary,

(together "**-Multi-Party Dispute Representatives**").

9.7 The Parties agree that the -Multi-Party Dispute Resolution Board shall seek to resolve the relevant -Multi-Party Dispute in accordance with the following principles and procedures:

9.7.1 the Parties shall procure that their -Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the -Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the -Multi-Party Dispute Resolution Board in respect of the -Multi-Party Dispute;

9.7.2 the -Multi-Party Dispute Resolution Board shall first meet within 10 Working Days of service of the relevant -Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within 5 Working Days of service of the relevant -Multi-Party Procedure Initiation Notice, at the time and place specified by the Authority, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and

9.7.3 in seeking to resolve or settle any -Multi-Party Dispute, the members of the -Multi-Party Dispute Resolution Board shall have regard to the principle that a -Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the -Multi-Party Dispute.

9.8 If a -Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within 25 Working Days of the issue of the -Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

9.8.1 either Party may serve a Mediation Notice in respect of the -Multi-Party Dispute in which case Paragraph 5 shall apply;

9.8.2 either Party may request that the -Multi-Party Dispute is referred to an expert in which case Paragraph 6 shall apply; and/or

9.8.3 subject to Paragraph 9.9, Paragraph 7 shall apply to the -Multi-Party Dispute,

and in each case references to the “Supplier” or the “Parties” in such provisions shall include a reference to all Related Third Parties.

9.9 If a -Multi-Party Dispute is referred to arbitration in accordance with Paragraph 7 or a Dispute becomes a -Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, the Authority or the Supplier may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub-contractor, by the Supplier.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 24

Reports and Records Provision

Irregular Migration Management Services

Schedule 24: Reports and Records Provisions

1 Transparency Reports

1.1 Within three (3) months of the Effective Date the Supplier shall provide to the Authority for its approval (such approval not to be unreasonably withheld or delayed) draft reports in accordance with Annex 1 (once approved, the "**Transparency Reports**").

1.2 If the Authority rejects any draft Transparency Report, the Supplier shall submit a revised version of the relevant report for further approval by the Authority within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. If the Parties fail to agree on a draft Transparency Report the Authority shall determine what should be included.

1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Authority at the frequency referred to in Annex 1.

1.4 Any disagreement in connection with the preparation and/or approval of Transparency Reports, other than under paragraph 1.2 above in relation to the contents of a Transparency Report, shall be treated as a Dispute.

1.5 The requirements for Transparency Reports are in addition to any other reporting requirements in this Contract.

1.6 Weekly reports shall be provided within 2 working days of the corresponding period, unless otherwise stated.

1.7 Monthly reports shall be provided within 10 working days of the corresponding period, unless otherwise stated.

2 Other Reports

2.1 The Authority may require any or all of the following reports:

2.1.1 delay reports;

2.1.2 reports relating to Testing and tests carried out under Schedule 5 (*Security Management*) and Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*);

2.1.3 reports which the Supplier is required to supply as part of the Management Information;

2.1.4 annual reports on the Insurances;

2.1.5 security reports; and

2.1.6 Force Majeure Event reports.

3 Records

3.1 The Supplier shall retain and maintain all the records (including superseded records) referred to in Paragraph 1 and Annex 1 (together "**Records**"):

3.1.1 in accordance with the requirements of The National Archives and Good Industry Practice;

3.1.2 in chronological order;

3.1.3 in a form that is capable of audit; and

3.1.4 at its own expense.

3.2 The Supplier shall make the Records available for inspection to the Authority on request, subject to the Authority giving reasonable notice, where not available in real-time in the Virtual Library.

3.3 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to the Authority.

3.4 The Supplier shall, during the Term and a period of at least 7 years following the expiry or termination of this Contract, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all Records.

3.5 Records that contain financial information shall be retained and maintained in safe storage by the Supplier for a period of at least 7 years after the expiry or termination of this Contract.

3.6 Without prejudice to the foregoing, the Supplier shall provide the Authority:

3.6.1 as soon as they are available, and in any event within 60 Working Days after the end of the first 6 months of each financial year of the Supplier during the Term, a copy, certified as a true copy by an authorised representative of the Supplier, of its un-audited interim accounts and, if applicable, of consolidated un-audited interim accounts of the Supplier and its Affiliates which would (if the Supplier were listed on the London Stock Exchange (whether or not it is)) be required to be sent to shareholders as at the end of and for each such 6 month period; and

3.6.2 as soon as they shall have been sent to its shareholders in order to be laid before an annual general meeting of the Supplier, but not later than 130 Working Days after the end of each accounting reference period of the Supplier part or all of which falls during the Term, the Supplier's audited accounts and if applicable, of the consolidated audited accounts of the Supplier and its Affiliates in respect of that period together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.

4 Virtual Library

4.1 The Supplier shall, no later than eight (8) weeks prior to the Operational Service Commencement Date and without charge to the Authority, create a Virtual Library on which the Supplier shall (subject to any applicable legislation governing the use or processing of personal data) make information about this Contract available in in accordance with the requirements outlined in this Schedule.

4.2 The Supplier shall ensure that the Virtual Library is:

4.2.1 capable of holding and allowing access to the information described in Annex 3 of this Schedule and includes full and accurate file details of all uploaded items including date and time of upload, version number and the name of the uploader;

4.2.2 structured so that each document uploaded has a unique identifier which is automatically assigned;

4.2.3 readily accessible by the Authority at all times in full via a user-friendly, password protected interface to such nominated users as are notified to the Supplier by the Authority from time to time;

4.2.4 structured so as to allow nominated users to download either specific documents or the complete Virtual Library (to the extent it has Access Permission) in bulk and store and view the content offline (on a regular and automated basis);

4.2.5 structured and maintained in accordance with the security requirements as set out in this Contract including those set out in Schedule 5 (*Security Management*);

4.2.6 created and based on open standards in Schedule 4.1 (*Standards*); and

4.2.7 backed up on a secure off-site system.

4.3 For the avoidance of doubt, the Virtual Library (excluding any Software used to host it) shall form a database which constitute Project Specific IPR which shall be assigned to the Authority pursuant to Paragraph 2.1 of Schedule 32 (*Intellectual Property Rights*) of this Contract.

4.4 The Supplier shall upload complete and accurate information specified in Annex 3 by the Initial Upload Date (except where prior to the launch of the Virtual Library in which case the date at which the Virtual Library is made available in accordance with Paragraph 4.1) onto Virtual Library in the format specified.

4.5 Upon any document being uploaded to the Virtual Library, and where the Authority has been granted Access Permission to that document, the Supplier shall email on the same date as the upload, a copy of the document to the nominated Authority email address at:

[redacted]

4.6 Except for notices under Clause 42.4 or items covered by Clause 42.6, where the Supplier is under an obligation to provide information to the Authority in a provision under this Contract, then the Supplier's upload of that information onto the Virtual Library shall satisfy the Supplier's obligation to provide the Authority with that information provided that the Authority has access in accordance with this Paragraph 4 and the uploaded information meets the requirements more particularly specified in the relevant provision.

4.7 Except to the extent that the requirements provide for earlier and more regular Authority access to up-to-date information, Annex 3 shall not take precedence over any other obligation to provide information in this Contract and the Supplier shall refer to the applicable clause for further details as to the requirement.

4.8 The Supplier shall provide each specified person (as set out in column 6 of the table at

Annex 3) access to view and download the specified information in the Virtual Library in Annex 3 subject upon the occurrence of the event specified in the column marked Access Permission in Annex 3 to this Schedule.

4.9 Where Access Permission is not listed (in column 6 of the table at Annex 3) as being subject to the occurrence of a certain event the Supplier shall grant access to the person and information specified (in column 6 of the table at Annex 3) from the Initial Upload Date.

4.10 Where Access Permission is specified as being granted to the Authority's Third-Party Auditor (prior to the Authority being granted access) it shall:

4.10.1 be entitled to access, view and download information specified in Annex 3 subject to it entering into a confidentiality agreement with the Supplier to keep the contents confidential (except to the extent disclosure of the confidential information is required under Paragraph 4.10.2 of this Schedule); and

4.10.2 report to the Authority (at its request) as to the completeness and accuracy of the information but not the substance of the information.

4.11 The Supplier shall ensure that the Virtual Library retains in an accessible form all historic or superseded records of the information specified Annex 3. In order to maintain the integrity of the historic archive of the information and documentation and for the purposes of maintaining a clear audit trail, the Supplier shall not delete or overwrite any information that has been stored in the Virtual Library, except for the purposes of maintenance (provided no information is lost during maintenance) or to enable the Supplier to comply with Data Protection Legislation.

4.12 The Supplier warrants that the information uploaded to the Virtual Library is accurate, complete, up-to-date and in accordance with this Contract at the date of upload.

4.13 Where the Supplier becomes aware that any of the information provided on the Virtual Library is materially inaccurate, incomplete or out of date (other than in respect of historic versions of documents) the Supplier shall provide an update to the information within fourteen (14) days unless already due to be updated beforehand due to an Update Requirement specified in Annex 3.

4.14 In the event of a conflict between any requirement in this Contract (excluding Annex 3) for the Supplier to provide information to the Authority and the requirements set out in Annex 3 of this Schedule, the requirement elsewhere in this Contract shall prevail.

4.15 The Supplier shall ensure that all approved users of the Virtual Library are alerted by email each time that information in the Virtual Library is uploaded or updated as it occurs.

4.16 No later than one (1) Month prior to the Operational Service Commencement Date, the Supplier shall provide training manuals to the Authority relating to the use of the Virtual Library.

4.17 On request by the Authority the Supplier shall provide the Authority's nominated users with a reasonable level of training and ongoing support to enable them to make use of the Virtual Library.

4.18 For the avoidance of doubt, the cost of any redactions, access restrictions or compliance

with the Data Protection Legislation in respect of the information hosted on the Virtual Library shall be at the Supplier's own cost and expense.

Annex 1: Transparency Reports



[redacted]

[redacted]



Annex 2: Records to be Kept by the Supplier

The records to be kept by the Supplier are:

1 This Contract, its Schedule rules and all amendments to such documents.

2 All other documents which this Contract expressly requires to be prepared.

3 Records relating to the appointment and succession of the Supplier Representative and each member of the Key Personnel.

4 Notices, reports and other documentation submitted by any Expert.

5 All operation and maintenance manuals prepared by the Supplier for the purpose of maintaining the provision of the Services and the underlying IT Environment and Supplier Equipment.

6 Documents prepared by the Supplier or received by the Supplier from a third party relating to a Force Majeure Event.

7 All formal notices, reports or submissions made by the Supplier to the Authority Representative in connection with the provision of the Services.

8 All certificates, licences, registrations or warranties in each case obtained by the Supplier in relation to the provision of the Services.

9 Documents prepared by the Supplier in support of claims for the Charges.

10 Documents submitted by the Supplier pursuant to the Change Control Procedure.

11 Documents submitted by the Supplier pursuant to invocation by it or the Authority of the Dispute Resolution Procedure.

12 Documents evidencing any change in ownership or any interest in any or all of the shares in the Supplier and/or the Guarantor, where such change may cause a change of Control; and including documents detailing the identity of the persons changing such ownership or interest.

13 Invoices and records related to VAT sought to be recovered by the Supplier.

14 Financial records, including audited and un-audited accounts of the Guarantor and the Supplier.

15 Records required to be retained by the Supplier by Law, including in relation to health and safety matters and health and safety files and all consents.

16 All documents relating to the insurances to be maintained under this Contract and any claims made in respect of them.

17 All journals and audit trail data referred to in Schedule 5 (*Security Management*).

18 All other records, notices or certificates required to be produced and/or maintained by the Supplier pursuant to this Contract.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 25

Exit Management

Irregular Migration Management Services

Schedule 25: Exit Management

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Emergency Exit"	any termination of this Contract which is a: (a) termination of the whole or part of this Contract in accordance with Clause 31 (*Termination Rights*), except where the period of notice given under that Clause is greater than or equal to 6 months; (b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause 31 (*Termination Rights*); or (c) wrongful termination or repudiation of this Contract by either Party;
"Ethical Wall Agreement"	an ethical wall agreement in a form similar to the draft ethical wall agreement set out at Annex 2;
"Exclusive Assets"	those Assets used by the Supplier or a Key Sub-contractor which are used exclusively in the provision of the Services;
"Exit Information"	has the meaning given in Paragraph 3.1;
"Exit Manager"	the person appointed by each Party pursuant to Paragraph 2.3 for managing the Parties' respective obligations under this Schedule;
"Net Book Value"	the net book value of the relevant Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Authority of the same date as this Contract;
"Non-Exclusive Assets"	those Assets (if any) which are used by the Supplier or a Key Sub-contractor in connection with the Services but which are also used by the Supplier or Key Sub-contractor for other purposes of material value;
"Ordinary Exit"	any termination of the whole or any part of this Contract which occurs: (a) pursuant to Clause 31 (*Termination Rights*) where the period of notice given by the Party serving notice to

terminate pursuant to such Clause is greater than or equal to 6 months; or

(b) as a result of the expiry of the Initial Term or any Extension Period;

"Transferable Assets" those of the Exclusive Assets which are capable of legal transfer to the Authority;

"Transferable Contracts" the Sub-contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Authority or any Replacement Supplier to perform the Services or the Replacement Services, including in relation to licences all relevant Documentation; and

"Transferring Contracts has the meaning given in Paragraph 7.2.2.

2 Obligations During the Term to Facilitate Exit

2.1 During the Term, the Supplier shall:

2.1.1 create and maintain a register of all:

(a) Assets, detailing their:

(b) make, model and asset number;

(c) ownership and status as either Exclusive Assets or Non-Exclusive Assets;

(d) Net Book Value;

(e) condition and physical location; and

(f) use (including technical specifications); and

(g) Sub-contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services;

2.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Services, which shall contain sufficient detail to permit the Authority and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;

2.1.3 agree the format of the Registers with the Authority as part of the process of agreeing the Exit Plan; and

2.1.4 at all times keep the Registers up to date, in particular in the event that Assets, Sub-contracts or other relevant agreements are added to or removed from the Services.

2.2 The Supplier shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Contract.

2.3 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within 3 months of the Effective Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-contractors comply with this Schedule. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Contract and all matters connected with this Schedule and each Party's compliance with it.

2.4 The Supplier shall provide, and keep up to date, a list of all financial commitments including, but not limited to, sub contracts to the Authority.

3 Obligations to Assist on Re-tendering of Services

3.1 On reasonable notice at any point during the Term, the Supplier shall provide to the Authority and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:

3.1.1 details of the Service(s);

3.1.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;

3.1.3 an inventory of Authority Data in the Supplier's possession or control;

3.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;

3.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;

3.1.6 to the extent permitted by applicable Law, all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Contract; and

3.1.7 such other material and information as the Authority shall reasonably require,

(together, the "**Exit Information**").

3.2 The Supplier acknowledges that the Authority may disclose the Supplier's Confidential

Information to an actual or prospective Replacement Supplier or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not under this Paragraph 3.2 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-contractors' prices or costs).

3.3 The Supplier shall:

3.3.1 notify the Authority within 5 Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Authority regarding such proposed material changes; and

3.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Authority.

3.4 The Supplier may charge the Authority for its reasonable additional costs to the extent the Authority requests more than 4 updates in any 6 month period.

3.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:

3.5.1 prepare an informed offer for those Services; and

3.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

4 Obligation to enter into an Ethical Wall Agreement on Re-tendering of Services

4.1 The Authority may require the Supplier to enter into the Ethical Wall Agreement at any point during a re-tendering or contemplated re-tendering of the Services or any part of the Services.

4.2 If required to enter into the Ethical Wall Agreement, the Supplier will return a signed copy of the Ethical Wall Agreement within 10 Working Days of receipt. The Supplier's costs of entering into the Ethical Wall Agreement will be borne solely by the Supplier.

5 Exit Plan

5.1 The Supplier shall, within 3 months after the Effective Date, deliver to the Authority an Exit Plan which:

5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the relevant Services from the Supplier to the Authority and/or its Replacement Supplier on the Partial Termination, expiry or termination of this Contract;

5.1.2 complies with the requirements set out in Paragraph 5.2; and

5.1.3 is otherwise reasonably satisfactory to the Authority.

5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If

the Parties are unable to agree the contents of the Exit Plan within 20 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

5.3 The Exit Plan shall set out, as a minimum:

5.3.1 how the Exit Information is obtained;

5.3.2 separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Authority shall require to enable the Authority or its sub-contractors to provide the Services;

5.3.3 a mechanism for dealing with Partial Termination on the assumption that the Supplier will continue to provide the remaining Services under this Contract;

5.3.4 the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;

5.3.5 the management structure to be employed during the Termination Assistance Period;

5.3.6 a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;

5.3.7 how the Services will transfer to the Replacement Supplier and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);

5.3.8 the scope of the Termination Services that may be required for the benefit of the Authority (including such of the services set out in Annex 1 as are applicable);

5.3.9 a timetable and critical issues for providing the Termination Services;

5.3.10 any charges that would be payable for the provision of the Termination Services (calculated in accordance with the methodology that would apply if such Services were being treated as a Contract Change), together with a capped estimate of such charges;

5.3.11 how the Termination Services would be provided (if required) during the Termination Assistance Period;

5.3.12 procedures to deal with requests made by the Authority and/or a Replacement Supplier for Staffing Information pursuant to Schedule 28 (*Staff Transfer*); and

5.3.13 how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier

and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.

5.4 The Parties acknowledge that the migration of the Services from the Supplier to the Authority and/or its Replacement Supplier may be phased, such that certain of the Services are handed over before others.

5.5 The Supplier shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year) and if requested by the Authority following the occurrence of a Financial Distress Event, within 14 days of such request, to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update, the Supplier shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that 20 Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Finalisation of the Exit Plan

5.6 Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Contract, the Supplier will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.

5.7 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Authority then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

6 Termination Services

Notification of Requirements for Termination Services

6.1 The Authority shall be entitled to require the provision of Termination Services at any time during the Term by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least 4 months prior to the date of termination or expiry of this Contract or as soon as reasonably practicable (but in any event, not later than 1 month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

6.1.1 the date from which Termination Services are required;

6.1.2 the nature of the Termination Services required; and

6.1.3 the period during which it is anticipated that Termination Services will be

required, which shall continue no longer than 24 months after the expiry of the Initial Term or any Extension Period or earlier termination of this Contract;

6.2 The Authority shall have:

6.2.1 an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend the Termination Assistance period beyond the date which is 30 months after expiry of the Initial Term or any Extension Period or earlier termination of this Contract ;and provided that it shall notify the Supplier to such effect no later than 20 Working Days prior to the date on which the provision of Termination Services is otherwise due to expire; and

6.2.2 the right to terminate its requirement for Termination Services by serving not less than 20 Working Days' written notice upon the Supplier to such effect.

Termination Assistance Period

6.3 Throughout the Termination Assistance Period, or such shorter period as the Authority may require, the Supplier shall:

6.3.1 continue to provide the Services (as applicable) and, if required by the Authority pursuant to Paragraph 6.1, provide the Termination Services;

6.3.2 in addition to providing the Services and the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the Partial Termination, termination or expiry of this Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Supplier;

6.3.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 6.3.2 without additional costs to the Authority;

6.3.4 provide the Services and the Termination Services at no detriment to the Target Performance Levels, save to the extent that the Parties agree otherwise in accordance with Paragraph 6.5; and

6.3.5 at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority.

6.4 Without prejudice to the Supplier's obligations under Paragraph 6.3.3, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.3.2 without additional costs to the Authority, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.

6.5 If the Supplier demonstrates to the Authority's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Target Performance Level(s), the Parties shall vary

the relevant Target Performance Level(s) and/or the applicable Service Credits to take account of such adverse effect.

Termination Obligations

6.6 The Supplier shall comply with all of its obligations contained in the Exit Plan in respect of any Partial Termination or termination.

6.7 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule) in respect of the Services that have been terminated, the Supplier shall:

6.7.1 cease to use the Authority Data;

6.7.2 provide the Authority and/or the Replacement Supplier with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);

6.7.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Authority Data and promptly certify to the Authority that it has completed such deletion;

6.7.4 return to the Authority such of the following as is in the Supplier's possession or control:

(a) any parts of the IT Environment and any other equipment which belongs to the Authority; and

(b) any items that have been on-charged to the Authority, such as consumables;

6.7.5 vacate any Authority Premises unless access is required to continue to deliver the Services;

6.7.6 provide access during normal working hours to the Authority and/or the Replacement Supplier for up to 12 months after the Partial Termination, expiry or termination of this Contract to:

(a) such information relating to the Services as remains in the possession or control of the Supplier; and

(b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Authority and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this Paragraph 6.7.6(b).

6.8 Upon Partial Termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's

performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Services or for statutory compliance purposes.

6.9 The Supplier should minimise the cost of Exit as far as reasonably possible.

7 Assets, Sub-contracts and Software

7.1 Following notice of termination or Partial Termination of this Contract and during the Termination Assistance Period, the Supplier shall not, in respect of the terminated Services, without the Authority's prior written consent:

7.1.1 terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Services or the Charges;

7.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or

7.1.3 terminate, enter into or vary any licence for software in connection with the Services.

7.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to Paragraph 6.3.5, the Authority shall provide written notice to the Supplier setting out:

7.2.1 which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Supplier in respect of the terminated Services ("**Transferring Assets**");

(a) which, if any, of:

(i) the Exclusive Assets that are not Transferable Assets; and

(i) the Non-Exclusive Assets,

the Authority and/or the Replacement Supplier requires the continued use of; and

7.2.2 which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Authority and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Authority and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Authority and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Authority and/or its Replacement Supplier requires to provide the Services or Replacement Services. Where requested by the Supplier, the Authority and/or its Replacement Supplier shall discuss in good faith

with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.

7.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Authority and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where:

7.3.1 a Termination Payment is payable by the Authority to the Supplier, in which case, payment for such Assets shall be included within the Termination Payment; or

7.3.2 the cost of the Transferring Asset has been partially or fully paid for through the Charges at the time of expiry or termination of this Contract, in which case the Authority shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Charges.

7.4 Risk in the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) on payment for the same.

7.5 Where the Supplier is notified in accordance with Paragraph 7.2.2 that the Authority and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

7.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Authority) for the Authority and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

7.5.2 procure a suitable alternative to such assets and the Authority or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.

7.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Authority and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.

7.7 The Authority shall:

7.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

7.7.2 once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

7.8 The Supplier shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the

Replacement Supplier has been effected.

7.9 The Supplier shall indemnify the Authority (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Authority (and/or Replacement Supplier) pursuant to Paragraph 7.6 both:

7.9.1 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract; and

7.9.2 in relation to any matters arising after the date of assignment or novation of such Sub-contract where the loss, liability or cost arises as a result of the Supplier's failure to comply with Clause 16 (*Intellectual Property Rights*) and/or Schedule 32 (*Intellectual Property Rights*).

8 Supplier Personnel

8.1 The Authority and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Schedule 28 (*Staff Transfer*) shall apply.

8.2 The Supplier shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Supplier.

8.3 During the Termination Assistance Period, the Supplier shall give the Authority and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Authority and/or the Replacement Supplier.

8.4 The Supplier shall immediately notify the Authority or, at the direction of the Authority, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.

8.5 The Supplier shall not for a period of 12 months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Authority and/or the Replacement Supplier, except that this Paragraph shall not apply where the employee, supplier or Sub-contractor applies in response to a public advertisement of a vacancy.

9 Charges

9.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Supplier to provide the Termination Services), the Authority shall pay the Charges to the Supplier in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.

9.2 Where the Authority requests an extension to the Termination Services beyond the Termination Assistance Period in accordance with Paragraph 6.2:

9.2.1 where more than 6 months' notice is provided, the same rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable; and

9.2.2 where less than 6 months' notice is provided, no more than 1.2 times the rate as set out in the Exit Plan (or the Charges when not stated in the Exit Plan) shall be payable.

9.3 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.

9.4 Except as otherwise expressly specified in this Agreement, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Authority shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

10 Apportionments

10.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Authority and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Authority shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

10.2 Each Party shall pay (and/or the Authority shall procure that the Replacement Supplier shall pay) any monies due under Paragraph 10.1 as soon as reasonably practicable.

Annex 1: Scope of the Termination Services

1 Scope of the Termination Services

1.1 The Termination Services to be provided by the Supplier shall include such of the following services as the Authority may specify:

1.1.1 ceasing all non-critical Software changes (except where agreed in writing with the Authority);

1.1.2 notifying the Sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;

1.1.3 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Authority and/or the Replacement Supplier after the end of the Termination Assistance Period;

1.1.4 delivering to the Authority the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the 12 month period immediately prior to the commencement of the Termination Services;

1.1.5 providing details of work volumes and staffing requirements over the 12 month period immediately prior to the commencement of the Termination Services;

1.1.6 with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;

1.1.7 providing the Authority with any problem logs which have not previously been provided to the Authority;

1.1.8 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during and for a period of 12 months after the Termination Assistance Period;

1.1.9 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;

1.1.10 agreeing with the Authority an effective communication strategy and joint communications plan which sets out the implications for Supplier Personnel, Authority staff, customers and key stakeholders;

1.1.11 reviewing all Software libraries used in connection with the Services and providing details of these to the Authority and/or the Replacement Supplier;

1.1.12 providing assistance and expertise as necessary to support the Authority and/or the Replacement Supplier develop the migration plan for business operations and Authority Data to the Replacement Supplier, which may include migration approach, testing of plans, contingency options, and handling of historic or archived Authority Data;

1.1.13 provide all necessary support, equipment, tools, and Software such as data migration services and/or Automated Programming Interfaces, in order to enable and support the execution of the migration plan by the Authority and/or Replacement Supplier;

1.1.14 making available to the Authority and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff as are nominated by the Authority (acting reasonably) at the time of termination or expiry;

1.1.15 assisting in establishing naming conventions for any new production site;

1.1.16 analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;

1.1.17 generating a computer listing of the Source Code of [redacted] in a form and on media reasonably requested by the Authority;

1.1.18 agreeing with the Authority a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;

1.1.19 delivering copies of all databases (with content listings) to the Authority's and/or the Replacement Supplier's operations staff (on appropriate media) as reasonably requested by the Authority in a format that can be easily read by the Authority, without the need for investment in the Supplier's or third party software;

1.1.20 assisting with the loading, testing and implementation of the databases;

1.1.21 assisting in the execution of a parallel operation until the effective date of expiry or termination of this Contract;

1.1.22 in respect of the maintenance and support of the Supplier System, providing historical performance data for the previous 12 months, or where the Services have been delivered for a period of less than 12 months a period to cover from Operational Service Commencement Date to the date of the Authority's request);

1.1.23 assisting in the execution of a parallel operation of the maintenance and support of the Supplier System until the end of the Termination Assistance Period or as otherwise specified by the Authority (provided that these Services shall end on a date no later than the end of the Termination Assistance Period);

1.1.24 providing an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Services;

1.1.25 answering all reasonable questions from the Authority and/or the Replacement Supplier regarding the Services;

1.1.26 agreeing with the Authority and/or the Replacement Supplier a plan for the migration of the Authority Data to the Authority and/or the Replacement Supplier, ensuring that:

(a) all paper records are

(i) organised and accessible to meet requirements of Schedule 24 (*Reports and Records Provisions)*.

(ii) a system of searching for specific records, including Service User records, and their filing locations is maintained and done so by, but not limited to, name, date of birth, Authority reference number, date of admission, date of creation, and file type;

(iii) upon physical return to the Authority that records are reboxed in a manner that is approved by the Authority for their storage requirements including but not limited to approved packaging and labelling, and with the contents listed in compliance with Schedule 24 (*Reports and Records Provisions)*; and

(iv) this data should be backed up on a transferable digital format as agreed by the Authority such that when a Freedom of Information Request is issued information can be easily found within the timescales allowed;

(b) all records and data should also be kept in a transferable format agreed with the Authority and classified by, but not limited to year and record category; and

(c) all records and data should be easily readable, understood and transferred to the Authority upon request adhering to requirements set out in Schedule 24 (*Reports and Records Provisions);* and

1.1.27 providing access to the Authority and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 months afterwards for the purpose of the smooth transfer of the Services to the Authority and/or the Replacement Supplier:

(a) to information and documentation relating to the Transferring Services that is in the possession or control of the Supplier or its Sub-contractors (and the Supplier agrees and shall procure that its Sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and

(b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors; and

1.1.28 knowledge transfer services, including:

(a) transferring all training material and providing appropriate training to those Authority and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Services;

(b) providing for transfer to the Authority and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents;

(c) providing the Supplier and/or the Replacement Supplier with access to such members of the Supplier's or its Sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors; and

(d) allowing the Authority and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Authority and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with such knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier shall:

1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.14 for agreement by the Authority at the time of termination or expiry of this Contract;

1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.18, providing skills and expertise of a suitable standard; and

1.2.3 fully co-operate in the execution of the Authority Data migration plan agreed pursuant to Paragraph 1.1.26, providing skills and expertise of a reasonably acceptable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Authority and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Authority and/or the Replacement Supplier.

1.4 The information which the Supplier shall provide to the Authority and/or the Replacement Supplier pursuant to Paragraph 1.1.28 1.1.27 shall include:

1.4.1 copies of up-to-date procedures and operations manuals;

1.4.2 product information;

1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Authority and/or the Replacement Supplier;

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Authority pursuant to this Schedule;

1.4.5 information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;

1.4.6 details of physical and logical security processes and tools which will be available to the Authority; and

1.4.7 any relevant interface information,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and Suppliers) of the Replacement Supplier and/or the Authority access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 1.5 shall:

(a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and

(b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Authority deems reasonable; and

1.5.2 the Authority and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Annex 2: Draft Ethical Wall Agreement

[THE AUTHORITY]

and

[THE COUNTERPARTY]

ETHICAL WALL AGREEMENT

This Agreement is dated [ ] 20[ ] (the "**Effective Date**").

BETWEEN:

(1) **[INSERT NAME OF AUTHORITY]** (the "**Authority**") [acting on behalf of the Crown] of [**insert** Authority's address]; and

(2) **[NAME OF COUNTERPARTY]** a [company]/[limited liability partnership] registered in England and Wales under registered number [**insert** registered number] whose registered office is at [**insert** Counterparty's registered address] (the "**Counterparty**"),

together the "**Parties**" and each a "**Party**".

BACKGROUND

A. The Authority is obliged to ensure transparency, fairness, non-discrimination and equal treatment in relation to its procurement process pursuant to the Procurement Regulations (defined below). The purpose of this document ("**Agreement**") is to define the protocols to be followed to prevent, identify and remedy any conflict of interest (whether actual, potential or perceived) in the context of the Purpose (defined below).

B. The Authority is conducting a procurement exercise for the [supply/purchase/provision] of [**insert** details of project/goods/services] (the "**Purpose**").

C. The Parties wish to enter into this Agreement to ensure that a set of management processes, barriers and disciplines are put in place to ensure that conflicts of interest do not arise, and that the Counterparty does not obtain an unfair competitive advantage over Other Bidders.

IT IS AGREED:

1 Definitions and Interpretation

1.1 The following capitalised words and expressions shall have the following meanings in this Agreement and its recitals:

"**Affiliate**" means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;

"**Agreement**" means this ethical walls agreement duly executed by the Parties;

"**Bid Team**" means any Representatives of the Counterparty, any of its Affiliates and/or any Subcontractors connected to the preparation of an ITT Response;

"**Central Government Body**" means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics, including:

(a) Government Departments;

(b) Non-Departmental Public Bodies or Assembly Sponsored Public Bodies (advisory, executive, or tribunal);

(c) Non-Ministerial Departments; or

(d) Executive Agencies;

"**Conflicted Personnel**" means any Representatives of:

(a) the Counterparty;

(b) any of the Counterparty's Affiliates; and/or

(c) any Subcontractors,

who, because of the Counterparty's, any of its Affiliates' and/or any Subcontractors' relationship with the Authority under any Contract, have or have had access to information which creates or may create a conflict of interest or provide the Bid Team with an unfair advantage as regards information Other Bidders would not have;

"**Contract**" means any pre-existing or previous contract between the Authority and:

(a) the Counterparty;

(b) any of the Counterparty's Affiliates;

(c) any Subcontractor; and

(d) any other Third Party,

relating to the subject matter of the Purpose at the date of the commencement of the ITT Process;

"**Control**" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "**Controls**" and "**Controlled**" shall be interpreted accordingly;

"**Effective Date**" means the date of this Agreement as set out above;

"**Invitation to Tender**" or "**ITT**" means an invitation to submit tenders issued by the Authority as part of an ITT Process (and shall include an Invitation to Negotiate);

"**ITT Process**" means, with regard to the Purpose, the relevant procedure provided for in the Procurement Regulations (as amended), which the Authority has elected to use to select a contractor or contractors, together with all relevant information, data, correspondence and/or documents issued and/or made available by or on behalf of the Authority as part of that procurement exercise and all information, correspondence and/or documents issued and/or made available by or on behalf of the bidders in response together with any resulting contracts;

"**ITT Response**" means the tender(s) submitted, or to be submitted, by the Counterparty, any of its Affiliates and/or any Subcontractors in response to any invitation(s) to submit bids under the ITT process;

"**Other Bidder**" means any other bidder or potential bidder that is not the Counterparty or any of its Affiliates that has taken or is taking part in the ITT Process;

"**Procurement Process**" means the period commencing on the earlier of: (a) the publication of the first notice in relation to the Purpose; and (b) the execution of this Agreement, and ending on the occurrence of: (i) the publication by the Authority of all contract award notices that result from the ITT Process; or (ii) the abandonment or termination of the ITT Process as notified by the Authority;

"**Procurement Regulations**" means the Public Contracts Regulations 2015, the Public Procurement (Amendment etc.)(EU Exit) Regulations 2020, the Defence and Security Public Contracts Regulations 2011, the Utilities Contracts Regulations 2016, and the Concession Contracts Regulations 2016, each as amended from time to time;

"**Professional Advisor**" means a supplier, subcontractor, advisor or consultant engaged by the Counterparty and/or any of its Affiliates under the auspices of compiling its ITT response;

"**Purpose**" has the meaning given to it in recital B to this Agreement;

"**Representative**" refers to a person's officers, directors, employees, advisers (including the officers, directors, employees, advisers and agents of any Professional Advisors), agents and, where the context admits, providers or potential providers of finance (including their representatives) to the Counterparty, any of its Affiliates and/or any subcontractors engaged in connection with the ITT Process;

"**Subcontractor**" means an existing or proposed subcontractor of:

(a) the Counterparty; and/or

(b) any of the Counterparty's Affiliates,

who is connected to the preparation of an ITT Response (including key subcontractors named in the ITT Response);

"**Third Party**" means any person who is not a Party, including Other Bidders, their Affiliates and/or their Representatives; and

"**Working Day**" means any day of the week other than a weekend, when Banks in England and Wales are open for business.

1.2 Reference to the disclosure of information includes any communication or making available information and includes both direct and indirect disclosure.

1.3 Reference to the disclosure of information, or provision of access, by or to the Authority, the Counterparty, any of the Counterparty's Affiliates and/or any Subcontractors includes disclosure, or provision of access, by or to the Representatives of the Authority, the Counterparty, any of its Affiliates and/or any Subcontractors (as the case may be).

1.4 Reference to persons includes legal and natural persons.

1.5 Reference to any enactment is to that enactment as amended, supplemented, re-enacted or replaced from time to time.

1.6 Reference to clauses and recitals is to clauses of and recitals to this Agreement.

1.7 Reference to any gender includes any other.

1.8 Reference to writing includes email.

1.9 The terms "**associate**", "**holding company**", "**subsidiary**", "**subsidiary undertaking**" and "**wholly owned subsidiary**" have the meanings attributed to them in the Companies Act 2006, except that for the purposes of section 1159(1)(a) of that Act, the words 'holds a majority of the voting rights' shall be changed to 'holds 30% or more of the voting rights', and other expressions shall be construed accordingly.

1.10 The words "**include**" and "**including**" are to be construed without limitation.

1.11 The singular includes the plural and vice versa.

1.12 The headings contained in this Agreement shall not affect its construction or interpretation.

1 Ethical Walls

1.1 In consideration of the sum of £1 payable by the Authority to the Counterparty, receipt of which is hereby acknowledged, the Parties agree to be bound by the terms of this Agreement.

Conflicts of Interest

1.2 The Counterparty:

1.2.1 shall take all appropriate steps to ensure that neither the Counterparty, nor its Affiliates, nor any Subcontractors nor any Representatives are 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 Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives and the duties owed to the Authority under any Contract or pursuant to an open and transparent ITT Process; and

1.2.2 acknowledges and agrees that a conflict of interest may arise in situations where the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives intend to take part in the ITT Process and because of the Counterparty's, any of its Affiliates', any Subcontractors' and/or any Representatives' relationship with the Authority under any Contract, the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives have or have had access to information which could provide the Counterparty, any of its Affiliates, any Subcontractors and/or any Representatives with an advantage and render unfair an otherwise genuine and open competitive ITT Process.

1.3 Where there is or is likely to be a conflict of interest, or the perception of a conflict of interest, of any kind in relation to the ITT Process, the Counterparty shall take such steps that are necessary to eliminate the conflict of interest to the Authority's satisfaction, including one or more of the following:

1.3.1 not assigning any of the Conflicted Personnel to the Bid Team at any time;

1.3.2 providing to the Authority promptly upon request a complete and up to date list of any Conflicted Personnel and the personnel comprising the Bid Team and reissue such list to the Authority promptly upon any change to it;

1.3.3 ensuring that no act or omission by itself, its Affiliates, any Subcontractors and/or any Representatives results in information of any kind, however conveyed, or in any format and however so stored:

(a) about the ITT Process (gleaned from the performance of any Contract or otherwise); and/or

(b) which would or could in the opinion of the Authority confer an unfair advantage on the Counterparty in relation to its participation in the ITT Process,

becoming available to the Bid Team where the Authority has not made generally available that information to Other Bidders;

1.3.4 ensuring that by no act or omission by itself, its Affiliates, any Subcontractors and/or any Representatives and in particular the Bid Team results in information of any kind, however conveyed, in any format and however so stored about the ITT Process, its operation and all matters connected or ancillary to it becoming available to the Conflicted Personnel;

1.3.5 ensure that agreements that flow down the Counterparty's obligations in this Agreement, are entered into as necessary, between the Counterparty and its Affiliates and any Subcontractors [in a form to be approved by the Authority];

1.3.6 physically separating the Conflicted Personnel and the Bid Team, either in separate buildings or in areas with restricted access;

1.3.7 providing regular training to its Affiliates, any Subcontractors and/or Representatives to ensure it is complying with this Agreement;

1.3.8 monitoring Conflicted Personnel movements within restricted areas (both physical and electronic online areas) to ensure it is complying with this Agreement and to ensure adherence to the ethical wall arrangements the Counterparty, its Affiliates, any Subcontractors and/or any Representatives have put in place in order to comply with this Agreement;

1.3.9 ensuring that the Conflicted Personnel and the Bid Team are line managed and report independently of each other; and

1.3.10 complying with any other action as the Authority, acting reasonably, may direct in connection with the ITT Process and/or this Agreement.

Notification of Conflicts of Interest

1.4 The Counterparty shall:

1.4.1 notify the Authority immediately in writing of all perceived, potential and/or actual conflicts of interest that arise or have arisen;

1.4.2 submit in writing to the Authority full details of the nature of the perceived, potential and/or actual conflict of interest including full details of the risk assessments undertaken, the impact or potential impact of the perceived, potential and/or actual conflict, the measures and arrangements that have been established and/or are due to be established, to eliminate the perceived, potential and/or actual conflict, and the Counterparty's plans to prevent potential conflicts of interests from arising ("**Proposed Avoidance Measures**"); and

1.4.3 seek the Authority's approval to the Proposed Avoidance Measures which the Authority shall have the right to grant, grant conditionally or deny (if the Authority rejects the Proposed Avoidance Measures the Counterparty shall repeat the process set out in this Clause 1.4 until such time as the Authority grants approval or the Counterparty withdraws from the ITT Process).

1.5 The Counterparty will provide to the Authority, on demand, any and all information in relation to its adherence with its obligations set out under Clauses 1.2 and 1.3 as reasonably requested by the Authority.

1.6 The Authority reserves the right to require the Counterparty to demonstrate the measures put in place by the Counterparty under Clauses 1.2 and 1.3.

1.7 The Counterparty acknowledges that any provision of information or demonstration of measures, in accordance with Clauses 1.5 and 1.6, does not constitute acceptance by the Authority of the adequacy of such measures and does not discharge the Counterparty of its obligations or liability under this Agreement.

Exclusion from the ITT Process

1.8 Where, in the reasonable opinion of the Authority, there has been any breach by the Counterparty of Clauses 1.2, 1.3, or 1.4 or failure to obtain the Authority's approval of the

Proposed Avoidance Measures the Authority shall be entitled to exclude the Counterparty, or any of its Affiliates and/or any Representatives, from the ITT Process, and the Authority may, in addition to the right to exclude, take such other steps as it deems necessary.

1.9 The actions of the Authority pursuant to Clause 1.8 shall not prejudice or affect any right of action or remedy under this Agreement or at law which shall have accrued or shall thereafter accrue to the Authority.

Bid Costs

1.10 In no event shall the Authority be liable for any bid costs incurred by:

1.10.1 the Counterparty or any of its Affiliates, any Representatives and/or any Subcontractors; or

1.10.2 any Third Party,

as a result of any breach of this Agreement by the Counterparty, any of its Affiliates, any Subcontractors and/or Representatives, including where the Counterparty, any of its Affiliates, any Subcontractors or Representatives, or any Third Party is or are excluded from the ITT Process.

Specific Remedies

1.11 The Counterparty acknowledges and agrees that:

1.11.1 neither damages nor specific performance are adequate remedies in the event of a breach of the obligations in Clause 1; and

1.11.2 in the event of a breach of any of the obligations in Clause 1 which cannot be effectively remedied the Authority shall have the right to terminate both this Agreement and the Counterparty's participation in the ITT Process in each case with immediate effect on written notice.

2 Sole Responsibility

2.1 It is the sole responsibility of the Counterparty to comply with the terms of this Agreement, including ensuring its Affiliates, any Subcontractors, and/or any Representatives comply with the terms of this Agreement. No approval by the Authority of any procedures, agreements or arrangements provided by the Counterparty, any of its Affiliates, any Subcontractors and/or their Representatives to the Authority shall discharge the Counterparty's obligations.

3 Waiver and Invalidity

3.1 No failure or delay by any Party in exercising any right, power or privilege under this Agreement or by law shall constitute a waiver of that or any other right, power or privilege, nor shall it restrict the further exercise of that or any other right, power or privilege. No single or partial exercise of such right, power or privilege shall prevent or restrict the further exercise of that or any other right, power or privilege.

3.2 If any provision of this Agreement is prohibited or unenforceable in any jurisdiction in relation to any Party, such prohibition or unenforceability will not invalidate the remaining provisions of this Agreement, or affect the validity or enforceability of the provisions of this Agreement in relation to any other Party or any other jurisdiction.

4 Assignment and Novation

4.1 The Counterparty shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of the Authority.

4.2 The Authority may assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:

4.2.1 any Central Government Body; or

4.2.2 to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority; and

4.2.3 the Counterparty shall, at the Authority's request, enter into a novation agreement in such form as the Authority may reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 5.

4.3 A change in the legal status of the Authority such that it ceases to be a Central Government Body shall not affect the validity of this Agreement and this Agreement shall be binding on any successor body to the Authority.

5 Contracts (Rights of Third Parties) Act 1999

5.1 A person who is not a Party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any term of this Agreement, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

6 Transparency

6.1 The Parties acknowledge and agree that the Authority is under a legal duty pursuant to the Procurement Regulations to run transparent and fair procurement processes. Accordingly, the Authority may disclose the contents of this Agreement to Other Bidders (and/or potential Other Bidders) for the purposes of transparency and in order to evidence that a fair procurement process has been followed.

7 Notices

7.1 Any notices sent under this Agreement must be in writing.

7.2 The following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email.	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message.
Personal delivery.	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt.
Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery.	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

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

	Counterparty	Authority
Contact		
Address		
Email		

7.4 This Clause 7 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

8 Waiver and Cumulative Remedies

8.1 The rights and remedies under this Agreement may be waived only by notice, and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

8.2 Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

9 Term

9.1 Each Party's obligations under this Agreement shall continue in full force and effect for period of [ ] years from the Effective Date/[or for the period of the duration of the Procurement Process]

10 Governing Law and Jurisdiction

10.1 This Agreement and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

10.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

Signed by the Authority	Name: Signature: Position in Authority:
Signed by the Counterparty	Name: Signature: Position in Counterparty:

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 26

Service Continuity Plan and Corporate Resolution Planning

Irregular Migration Management Services

Schedule 26: Service Continuity Plan and Corporate Resolution Planning

Part A: Service Continuity Plan

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given in Paragraph 2.2.3;
"Business Continuity Services"	has the meaning given in Paragraph 4.2.2;
"Department"	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; or (b) Non-Ministerial Department.
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for a period of 24 hours or more or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable for that period;
"Disaster Recovery Plan"	has the meaning given in Paragraph 2.2.4;
"Disaster Recovery Services"	the services embodied in the processes and procedures for restoring the Services following the occurrence of a Disaster;
"Disaster Recovery System"	the system identified by the Supplier in the Supplier Solution which shall be used for the purpose of delivering the Disaster Recovery Services;
"Insolvency Continuity Plan"	has the meaning given in Paragraph 2.2.5.

"Related Service Provider"	any person who provides services to the Authority in relation to this Contract from time to time, which persons include as at the Effective Date;
"Review Report"	has the meaning given in Paragraphs 7.2.1 to 7.2.3;
"Service Continuity Plan"	means the plan prepared pursuant to Paragraph 2 of this Schedule which incorporates the Business Continuity Plan, Disaster Recovery Plan and the Insolvency Continuity Plan;

2 Service Continuity Plan

2.1 Within 40 Working Days from the Effective Date the Supplier shall prepare and deliver to the Authority for the Authority's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services (including where caused by an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member); and

2.1.2 the recovery of the Services in the event of a Disaster.

2.2 The Service Continuity Plan shall:

2.2.1 be divided into four parts:

2.2.2 Part A which shall set out general principles applicable to the Service Continuity Plan;

2.2.3 Part B which shall relate to business continuity (the "**Business Continuity Plan**");

2.2.4 Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**");

2.2.5 Part D which shall relate to an Insolvency Event of the Supplier, any Key Sub-contractors and/or any Supplier Group member (the "**Insolvency Continuity Plan**"); and

unless otherwise required by the Authority in writing, be based upon and be consistent with the provisions of Paragraphs 3, 4, 5 and 6.

2.3 Following receipt of the draft Service Continuity Plan from the Supplier, the Authority shall:

2.3.1 review and comment on the draft Service Continuity Plan as soon as reasonably practicable; and

2.3.2 notify the Supplier in writing that it approves or rejects the draft Service Continuity Plan no later than 20 Working Days after the date on which the draft Service Continuity Plan is first delivered to the Authority.

2.4 If the Authority rejects the draft Service Continuity Plan:

2.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and

2.4.2 the Supplier shall then revise the draft Service Continuity Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Service Continuity Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 2.3 and this Paragraph 2.4 shall apply again to any resubmitted draft Service Continuity Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3 Service Continuity Plan: Part A – General Principles and Requirements

3.1 Part A of the Service Continuity Plan shall:

3.1.1 set out how the business continuity, disaster recovery and insolvency continuity elements of the plan link to each other;

3.1.2 provide details of how the invocation of any element of the Service Continuity Plan may impact upon the operation of the Services and any services provided to the Authority by a Related Service Provider;

3.1.3 contain an obligation upon the Supplier to liaise with the Authority and (at the Authority's request) any Related Service Provider with respect to issues concerning business continuity, disaster recovery and insolvency continuity where applicable;

3.1.4 detail how the Service Continuity Plan links and interoperates with any overarching and/or connected disaster recovery, business continuity and/or insolvency continuity plan of the Authority and any of its other Related Service Providers in each case as notified to the Supplier by the Authority from time to time;

3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a website (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Authority;

3.1.6 contain a risk analysis, including:

(a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;

(b) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;

(c) identification of risks arising from the interaction of the Services with the services provided by a Related Service Provider;

(d) identification of risks arising from an Insolvency Event of the Supplier, any Key Sub-contractors and/or Supplier Group member; and

(e) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;

3.1.7 provide for documentation of processes, including business processes, and procedures;

3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-contractors) and for the Authority;

3.1.9 identify the procedures for reverting to "normal service";

3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;

3.1.11 identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the Service Continuity Plan; and

3.1.12 provide for the provision of technical advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority's business continuity plans.

3.2 The Service Continuity Plan shall be designed so as to ensure that:

3.2.1 the Services are provided in accordance with this Contract at all times during and after the invocation of the Service Continuity Plan;

3.2.2 the adverse impact of any Disaster; service failure; an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member; or disruption on the operations of the Authority, is minimal as far as reasonably possible;

3.2.3 it complies with the relevant provisions of ISO/IEC 22301 and all other industry standards from time to time in force; and

3.2.4 there is a process for the management of disaster recovery testing detailed in the Service Continuity Plan.

3.3 The Service Continuity Plan shall be upgradeable and sufficiently flexible to support any changes to the Services, to the business processes facilitated by and the business operations supported by the Services, and/or changes to the Supplier Group structure.

3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4 Service Continuity Plan: Part B – Business Continuity

Principles and Contents

4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to

ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Authority expressly states otherwise in writing:

4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and

4.1.2 the steps to be taken by the Supplier upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.

4.2 The Business Continuity Plan shall:

4.2.1 address the various possible levels of failures of or disruptions to the Services;

4.2.2 set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the "**Business Continuity Services**");

4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Business Continuity Plan; and

4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5 Service Continuity Plan: Part C – Disaster Recovery

Principles and Contents

5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Authority supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.

5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.

5.3 The Disaster Recovery Plan shall include the following:

5.3.1 the technical design and build specification of the Disaster Recovery System;

5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:

(a) data centre and disaster recovery site audits;

(b) backup methodology and details of the Supplier's approach to data back-up and data verification;

(c) identification of all potential disaster scenarios;

(d) risk analysis;

(e) documentation of processes and procedures;

(f) hardware configuration details;

(g) network planning including details of all relevant data networks and communication links;

(h) invocation rules;

(i) Service recovery procedures; and

(j) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;

5.3.3 any applicable Performance Indicators with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Disaster Recovery Plan;

5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.3.6 testing and management arrangements.

6 Service Continuity Plan: Part D – Insolvency Continuity Plan

Principles and Contents

6.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Authority supported by the Services through continued provision of the Services following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.

6.2 The Insolvency Continuity Plan shall include the following:

6.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Services, including key contact details in respect of the supply chain and key contact details for operational and contract Supplier Personnel, Key Sub-contractor personnel and Supplier Group member personnel;

6.2.2 identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Sub-contractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Services;

6.2.3 plans to manage and mitigate identified risks;

6.2.4 details of the roles and responsibilities of the Supplier, Key Sub-contractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Services;

6.2.5 details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Sub-contractors and Supplier Group members); and

6.2.6 sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.

7 Review and Amendment of the Service Continuity Plan

7.1 The Supplier shall review and update the Service Continuity Plan (and the risk analysis on which it is based):

7.1.1 on a regular basis and as a minimum once every 6 months;

7.1.2 within three calendar months of the Service Continuity Plan (or any part) having been invoked pursuant to Paragraph 9;

7.1.3 within 14 days of a Financial Distress Event;

7.1.4 within 30 days of a Corporate Change Event (unless the Relevant Authority (acting reasonably) agrees to a Corporate Change Event Grace Period, as set out in Paragraph 2.8.2(a) of Part B: Corporate Resolution Planning, in which case that Corporate Change Event Grace Period will apply); and

7.1.5 where the Authority requests any additional reviews (over and above those provided for in Paragraphs 7.1.1 to 7.1.4) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The costs of both Parties of any such additional reviews shall be met by the Authority except that the Supplier shall not be entitled to charge the Authority for any costs that it may incur above any estimate without the Authority's prior written approval.

7.2 Each review of the Service Continuity Plan pursuant to Paragraph 7.1 shall be a review of the procedures and methodologies set out in the Service Continuity Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the Service Continuity Plan or the last review of the Service Continuity Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the Service Continuity Plan. The review shall be completed by the Supplier within the period required by the Service Continuity Plan or, if no such period is required, within such period as the Authority shall reasonably require. The Supplier shall, within 20 Working Days of the conclusion of each such review of the Service Continuity Plan, provide to the Authority a report (a "**Review Report**") setting out:

7.2.1 the findings of the review;

7.2.2 any changes in the risk profile associated with the Services; and

7.2.3 the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the Service Continuity Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.

7.3 Following receipt of the Review Report and the Supplier's Proposals, the Authority shall:

7.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and

7.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than 20 Working Days after the date on which they are first delivered to the Authority.

7.4 If the Authority rejects the Review Report and/or the Supplier's Proposals:

7.4.1 the Authority shall inform the Supplier in writing of its reasons for its rejection; and

7.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 7.3 and this Paragraph 7.4 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

7.5 The Supplier shall as soon as is reasonably practicable after receiving the Authority's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

8 Testing of the Service Continuity Plan

8.1 The Supplier shall test the Service Continuity Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to Paragraph 8.2, the Authority may require the Supplier to conduct additional tests of some or all aspects of the Service Continuity Plan at any time where the Authority considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the Service Continuity Plan.

8.2 If the Authority requires an additional test of the Service Continuity Plan, it shall give the

Supplier written notice and the Supplier shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the Service Continuity Plan. The Supplier's costs of the additional test shall be borne by the Authority unless the Service Continuity Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.

8.3 The Supplier shall undertake and manage testing of the Service Continuity Plan in full consultation with the Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority in this regard. Each test shall be carried out under the supervision of the Authority or its nominee.

8.4 The Supplier shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.

8.5 The Supplier shall, within 20 Working Days of the conclusion of each test, provide to the Authority a report setting out:

8.5.1 the outcome of the test;

8.5.2 any failures in the Service Continuity Plan (including the Service Continuity Plan's procedures) revealed by the test; and

8.5.3 the Supplier's proposals for remedying any such failures.

8.6 Following each test, the Supplier shall take all measures requested by the Authority, (including requests for the re-testing of the Service Continuity Plan) to remedy any failures in the Service Continuity Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Authority, by the date reasonably required by the Authority and set out in such notice.

8.7 For the avoidance of doubt, the carrying out of a test of the Service Continuity Plan (including a test of the Service Continuity Plan's procedures) shall not relieve the Supplier of any of its obligations under this Contract.

8.8 The Supplier shall also perform a test of the Service Continuity Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Authority.

9 Invocation of the Service Continuity Plan

9.1 In the event of a loss of any critical part of the Service or a Disaster, the Supplier shall immediately invoke the business continuity and disaster recovery provisions in the Service Continuity Plan, including any linked elements in other parts of the Service Continuity Plan, and shall inform the Authority promptly of such invocation. In all other instances the Supplier shall invoke the business continuity and disaster recovery plan elements only with the prior consent of the Authority.

9.2 The Insolvency Continuity Plan element of the Service Continuity Plans, including any linked elements in other parts of the Service Continuity Plan, shall be invoked by the Supplier:

9.2.1 where an Insolvency Event of a Key Sub-contractor and/or Supplier Group member (other than the Supplier) could reasonably be expected to adversely affect delivery of the Services; and/or

9.2.2 where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan;

Part B: Corporate Resolution Planning

1 Service Status and Supplier Status

This Contract is a Critical Service Contract.

1.1 The Supplier shall notify the Authority and the Cabinet Office Markets and Suppliers Team (Resolution.planning@cabinetoffice.gov.uk) in writing within 5 Working Days of the Effective Date and throughout the Term within 120 days after each Accounting Reference Date as to whether or not it is a Public Sector Dependent Supplier.

2 Provision of Corporate Resolution Planning Information (CRP Information)

2.1 Paragraphs 2 to 4 of this Part B shall apply if this Contract has been specified as a Critical Service Contract under Paragraph 0 of this Part B or the Supplier is or becomes a Public Sector Dependent Supplier.

2.2 Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part B:

2.2.1 where this Contract is a Critical Service Contract, the Supplier shall provide the Relevant Authority or Relevant Authorities with CRP Information within 60 days of the Effective Date; and

2.2.2 except where it has already been provided in accordance with Paragraph 2.2.1 of this Part B, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Relevant Authority or Relevant Authorities with the CRP Information within 60 days of the date of the Relevant Authority's or Relevant Authorities' request.

2.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B:

2.3.1 is full, comprehensive, accurate and up to date;

2.3.2 is split into three parts:

(a) Exposure Information (Contracts List);

(b) Corporate Resolvability Assessment (Structural Review);

(c) Financial Information and Commentary

and is structured and presented in accordance with the requirements and explanatory notes set out at the relevant Annex of the latest published versions of the Resolution Planning Guidance Notes published by the Cabinet Office Government Commercial Function and available at https://www.gov.uk/government/publications/the-sourcing-and-consultancy-playbooks and contains the level of detail required (adapted as necessary to the Supplier's circumstances);

2.3.3 incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Authority or Relevant Authorities to understand and consider the information for approval;

2.3.4 provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision in respect of UK Public Sector Business and/or CNI and the nature of those agreements; and

2.3.5 complies with the requirements set out at Annex 1 (*Exposure Information (Contracts List)*), Annex 2 (*Corporate Resolvability Assessment (Structural Review)*) and Annex 3 (*Financial Information And Commentary*) respectively.

2.4 Following receipt by the Relevant Authority or Relevant Authorities of the CRP Information pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B, the Authority shall procure that the Relevant Authority or Relevant Authorities discuss in good faith the contents of the CRP Information with the Supplier and no later than 60 days after the date on which the CRP Information was delivered by the Supplier either provide an Assurance to the Supplier that Relevant Authority or Relevant Authorities approve the CRP Information or that Relevant Authority or Relevant Authorities reject the CRP Information.

2.5 If the Relevant Authority or Relevant Authorities reject the CRP Information:

2.5.1 the Authority shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and

2.5.2 the Supplier shall revise the CRP Information, taking reasonable account of the Relevant Authority's or Relevant Authorities' comments, and shall re-submit the CRP Information to the Relevant Authority or Relevant Authorities for approval within 30 days of the date of the Relevant Authority's or Relevant Authorities' rejection. The provisions of Paragraph 2.3 to 2.5 of this Part B shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

2.6 Where the Supplier or a member of the Supplier Group has already provided CRP Information to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid on the date by which the CRP Information would otherwise be required, the Supplier shall not be required to provide the CRP Information under Paragraph 2.2 if it provides a copy of the Valid Assurance to the Relevant Authority or Relevant Authorities on or before the date on which the CRP Information would otherwise have been required.

2.7 An Assurance shall be deemed Valid for the purposes of Paragraph 2.6 of this Part B if:

2.7.1 the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than 12 months has elapsed since it was issued and no more than 18 months has elapsed since the Accounting Reference Date on which the CRP Information was based); and

2.7.2 no Corporate Change Events or Financial Distress Events (or events which

would be deemed to be Corporate Change Events or Financial Distress Events if this Contract had then been in force) have occurred since the date of issue of the Assurance.

2.8 If this Contract is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 2.8.3 of this Part B its initial CRP Information) to the Relevant Authority or Relevant Authorities:

2.8.1 within 14 days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 2.11 of this Part B) unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 18 (*Financial Distress*)

2.8.2 within 30 days of a Corporate Change Event unless:

(a) the Supplier requests and the Relevant Authority (acting reasonably) agrees to a Corporate Change Event Grace Period, in the event of which the time period for the Supplier to comply with this Paragraph shall be extended as determined by the Relevant Authority (acting reasonably) but shall in any case be no longer than six months after the Corporate Change Event. During a Corporate Change Event Grace Period the Supplier shall regularly and fully engage with the Relevant Authority to enable it to understand the nature of the Corporate Change Event and the Relevant Authority shall reserve the right to terminate a Corporate Change Event Grace Period at any time if the Supplier fails to comply with this Paragraph; or

(b) not required pursuant to Paragraph 2.10;

2.8.3 within 30 days of the date that:

(a) the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 2.10; or

(b) none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and

2.8.4 in any event, within 6 months after each Accounting Reference Date or within 15 months of the date of the previous Assurance received from the Relevant Authority (whichever is the earlier), unless:

(a) updated CRP Information has been provided under any of Paragraphs 2.8.1 2.8.2 or 2.8.3 since the most recent Accounting Reference Date (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or

(b) unless not required pursuant to Paragraph 2.10.

2.9 Where the Supplier is a Public Sector Dependent Supplier and this Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in

Paragraphs 2.8.1 to 2.8.4 of this Part B, the Supplier shall provide at the request of the Relevant Authority or Relevant Authorities and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the Supplier by the Authority), the CRP Information to the Relevant Authority or Relevant Authorities.

2.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of either:

2.10.1 Aa3 or better from Moody's; or

2.10.2 AA- or better from Standard and Poor's; or

2.10.3 AA- or better from Fitch;

the Supplier will not be required to provide any CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Schedule 18 (*Financial Distress*)) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with Paragraph 2.8.

2.11 Subject to Paragraph 4, where the Supplier demonstrates to the reasonable satisfaction of the Relevant Authority or Relevant Authorities that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Relevant Authority or Relevant Authorities, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no longer apply and the Supplier shall promptly provide the relevant information to the Relevant Authority or Relevant Authorities to the extent required under Paragraph 2.8.

3 Termination Rights

3.1 The Authority shall be entitled to terminate this Contract under Clause 31.1(b) (*Termination by the Authority*) if the Supplier is required to provide CRP Information under Paragraph 2 of this Part B and either:

3.1.1 the Supplier fails to provide the CRP Information within 4 months of the Effective Date if this is a Critical Service Contract or otherwise within 4 months of the Relevant Authority's or Relevant Authorities' request; or

3.1.2 the Supplier fails to obtain an Assurance from the Relevant Authority or Relevant Authorities within 4 months of the date that it was first required to provide the CRP Information under this Contract.

4 Confidentiality and usage of CRP Information

4.1 The Authority agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.

4.2 Where the Relevant Authority is the Cabinet Office Markets and Suppliers Team, at the

Supplier's request, the Authority shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Supplier containing terms no less stringent than those placed on the Authority under Paragraph 4.1 of this Part B and Clause 19 (*Confidentiality*).

4.3 The Supplier shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Relevant Authority or Relevant Authorities pursuant to Paragraph 2 of this Part B subject, where necessary, to the Relevant Authority or Relevant Authorities entering into an appropriate confidentiality agreement in the form required by the third party.

4.4 Where the Supplier is unable to procure consent pursuant to Paragraph 4.3 of this Part B, the Supplier shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:

4.4.1 redacting only those parts of the information which are subject to such obligations of confidentiality

4.4.2 providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:

(a) summarising the information;

(b) grouping the information;

(c) anonymising the information; and

(d) presenting the information in general terms

4.5 The Supplier shall provide the Relevant Authority or Relevant Authorities with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Supplier is legally permitted to do so.

Annex 1: Exposure Information (Contracts List)

1 The Supplier shall:

1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:

1.1.1 are with any UK public sector bodies including: Crown Bodies and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;

1.1.2 are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in Paragraph 1.1.1 of this Annex 1 and where the member of the Supplier Group is acting as a key sub-contractor under the agreement with the end recipient; or

1.1.3 involve or could reasonably be considered to involve CNI;

1.2 provide the Relevant Authority with a copy of the latest version of each underlying contract worth more than £5m per contract year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link.

Annex 2: Corporate Resolvability Assessment (Structural Review)

1 The Supplier shall:

1.1 provide sufficient information to allow the Relevant Authority to understand the implications on the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Annex 1 if the Supplier or another member of the Supplier Group is subject to an Insolvency Event.

1.2 ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Supplier Group; and

1.3 provide full details of the importance of each member of the Supplier Group to the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Annex 1 and the dependencies between each.

Annex 3: Financial Information And Commentary

1 The Supplier shall:

1.1 provide sufficient financial information for the Supplier Group level, contracting operating entities level, and shared services entities' level to allow the Relevant Authority to understand the current financial interconnectedness of the Supplier Group and the current performance of the Supplier as a standalone entity; and

1.2 ensure that the information is presented in a simple, effective and easily understood manner.

2 For the avoidance of doubt the financial information to be provided pursuant to Paragraph 1 of this Annex 3 should be based on the most recent audited accounts for the relevant entities (or interim accounts where available) updated for any material changes since the Accounting Reference Date provided that such accounts are available in a reasonable timeframe to allow the Supplier to comply with its obligations under this Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*). If such accounts are not available in that timeframe, financial information should be based on unpublished unaudited accounts or management accounts (disclosure of which to the Cabinet Office Markets and Suppliers Team remains protected by confidentiality).

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 27

Conduct of Claims

Irregular Migration Management Services

Schedule 27: Conduct of Claims

1 Indemnities

1.1 This Schedule shall apply to the conduct, by a Party from whom an indemnity is sought under this Contract (the "**Indemnifier**"), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the "**Beneficiary**").

1.2 If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Contract (a "**Claim**"), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within 10 Working Days of receipt of the same.

1.3 Subject to Paragraph 2, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to Paragraph 2.2, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.

1.4 With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:

1.4.1 the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;

1.4.2 the Indemnifier shall not bring the name of the Beneficiary into disrepute;

1.4.3 the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and

1.4.4 the Indemnifier shall conduct the Claim with all due diligence.

1.5 The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Contract if:

1.5.1 the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;

1.5.2 the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or

1.5.3 the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

2 Sensitive Claims

2.1 With respect to any Claim which the Beneficiary, acting reasonably, considers is likely to have an adverse impact on the general public's perception of the Beneficiary (a "**Sensitive Claim**"), the Indemnifier shall be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim only with the Beneficiary's prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.

2.2 The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which Paragraph 1.3 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

3 Recovery of Sums

3.1 If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:

3.1.1 an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and

3.1.2 the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

4 Mitigation

4.1 Each of the Authority and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 28

Staff Transfer

Irregular Migration Management Services

Schedule 28: Staff Transfer

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"Admission Agreement"	the CSPS Admission Agreement (as defined in Annex D1: CSPS);
"Fair Deal Employees"	as defined in Part D;
"Former Supplier"	a supplier supplying services to the Authority before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"New Fair Deal"	the revised Fair Deal position set out in the HM Treasury guidance: *"Fair Deal for staff pensions: staff transfer from central government"* issued in October 2013 including: (a) any amendments to that document immediately prior to the Relevant Transfer Date; (b) any similar pension protection in accordance with the Annex D1 to Part D of this Schedule as notified to the Supplier by the Authority;
"Notified Sub-contractor"	a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
"Old Fair Deal"	HM Treasury Guidance *"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"* issued in June 1999 including the supplementary guidance *"Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues"* issued in June 2004;
"Replacement Sub-contractor"	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;

"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D and its Annex, where the Supplier or a Sub-contractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor), references to the Relevant Transfer Date shall become references to the Operational Service Commencement Date;
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor;
"Service Transfer Date"	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
"Staffing Information"	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, all information required in Annex E2: Staffing Information in the format specified and with the identities of Data Subjects anonymised where possible together with employee liability information specified in regulation 11(2) and 11(3) and if applicable 11(4) of the Employment Regulations and such other information as the Authority may reasonably require. The Authority may acting reasonably make changes to the format or information requested in Annex E2: Staffing Information from time to time.
"Statutory Schemes"	means the CSPS as defined in the Annex to Part D of this Schedule;
"Supplier's Final Supplier Personnel List"	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;
"Supplier's Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Transferring Authority Employees"	those employees of the Authority to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and

"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2 Interpretation

2.1 Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

3 Applicable Parts of this Schedule

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

3.1.1 Part B (*Transferring Former Supplier Employees at Commencement of Services*)

3.1.2 Part C (*No Transfer of Employees from the Authority Expected at Commencement of Services*)

3.1.3 Part D (*Pensions*)

(a) Annex D1 (*CSPS*)

3.2 Part E (*Staff Transfer on Exit*), including:

(a) Annex E1 (*List Of Notified Sub-Contractors*)

(b) Annex E2 (*Staffing Information*).

Part A – NOT USED

Part B: Transferring Former Supplier Employees at Commencement of Services

1 Relevant Transfers

1.1 The Authority and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10 of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-contractor and each such Transferring Former Supplier Employee.

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

2 Former Supplier Indemnities

2.1 Subject to Paragraph 2.2, the Authority shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

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

2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

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

(b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and

primary and secondary national insurance contributions:

(a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and

(b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;

2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;

2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and

2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-contractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or

2.2.2 arising from the failure by the Supplier and/or any Sub-contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:

2.3.1 the Supplier shall, or shall procure that the Notified Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, to the Former Supplier; and

2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Authority, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:

2.5.1 no such offer of employment has been made;

2.5.2 such offer has been made but not accepted; or

2.5.3 the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

2.7.1 shall not apply to:

(a) any claim for:

i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

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

2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to the Authority and, if applicable, the Former Supplier, within 6 months of the Relevant Transfer Date.

2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-contractor and the Supplier shall, or shall procure that the Notified Sub-contractor shall,(a) comply with such obligations as may be imposed upon it under the Law and (b) comply with the provisions of Part D (Pensions) and its Annex of this Staff Transfer Schedule.

3 Supplier Indemnities and Obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Authority and/or the Former Supplier against any Employee Liabilities arising from or as a result of:

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

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

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

(b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

3.1.4 any proposal by the Supplier or a Sub-contractor to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees on or after their transfer to the Supplier or a Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

3.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has

not been agreed in advance with the Authority and/or the Former Supplier in writing;

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

(a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and

(b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

3.1.7 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13(4) of the Employment Regulations; and

3.1.9 a failure by the Supplier or any Sub-contractor to comply with its obligations under Paragraph 2.8 above.

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission

Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

4 Information

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

5 Principles of Good Employment Practice

5.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

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

5.1.2 Old Fair Deal; and/or

5.1.3 the New Fair Deal.

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

6 Procurement Obligations

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

7 Pensions

7.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with:

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

7.1.2 Part D (and its Annex) to this Staff Transfer Schedule.

Part C: No Transfer of Employees from the Authority Expected at Commencement of Services

1 Procedure in the Event of Transfer

1.1 The Authority and the Supplier agree that the commencement of the provision of the Services or of any part of the Services is not expected to be a Relevant Transfer in relation to any employees of the Authority.

1.2 If any employee of the Authority claims, or it is determined in relation to any employee of the Authority, that his/her contract of employment has been transferred from the Authority to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then:

1.2.1 the Supplier shall, and shall procure that the relevant Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority; and

1.2.2 the Authority may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier or the Sub-contractor (as appropriate) or take such other reasonable steps as the Authority considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Authority and), the Supplier shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

1.4 If by the end of the 15 Working Day period specified in Paragraph 1.2.2:

1.4.1 no such offer of employment has been made;

1.4.2 such offer has been made but not accepted; or

1.4.3 the situation has not otherwise been resolved,

the Supplier and/or the Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2 Indemnities

2.1 Subject to the Supplier and/or the relevant Sub-contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Authority shall indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Authority referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the Authority nor dismissed by the Supplier and/or any Sub-contractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having

transferred to the Supplier and/or the Sub-contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-contractor shall, (a) comply with such obligations as may be imposed upon it under Law and (b) comply with the provisions of Part D (Pensions) and its Annex of this Staff Transfer Schedule.

2.3 Where any person remains employed by the Supplier and/or any Sub-contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-contractor and the Supplier shall indemnify the Authority, and shall procure that the Sub-contractor shall indemnify the Authority, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.

2.4 The indemnities in Paragraph 2.1:

2.4.1 shall not apply to:

(a) any claim for:

(b) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(c) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

(d) in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

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

2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-contractor to the Authority within 6 months of the Relevant Transfer Date.

Part D: Pensions

1 Definitions

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

"Actuary" a Fellow of the Institute and Faculty of Actuaries;

"Broadly Comparable"

(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or

(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,

and "**Broad Comparability**" shall be construed accordingly;

"CSPS" the schemes as defined in Annex D1 to this Part D;

"Fair Deal Eligible Employees" means the CSPS Eligible Employees (as defined in Annex D1 to this Part D) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 11 of this Part D);

"Fair Deal Employees" any of:

(a) Transferring Authority Employees;

(b) Transferring Former Supplier Employees; and/or

(c) employees who are not Transferring Authority Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Part B or Paragraph 1.4 of Part C;

(d) where the Supplier or a Sub-contractor was the Former Supplier, the employees of the Supplier (or Sub-contractor) who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided as notified by the Authority;

"New Fair Deal" the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for Staff Pensions: Staff Transfer from Central Government*" issued in October 2013 including:

any amendments to that document immediately prior to the Relevant Transfer Date; and

any similar pension protection in accordance with the subsequent Annex D1 as notified to the Supplier by the Authority.

2 Participation

2.1 In respect of all or any Fair Deal Employees, Annex D1: CSPS shall apply, as appropriate.

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

2.3 The Supplier undertakes:

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

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

2.4 Where the Supplier is the Former Supplier (or a Sub-contractor is a sub-contractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor) at the Operational Service Commencement Date, this Part D and its Annex shall be modified accordingly so that the Supplier (or Sub-contractor) shall comply with its requirements from the Operational Service Commencement Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual

changes as appropriate) if later. The Supplier (or Sub-contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Authority.

3 Provision of Information

3.1 The Supplier undertakes to the Authority:

3.1.1 to provide all information which the Authority may reasonably request concerning matters referred to in this Part D as expeditiously as possible;

3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Authority (such consent not to be unreasonably withheld or delayed); and

3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of this Contract.

4 Indemnities

4.1 The Supplier shall indemnify and keep indemnified the Authority, any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any breach by the Supplier of this Part D, and/or the CSPS Admission Agreement;

4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Sub-contractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraph 11 of this Part D; and/or

4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

(a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;

(b) arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.

4.2 The indemnities in this Part D and its Annex:

4.2.1 shall survive termination of this Contract; and

4.2.2 shall not be affected by the caps on liability contained in Clause 23 (*Limitations on Liability*).

5 Disputes

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the Authority and/or the Supplier or (ii) between their respective actuaries about any of the actuarial matters referred to in this Part D and its Annex shall in the absence of agreement between the Authority and/or the Supplier be referred to an independent Actuary:

5.1.1 who will act as an expert and not as an arbitrator;

5.1.2 whose decision will be final and binding on the Authority and/or the Supplier; and

5.1.3 whose expenses shall be borne equally by the Authority and/or the Supplier unless the independent Actuary shall otherwise direct.

5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the president for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

6 Third Party Rights

6.1 The Parties agree Clause 41 (*Third Party Rights*) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation in respect of to him or her by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.

6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Sub-contractor in his or her own right under section 1(1) of the CRTPA.

7 Breach

7.1 The Supplier agrees to notify the Authority should it breach any obligations it has under this Part D and agrees that the Authority shall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or

7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Authority giving particulars of the breach and requiring the Supplier to remedy it.

8 Transfer to Another Employer/Sub-contractors

8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall or

shall procure that any relevant Sub-contractor shall:

8.1.1 notify the Authority as far as reasonably practicable in advance of the transfer to allow the Authority to make the necessary arrangements for participation with the relevant Statutory Scheme(s);

8.1.2 consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and

8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annex provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

9 Pension Issues on Expiry or Termination

9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.

9.2 The Supplier shall (and shall procure that any of its Sub-contractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or CSPS and/or the Authority may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

10 NOT USED

11 Broadly Comparable Pension Scheme in Other Circumstances

11.1 If the terms of Paragraph 2.2 of Annex D1: CSPS, applies, the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Authority.

11.2 Such Broadly Comparable pension scheme must be:

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

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

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

11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if

applicable) (unless otherwise instructed by the Authority); and

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

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

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

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

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

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

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

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

12 Right of Set-Off

12.1 The Authority shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPS or any CSPS Admission Agreement in respect of the CSPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee,

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

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

Annex D1: CSPS

1 Definitions

1.1 In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings:

"CSPS Admission Agreement"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee(s)"	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
"CSPS Fair Deal Employee(s)"	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
"CSPS"	the "Alpha" pension scheme introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014 available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme.

2 Future Service Benefits

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Sub-contractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

2.2 If the Supplier and/or any of its Sub-contractors enters into a CSPS Admission Agreement in accordance with Paragraph 2.1 but the CSPS Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Sub-contractor still employs any CSPS Eligible Employees, the Supplier shall (and

procure that its Sub-contractors shall) at no extra cost to the Authority, offer the remaining CSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPS on the date those CSPS Eligible Employees ceased to participate in the CSPS in accordance with the provisions of Paragraph 11 of Part D.

Part E: Employment Exit Provisions

1 Pre-service Transfer Obligations

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

1.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;

1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Contract; and

1.1.3 the date which is 12 months before the end of the Term; or

1.1.4 receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 month period),

it shall provide in a suitably anonymised format so as to comply with the DPA 2018, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Authority.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:

1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and

1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.

1.4 The Supplier warrants, for the benefit of the Authority, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):

1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace;

1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including pensions and any payments connected with the termination of employment);

1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;

1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;

1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or

1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, within 20 Working Days to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:

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

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

1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of the Annex to Part D (*Pensions*) of this Schedule 28: *Staff Transfer* (as appropriate); and

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

1.7 The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in

respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

1.7.1 the most recent month's pay slip data;

1.7.2 details of cumulative pay for tax and pension purposes;

1.7.3 details of cumulative tax paid;

1.7.4 updated tax code as at the Service Transfer Date if the code has changed since it was previously provided;

1.7.5 updated details of any voluntary deductions from pay as at the Service Transfer Date if changes have occurred since the details were previously provided; and

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

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

1.7.8 updated bank/building society or other account details for payroll purposes if they have changed since they were previously provided.

1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any request to align and assign Supplier Personnel to any future delivery model proposed by the Authority for Replacement Services within 30 Working Days or such longer timescale as may be agreed.

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

2 Employment Regulations Exit Provisions

2.1 The Authority and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Authority and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

2.2 The Supplier shall, and shall procure that each Sub-contractor shall, comply with all its obligations under the Employment Regulations and in particular obligations in respect of

the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, pay for accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.2.1 the Supplier and/or the Sub-contractor (as appropriate); and

2.2.2 the Replacement Supplier and/or Replacement Sub-contractor.

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

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

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

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

(b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

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

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

(a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and

(b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the

Employment Regulations applied so as to transfer his/her employment from the Supplier to the Authority and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;

2.3.5 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);

2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations; and

2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

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

2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her terms and conditions of employment or working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or

2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not identified in the Supplier's Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel List, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations, then:

2.5.1 the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

2.5.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the

Replacement Supplier and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:

2.7.1 no such offer of employment has been made;

2.7.2 such offer has been made but not accepted; or

2.7.3 the situation has not otherwise been resolved.

the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

(i) any contravention of the Equality Act 2010 (or predecessor/successor legislation); or

(i) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

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

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or

Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.

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

2.12 Subject to Paragraph 2.13, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

2.12.1 any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;

2.12.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:

(a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or

(b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;

2.12.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

2.12.4 any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under

regulation 4(9) of the Employment Regulations or otherwise) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

2.12.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

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

(a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date; and

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

2.12.7 a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

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

2.13 The indemnities in Paragraph 2.12 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

Annex E1: List of Notified Sub-contractors

Annex E2: Staffing Information

Employee Information (Anonymised)

Name of Transferor:

Number of Employees in-scope to transfer:

1 Completion notes

1.1 If you have any Key Sub-contractors, please complete all the above information for any staff employed by such Key Sub-contractor(s) in a separate spreadsheet.

1.2 This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.

1.3 If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.

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

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

	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	**% of working time dedicated to the provision of services under the contract**	**Salary (or hourly rate of pay)**	**Payment interval (weekly / fortnightly / monthly)**	**Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)**	**Pay review method**	**Frequency of pay reviews**	**Agreed pay increases**	**Next pay review date**
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

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

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

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

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

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

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

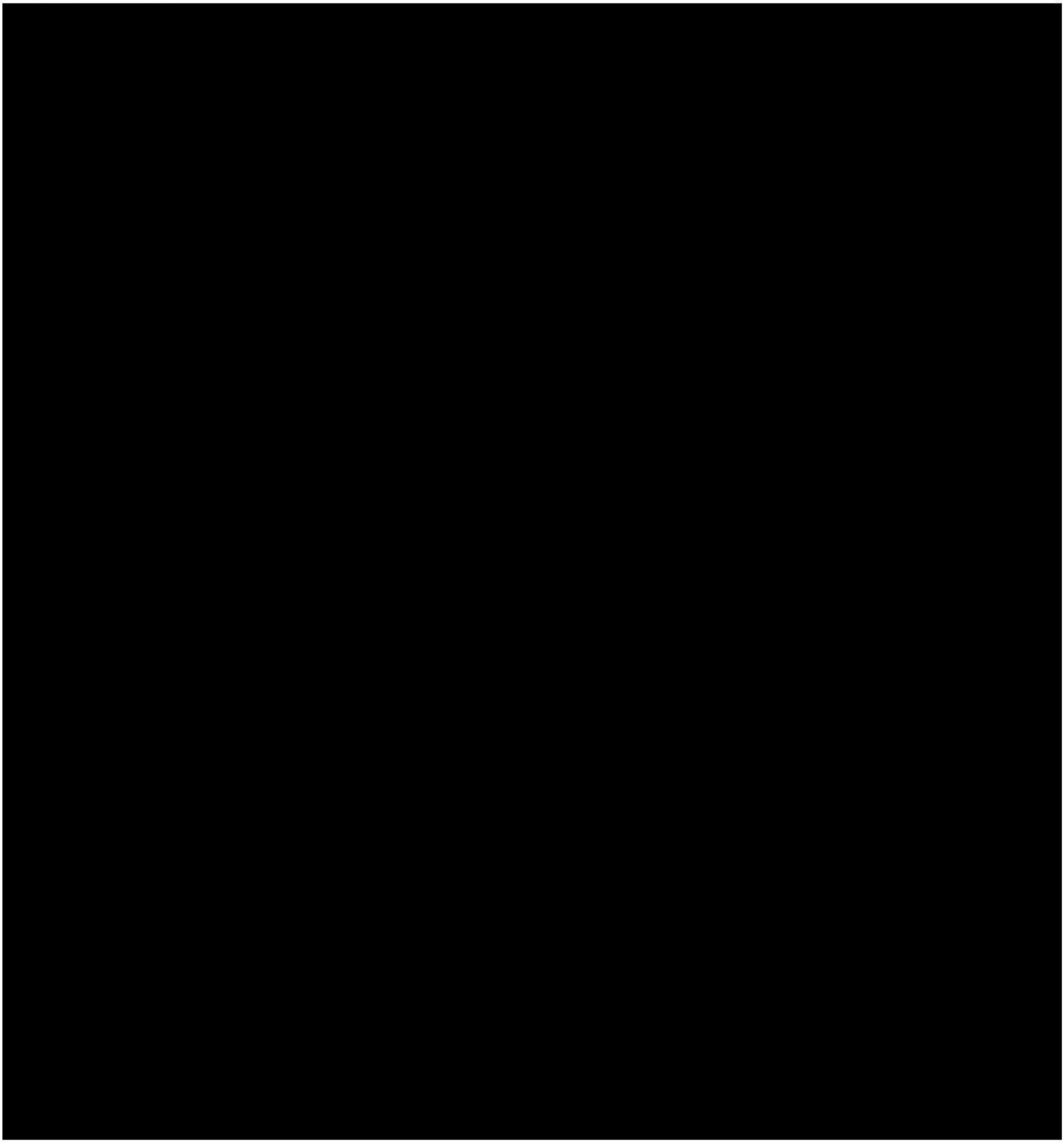
Schedule 29

Key Personnel

Irregular Migration Management Services

Schedule 29: Key Personnel

This Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Operational Service Commencement Date ("**Key Personnel**").



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 30

Deed of Guarantee

Irregular Migration Management Services

[Schedule redacted in full]

[redacted]

Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 31

Processing Personal Data

Irregular Migration Management Services

Schedule 31: Processing Personal Data

1. Data Processing

1.1 This Schedule shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Schedule shall be with the Authority at its absolute discretion.

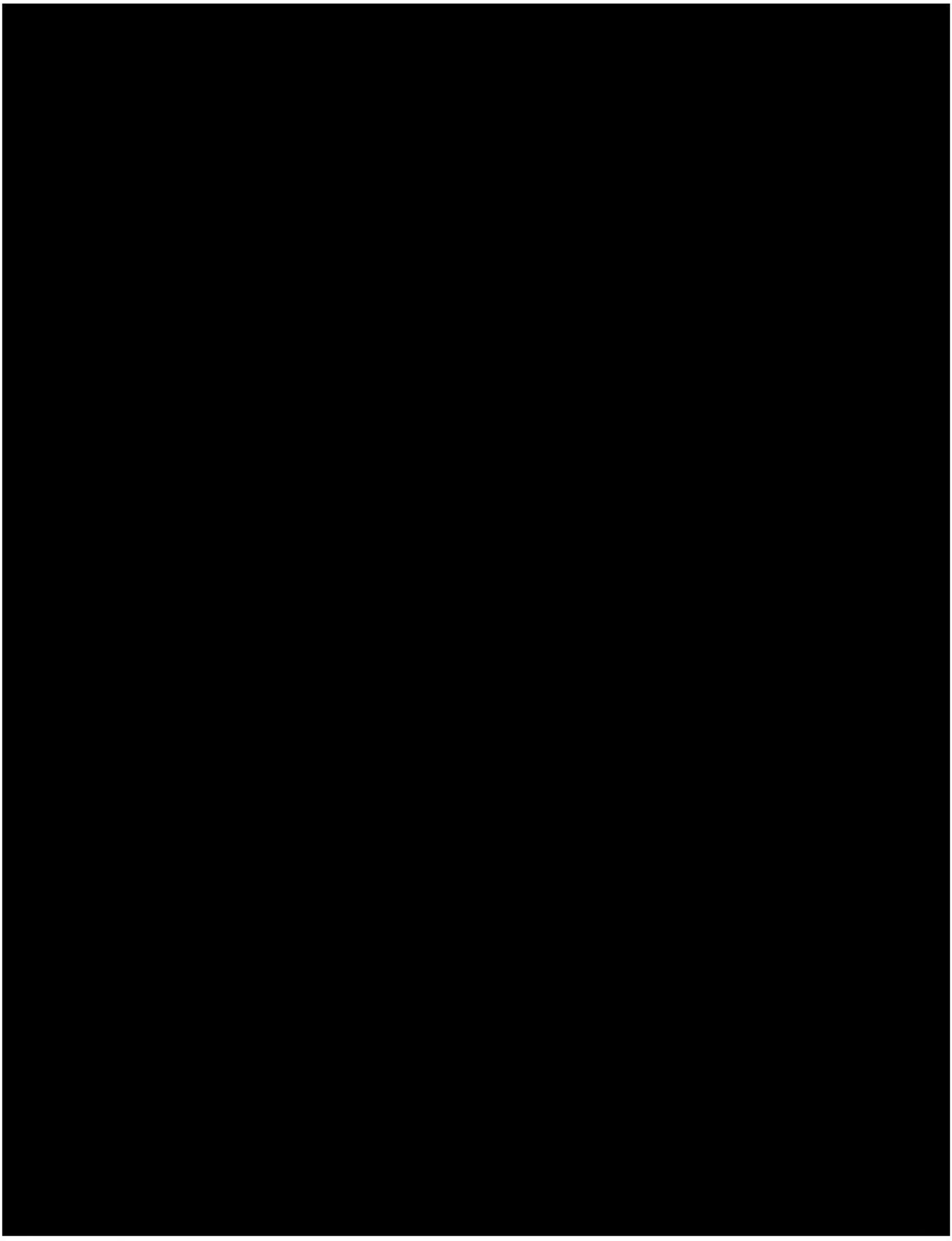
1.2 The contact details of the Authority's Data Protection Officer are: [redacted]

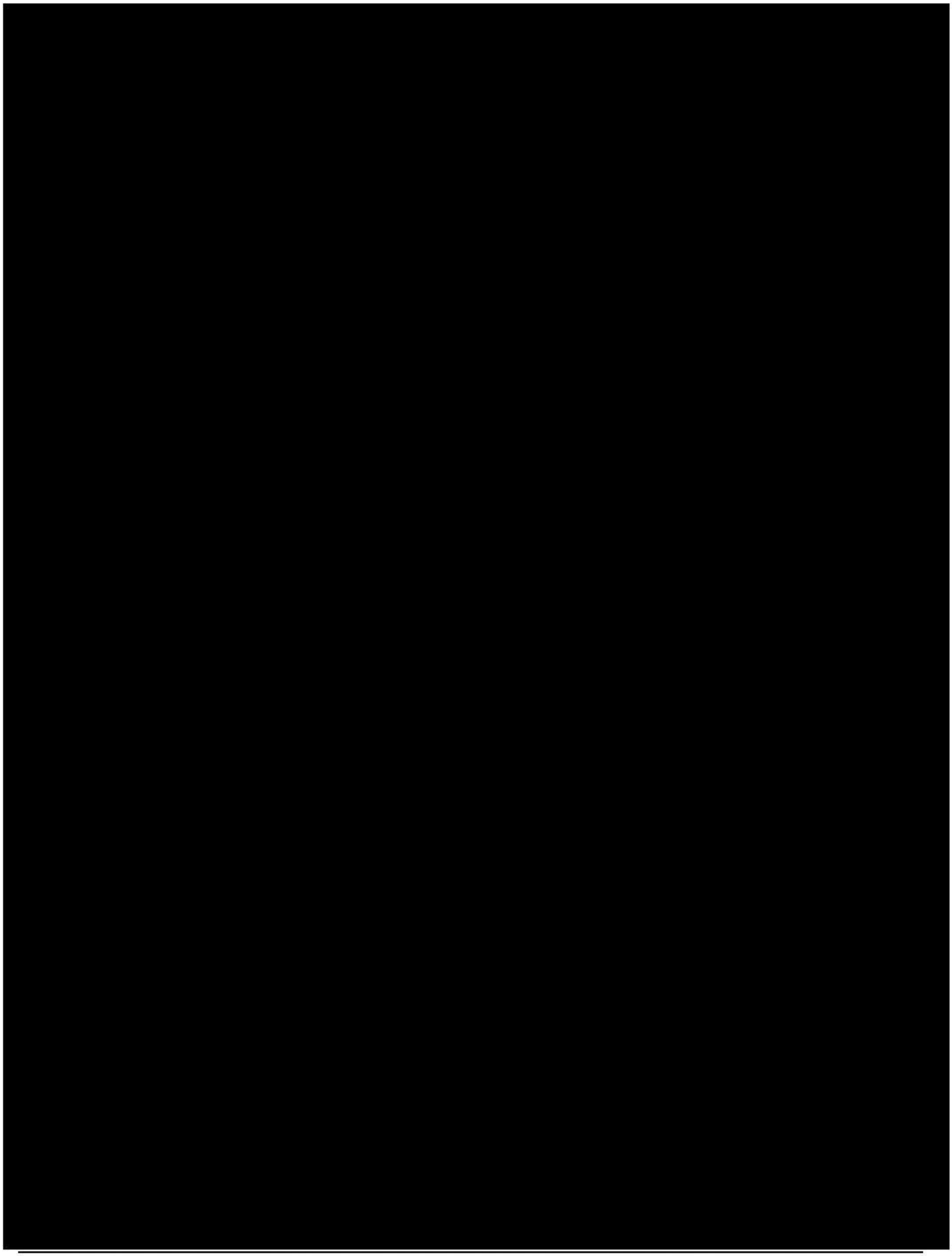
1.3 The contact details of the Supplier's Data Protection Officer are: [redacted]

1.4 The Processor shall comply with any further written instructions with respect to processing by the Controller.

1.5 Any such further instructions shall be incorporated into this Schedule.

[redacted]







Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 32

Intellectual Property Rights

Irregular Migration Management Services

Schedule 32: Intellectual Property Rights

1 Intellectual Property Rights – General Provisions

1.1 Except as expressly provided for in this Contract or otherwise agreed in writing:

1.1.1 the Authority does not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:

(a) the Supplier Software;

(b) the Third Party Software;

(c) the Third Party IPRs;

(d) the Supplier Background IPRs; and

(e) any Know-How, trade secrets or Confidential Information of the Supplier contained in any Specially Written Software or Project Specific IPR; and

1.1.2 the Supplier does not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including:

(a) the Authority Software;

(a) the Authority Data; and

(b) the Authority Background IPRs; and

1.1.3 neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks.

1.2 Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with the requirements of this Schedule 32 (*Intellectual Property Rights*), it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).

1.3 If the Supplier becomes aware at any time, including after the Term, that, in respect of any Deliverable, the Authority has not received the licences to the Supplier Software, the Third Party Software, the Third Party IPRs and the Supplier Background IPRs required by Paragraph 2, 3 and 7, the Supplier must, within 10 Working Days notify the Authority:

1.3.1 the specific Intellectual Property Rights the Authority has not received licences to; and

1.3.2 the Deliverables affected.

1.4 Where a patent owned by the Supplier is infringed by the use of the Specially Written Software or Project Specific IPR by the Authority or any Replacement Supplier, the Supplier hereby grants to the Authority and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

1.5 Unless otherwise agreed in writing, the Supplier will record in the table at Annex 1 to this Schedule and keep updated throughout the Term:

1.5.1 any Specially Written Software and Project Specific IPR; and

1.5.2 where:

(a) the Specially Written Software or Project Specific IPR adapts Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs; or

(b) Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs is embedded in, or forms an integral part of, the Specially Written Software or Project Specific IPR;

full details of the Supplier Software, Third Party Software, Third Party IPRs, or Supplier Background IPRs.

1.6 For the avoidance of doubt:

1.6.1 except as provided for in Paragraph 3.2.3(c)(ii), the expiry or termination of this Contract does not of itself terminate the licences granted to the Authority under Paragraph 3;

1.6.2 the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:

(a) Sections 55 and 56 of the Patents Act 1977;

(b) section 12 of the Registered Designs Act 1949; or

(c) sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

2 Ownership and delivery of IPR created under the Contract

2.1 Subject to Paragraph 1.1.1, the Supplier agrees to

2.1.1 transfer to the Authority, or procure the transfer to the Authority of all Intellectual Property Rights in the Specially Written Software and Project Specific IPRs, including:

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

(b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software,

(together the **Software Supporting Materials**); and

2.1.2 execute all such assignments required to transfer properly any rights in the Specially Written Software and Project Specific IPRs to the Authority.

2.2 The Supplier must deliver to the Authority:

2.2.1 the Specially Written Software;

2.2.2 any software elements of the Project Specific IPR;

2.2.3 relevant Documentation; and

2.2.4 all related Software Supporting Materials,

within seven days of:

2.2.5 either:

(a) initial release or deployment; or

(b) if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone; and

2.2.6 each subsequent release or deployment of the Specially Written Software and any software elements of the Project Specific IPR.

2.3 Where the Supplier delivers materials to the Authority under Paragraph 2.2, it must do so in a format specified by the Authority. Where the Authority specifies the material is to be delivered on media, the Authority becomes the owner of the media containing the material on delivery.

3 Use of Supplier or Third Party Non-COTS Software or Non-COTS Background IPR

3.1 The Supplier must not use any:

3.1.1 Supplier Non-COTS Software; or

3.1.2 any Supplier Non-COTS Background IPR;

in the provision of the Services or any Deliverables (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

3.1.3 in the case of Supplier Non-COTS Software and the software elements of Supplier Non-COTS Background IPR, it is either:

(a) detailed in Schedule 12 (*Software*); or

(b) both:

(i) submitted to the Technical Board for review; and

(ii) approved by the Authority; or

3.1.4 in the case of non-software elements of Supplier Non-COTS Background IPR, it is approved by the Authority in writing.

3.2 The Supplier must not use any:

3.2.1 Third Party Non-COTS Software; or

3.2.2 Third Party Non-COTS Background IPR,

in the provision of the Services or in any Deliverable (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

3.2.3 in the case of Third Party Non-COTS Software and the software elements of Third Party Non-COTS Background IPR, it is either:

(a) detailed in Schedule 12 (*Software*); or

(b) both:

(i) submitted to the Technical Board for review; and

(ii) approved by the Authority; and

(c) one of the following conditions is met:

(i) the owner or an authorised licensor of the relevant IPR has granted the Authority a direct licence on the terms equivalent to those set out in Paragraph 8; or

(ii) if the Supplier cannot, after commercially reasonable endeavours, meet the condition in Paragraph 3.2.3(c)(i), all the following conditions are met:

(A) the Supplier has notified the Authority in writing giving details of:

(1) what licence terms can be obtained from the relevant third party; and
(2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;

(B) the Authority approves the licence terms of one of those third parties; and

(C) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Authority on those terms; or

(iii) if the Supplier cannot meet the conditions in Paragraphs 3.2.3(c)(i) and 3.2.3(c)(ii), the Authority has provided written approval to use the relevant IPR without a licence, with reference to the acts authorised and the specific IPR involved; or

3.2.4 in the case of non-software elements of Third-Party Non-COTS Background IPR, it is approved by the Authority in writing.

4 Use of Supplier or Third Party COTS Software or COTS Background IPR

4.1 The Supplier must not use any:

4.1.1 Supplier COTS Software;

4.1.2 Supplier COTS Background IPR;

4.1.3 Third Party COTS Software; or

4.1.4 Third Party COTS Background IPR,

in the provision of the Services (including in any Specially Written Software or in the software element of Project Specific IPRs) unless:

4.1.5 in the case of Supplier COTS Software, Third Party COTS Software and the software elements of Supplier COTS Background IPR and Supplier COTS Background IPR, it is either:

(a) detailed in Schedule 12 (*Software*); or

(b) both:

(i) submitted to the Technical Board for review; and

(ii) approved by the Authority; and

4.1.6 all the following conditions are met:

(a) the Supplier has provided the Authority with the applicable terms for the IPRs (which must be at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available); and

(b) the Authority has not (in its absolute discretion) rejected those licence terms within 10 Working Days of the date on which they were provided to the Authority.

5 Licences granted by the Authority

5.1 Subject to Paragraph 6, the Authority grants the Supplier a licence to the

5.1.1 the Project-Specific IPR;

5.1.2 the Specially Written Software;

5.1.3 the Authority Software;

5.1.4 the Authority Data; and

5.1.5 the Authority Background IPRs;

that:

5.1.6 is non-exclusive, royalty-free and non-transferable;

5.1.7 is sub-licensable to any Sub-contractor where

(a) the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Annex 1 to Schedule 12 (*Software*); and

(b) the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;

5.1.8 allows the Supplier and any sub-licensee to use, copy and adapt any licensed

IPRs for the purpose of:

(a) fulfilling its obligations under this Contract; and

(b) commercially exploiting the Project Specific IPR and Specially Written Software; and

5.1.9 continues in effect following the expiry or earlier termination of this Contract.

5.2 When the licence granted under Paragraph 5.1:

5.2.1 terminates in accordance with Paragraph 6; or

5.2.2 no longer has effect at the end of the Term or the expiry of any Termination Assistance Period (whichever is the later),

the Supplier and each Sub-contractor granted a sub-licence under Paragraph 5.1.7: must ensure that they;

5.2.3 immediately cease all use of the licensed IPR;

5.2.4 either:

(a) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the licensed IPR; or

(b) if the Authority has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the licensed IPR; and

5.2.5 ensure, so far as reasonably practicable, that any licensed IPR held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

6 Authority approval for Supplier to exploit IPR created under Contract

6.1 Before using, copying or adapting any:

6.1.1 Project-Specific IPR;

6.1.2 Specially Written Software;

6.1.3 Authority Software;

6.1.4 Authority Data; and

6.1.5 Authority Background IPRs;

for any purpose other than fulfilling its obligations under this Contract, the Supplier must seek the approval of the Authority in accordance with the provisions of this Paragraph.

6.2 The Authority may terminate any licence it grants under this Paragraph by notice in writing with immediate effect where the Supplier breaches any condition in that licence.

6.3 The Supplier must provide a proposal setting out:

6.3.1 the purpose for which it proposes to use the IPR;

6.3.2 the activities the Supplier proposes to undertake with or in respect of the IPR;

6.3.3 such further information as the Authority may reasonably require to properly consider the proposal.

6.4 The Authority may only refuse the Supplier's proposal where it considers that if the Supplier were to implement the proposal it would harm:

6.4.1 the Authority's reputation; or

6.4.2 the Authority's interests.

6.5 Where the Authority has not:

6.5.1 approved or declined the proposal; or

6.5.2 required further information,

within 20 Working Days of the later of:

6.5.3 the date the proposal was first provided to the Authority; or

6.5.4 the date on which further information was provided to the Authority,

then the proposal is, for the purposes of this Contract, approved.

7 Provision of information on Project Specific IPR and Specially Written Software

7.1 The Authority may, at any time, require the Supplier to provide information on:

7.1.1 the purposes, other than for the purposes of this Contract, for which the Supplier uses Project Specific IPR and Specially Written Software; and

7.1.2 the activities the Supplier undertakes, other than under this Contract, with or in respect of the Project Specific IPR and Specially Written Software.

7.2 The Supplier must provide the information required by the Authority:

7.2.1 within 20 Working Days of the date of the requirement; and

7.2.2 in the form and with the content specified by the Authority.

8 Licences in respect of Supplier Non-COTS Software and Supplier Non-COTS Background IPR

8.1 Subject to the Authority approving the use of Supplier Non-COTS Software and Supplier Non-COTS Background IPR under Paragraph 3, the Supplier grants the Authority a Supplier Existing IPR Licence on the terms set out in Paragraph 8.3 in respect of each Deliverable where:

8.1.1 the Supplier Non-COTS Software and Supplier Non-COTS Background IPR is embedded in the Deliverable;

8.1.2 the Supplier Non-COTS Software and Supplier Non-COTS Background IPR is necessary for the Authority to use the Deliverable for any of the purposes set out in Paragraph 8.4; or

8.1.3 the Deliverable is a customisation or adaptation of Supplier Non-COTS Software and Supplier Non-COTS Background IPR.

8.2 The categories of Supplier Non-COTS Software and Supplier Non-COTS Background IPR set out in Paragraph 8.1 are mutually exclusive.

8.3 The Supplier Existing IPR Licence granted by the Supplier to the Authority is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:

8.3.1 in the case of Supplier Non-COTS Software and Supplier Non-COTS Background IPR embedded in a Deliverable:

(a) has no restriction on the identity of any transferee or sub-licensee;

(b) is sub-licensable for any of the purposes set out in Paragraph 8.4;

(c) allows the Authority and any transferee or sub-licensee to use, copy and adapt the Supplier Non-COTS Software and Supplier Non-COTS Background IPR for any of the purposes set out in Paragraph 8.4; and

8.3.2 in the case of Supplier Non-COTS Software and Supplier Non-COTS Background IPR that is necessary for the Authority to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:

(a) allows the Authority and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Non-COTS Software and Supplier Non-COTS Background IPR for any of the purposes set out in Paragraph 8.4;

(b) is transferrable to only:

(i) a Crown Body;

(ii) any body (including any private sector body) that performs or carries out any of the functions or activities that the Authority had previously performed or carried out; or

(iii) a person or organisation that is not a direct competitor of the Supplier, where that transferee:

(A) enters into a direct arrangement with the Supplier in the form set out in Annex 1 to Schedule 12 (*Software*); or

(B) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause 19 (*Confidentiality*);

(c) is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the

Replacement Supplier:

(i) enters into a direct arrangement with the Supplier in the form set out in Annex 1 to Schedule 12 (*Software*); or

(ii) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause 19 (*Confidentiality*);

8.3.3 includes a perpetual, royalty-free, non-exclusive licence to use, copy and adapt any Know-How, trade secrets or Confidential Information of the Supplier contained within any Supplier Non-COTS Software and Supplier Non-COTS Background IPR;

8.3.4 continues in effect following the expiry or earlier termination of this Contract; and

8.3.5 is subject to the restrictions that:

(a) no sub-licence granted to the Supplier Non-COTS Software and Supplier Non-COTS Background IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Authority under this Paragraph;

(b) any transferee or sublicensee of the Supplier Non-COTS Software and Supplier Non-COTS Background IPR must either:

(i) enter into a direct arrangement with the Supplier in the form set out in Annex 1 of Schedule 12 (*Software*); or

(ii) enter into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause 19 (*Confidentiality*).

8.4 For the purposes of Paragraphs 8.1 and 8.3, the relevant purposes are:

8.4.1 to allow the Authority or any End User to receive and use the Deliverables;

8.4.2 to commercially exploit the Project Specific IPR, Specially Written Software and Software Supporting Materials; and

8.4.3 for any purpose relating to the exercise of the Authority's (or, if the Authority is a Public Sector Body, any other Public Sector Body's) business or function.

8.5 Where the legal status of the Authority changes, such that it ceases to be a Crown Body:

8.5.1 the Supplier Existing IPR Licence is unaffected; and

8.5.2 any successor body of the Authority that is a Crown Body shall have the benefit of the Supplier Existing IPR Licence.

8.6 Where the Supplier Existing IPR Licence is transferred under Paragraph 8.3.1(a) or 8.3.2(b) or there is a change in the Authority's legal status to which Paragraph 8.5 applies, the transferee or successor body do not acquire any wider rights than those granted to the Authority under this Paragraph.

Annex 1: Project Specific IPR and Specially Written Software



Home Office

AUTHORITY: The Secretary of State for the Home Department (acting through the Home Office)

Schedule 33

Assets

Irregular Migration Management Services

[Schedule redacted in full]

