Home Office

DATED – 30 April 2018

(1) HER MAJESTY'S SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

(2) MITIE CARE AND CUSTODY LIMITED

AGREEMENT

Provision of In-Country and Overseas
Escorting, operation and management of
Short Term Holding Facilities and
Holding Rooms and related services

CONTENTS

SECTION A - PRELIMINARIES 2
1 DEFINITIONS AND INTERPRETATION 2
2 DUE DILIGENCE 4
3 WARRANTIES 5
SECTION B – THE SERVICES 8
4 TERM 8
5 SERVICES 8
6 MOBILISATION 13
7 KEY PERFORMANCE INDICATORS 15
8 SERVICES IMPROVEMENT 16
9 EQUIPMENT, MAINTENANCE AND AUTHORITY PREMISES 16
SECTION C – PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS 24
10 FINANCIAL AND TAXATION MATTERS 24
SECTION D - CONTRACT GOVERNANCE 26
11 GOVERNANCE AND THE INNOVATION AND PARTNERSHIP AGREEMENT 26
12 RECORDS, REPORTS, AUDITS, MONITORING & OPEN BOOK DATA 26
13 CHANGE 27
SECTION E – SUPPLIER PERSONNEL AND SUPPLY CHAIN 29
14 SUPPLIER PERSONNEL 29
15 SUPPLY CHAIN RIGHTS AND PROTECTIONS 32
SECTION F - INTELLECTUAL PROPERTY, DATA AND CONFIDENTIALITY 38
16 INTELLECTUAL PROPERTY RIGHTS 38
17 TRANSFER AND LICENCES GRANTED BY THE SUPPLIER 38
18 LICENCES GRANTED BY THE AUTHORITY 43
19 IPRs INDEMNITY 44
20 AUTHORITY DATA AND SECURITY REQUIREMENTS 45
21 CONFIDENTIALITY 47
22 TRANSPARENCY AND FREEDOM OF INFORMATION 49
23 PROTECTION OF PERSONAL DATA 51
24 PUBLICITY AND BRANDING 53
SECTION G - LIABILITY, INDEMNITIES AND INSURANCE 55
25 LIMITATIONS ON LIABILITY 55
26 INSURANCE 59
SECTION H – REMEDIES AND RELIEF 60
27 RECTIFICATION PLAN PROCESS 60
28 NOT USED 61
29 REMEDIAL ADVISER 61
30 STEP-IN RIGHTS 63
31 AUTHORITY CAUSE 66
32 FORCE MAJEURE 68
SECTION I – TERMINATION AND EXIT MANAGEMENT 70
33 TERMINATION RIGHTS 70
34 CONSEQUENCES OF EXPIRY OR TERMINATION 71
SECTION J - MISCELLANEOUS AND GOVERNING LAW 75
35 COMPLIANCE 75
36 ASSIGNMENT AND NOVATION 75
37 WAIVER AND CUMULATIVE REMEDIES 76
38 RELATIONSHIP OF THE PARTIES 76
39 PREVENTION OF FRAUD AND BRIBERY 76
40 SEVERANCE 78
41 FURTHER ASSURANCES 78
42 ENTIRE AGREEMENT 78
43 THIRD PARTY RIGHTS 79
44 NOTICES 79
45 DISPUTES 80
46 GOVERNING LAW AND JURISDICTION 81
ANNEX 1 DEFINITIONS 123

SCHEDULES

Schedule A	Insurances
Schedule B	Mobilisation & Permit to Operate
	Part 1: Mobilisation & Permit to Operate Requirements
	Part 2: Mobilisation & Permit to Operate Response
Schedule C	Testing Procedures
Schedule D	Service Requirements
	Part 1: Service Specification
	Schedule D1 Management Services
	Schedule D2 Core Services
	Schedule D3 In-Country Escorting
	Schedule D4 Overseas Escorting
	Schedule D5 Holding Rooms
	Schedule D6 Short Term Holding Facilities
	Schedule D7 Juxtaposed Controls
	Schedule D8 Glossary
	Part 2: Service Response
Schedule E	Guarantee
Schedule F	Payment Mechanism
Schedule G	Performance Evaluation and Service Unavailability
Schedule H	Innovation and Partnership Agreement
Schedule I	Commercially Sensitive Information
Schedule J	Dispute Resolution Procedure
Schedule K	Notified Key Sub-contractors
Schedule L	Change Control Procedure
Schedule M	Key Personnel
Schedule N	Exit Management
	Part 1: Exit Management Requirements
	Part 2: Exit Management Response
Schedule O	Service Improvement
Schedule P	Financial Distress
Schedule Q	Financial Reports and Audit Rights
Schedule R	**Part I:** IT Systems Requirements
	Part 2: IT Systems Solution
Schedule S	Governance
	Part 1: Governance Requirement
	Part 2: Governance Response.
Schedule T	Standards
Schedule U	Security Management
Schedule V	Business Continuity and Disaster Recovery

Schedule W Payments on Termination
Schedule X Reports and Records Provisions
Schedule Y Third Party Contracts
Schedule Z Staff Transfer

Appendix 1 – Evaluators' Clarification Questions
Appendix 2 – Supplier's Allowable Assumptions
Appendix 3 – Supplier's Clarification Questions

THIS AGREEMENT is made on the date shown on the front page

BETWEEN:

(1) **HER MAJESTY'S SECRETARY OF STATE FOR THE HOME DEPARTMENT** of [redacted] (the "**Authority**"); and

(2) **MITIE CARE AND CUSTODY LIMITED** a company registered in England and Wales under company number 6976230 whose registered office is at [redacted] (the "**Supplier**")

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

INTRODUCTION

(A) The Authority, in exercise of its powers under the Immigration Act 1971, the Immigration and Asylum Act 1999 and the Nationality, Immigration and Asylum Act 2002 is desirous of obtaining, on a non-exclusive basis, the services of a supplier to provide services in relation to:

(i) the escorting of persons within the United Kingdom and overseas and the provision of Holding Rooms;

(ii) operation and maintenance of Residential Short Term Holding Facilities in Pennine House (or its replacement) in Manchester and Belfast, known as Larne House; and

(iii) operation and maintenance of Holding Rooms, escorting and related services in northern Europe,

as more particularly described herein.

(B) On 1 October 2016 the Authority advertised in the Official Journal of the European Union (reference 340796-2016-EN), inviting prospective suppliers to submit proposals for such services. This notice was subject to a corrigendum on 26th October 2016.

(C) The Supplier is a leading provider of care and custody services and has experience in providing detention and escorting services.

(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.

IT IS AGREED as follows:

SECTION A - PRELIMINARIES

1 DEFINITIONS AND INTERPRETATION

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

1.2 In this Agreement, unless the context otherwise requires:

(a) the singular includes the plural and vice versa;

(b) reference to a gender includes the other gender and the neuter;

(c) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;

(d) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

(e) 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";

(f) 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;

(g) the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;

(h) unless otherwise provided and save for references in Schedule H (Innovation and Partnership Agreement) and in Schedule E (Guarantee), references to Clauses and Schedules are references to the clauses and schedules of this Agreement and references in any Schedule to Paragraphs, Parts, Annexes, Tables and Appendices are, unless otherwise provided, references to the Paragraphs, Parts, Annexes Tables and Appendices of the Schedule or the Part of the Schedule in which the references appear; and

(i) references to this Agreement are references to this Agreement as amended from time to time.

1.3 Where a standard, policy or document is referred to in this Agreement 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 Agreement with a reference to the replacement hyperlink.

1.4 All Schedules and their Annexes, together with any Tables and Appendices referred to in this Agreement form part of this Agreement, including for the avoidance of doubt:

(a) the Evaluators' Clarification Questions (which include the Supplier's responses) as set out in Appendix 1;

(b) the Supplier's Allowable Assumptions (which include the Authority responses) as set out in Appendix 2; and

(c) the Supplier's Clarification Questions (which include the Authority responses) as set out in Appendix 3;

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

(a) the Clauses;

(b) Schedule D Part 1 (Service Requirements), together with its Annexes (if any), Schedule B Part 1 (Mobilisation & Permit to Operate Requirement), together with its Annexes (if any), Schedule R Part 1 (IT System Requirements), together with its Annexes (if any), and Schedule G (Performance Evaluation and Service Unavailability), together with its Annexes (if any);

(c) any other Schedules and their Annexes (other than those listed in Clauses 1.5(a) and (b) above and 1.5 (d) and (e) below);

(d) Schedule B Part 2 (Mobilisation & Permit to Operate Response), together with its Annexes (if any), Schedule D Part 2 (Supplier Response), together with its Annexes (if any), Schedule R Part 2 (IT System Solution), together with its Annexes (if any), Schedule S Part 2 (Governance Response), together with its Annexes (if any), and Schedule E Part 2 (Exit Management Response), together with its Annexes (if any), including the following, in the order listed below:

(i) the Supplier Response in relation to Contract Mobilisation and Management in Schedule B Part 2, together with its Annexes (if any);

(ii) the Supplier Response in relation to the Service Specification in Schedule D Part 2, together with its Annexes (if any);

(iii) the Supplier Response in relation to IT Systems Requirements in Schedule R Part 2, together with its Annexes (if any)

(iv) the Supplier Response in relation to Contract Mobilisation and Management in Schedule S Part 2, together with its Annexes (if any); and

(v) the Supplier Response in relation to Contract Mobilisation and Management in Schedule E Part 2, together with its Annexes (if any);

(e) subject to Clause 1.5 (f), (g) and (h), the following, in the order listed below:

(i) the Evaluators' Clarification Questions (which include the Supplier's responses) as set out in Appendix 1;

(ii) the Supplier's Allowable Assumptions (which include the Authority's responses) as set out in Appendix 2; and

(iii) the Supplier's Clarification Questions (which include the Authority's responses) as set out in Appendix 3;

(f) in relation to each of the Evaluators' Clarification Questions referred to in Clause 1.4(a) and 1.5 (e)(i), the answer given by the Authority to each question, as set out in the column headed "Answer", shall:

(i) be treated as the final answer of the Authority to each question; and

(ii) take precedence over any other content in any other column of Appendix 1;

(g) in relation to the Supplier's Allowable Assumptions referred to in Clauses 1.4 (b) and 1.5 (e) (ii), the following order of precedence shall apply:

(i) unless Clause 1.5 g (ii) below applies, the Authority's response to each of the Supplier's Allowable Assumptions, as set out in the column headed "Last Response/Share with Bidders or Bidder Specific", shall be treated as the final response of the Authority for each question and shall take precedence over any other content in any other column of Appendix 2;

(ii) unless Clause 1.5 g (i) above applies, in the case of the Supplier's Allowable Assumptions, where there is no response by the Authority in the column headed "Last Response/Share with Bidders or Bidder Specific" then the response by the Authority in the column headed "Response" shall be treated as the final response of the Authority and shall take precedence over any other content in any other column of Appendix 2; and

(h) in relation to the Supplier's Clarification Questions referred to in Clauses 1.4(c) and 1.5 (e) (iii), the answer given by the Authority to each question as set out in the column headed "Answer" shall be treated as the final answer of the Authority to each question and shall take precedence over any other content in any other column of Appendix 3.

1.6 In entering into this Agreement, the Authority is acting as part of the Crown.

2 DUE DILIGENCE

2.1 The Supplier acknowledges that:

(a) 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 Agreement;

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

(c) 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:

(i) the Authority Requirements;

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

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

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

(v) 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 Agreement and/or which the Supplier will require the benefit of for the provision of the Services; and

(d) 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 Agreement, 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 Agreement on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of:

(a) any unsuitable aspects of the Operating Environment;

(b) any misinterpretation of the Authority Requirements; and/or

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

3 WARRANTIES

3.1 The Authority represents and warrants that:

(a) it has full capacity and authority to enter into and to perform this Agreement;

(b) this Agreement is executed by its duly authorised representative;

(c) 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 Agreement; and

(d) its obligations under this Agreement 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:

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

(b) it has full capacity and authority to enter into and to perform this Agreement;

(c) this Agreement is executed by its duly authorised representative;

(d) it has all necessary consents and regulatory approvals to enter into this Agreement;

(e) 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 or any of its Affiliates that might affect its ability to perform its obligations under this Agreement;

(f) its execution, delivery and performance of its obligations under this Agreement 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;

(g) its obligations under this Agreement 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);

(h) 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 PQQ and RFP (as 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 Agreement or to the extent that the Supplier has otherwise disclosed to the Authority in writing prior to the date of this Agreement;

(i) 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;

(j) 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 Agreement and/or the receipt of the Services by the Authority;

(k) the Supplier Financial Pricing Model 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 Pricing Model;

(l) 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 Agreement; and

(m) 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.

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 Agreement) 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 Agreement.

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 Agreement 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 Agreement, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

SECTION B – THE SERVICES

4 TERM

4.1 This Agreement shall:

(a) come into force on the Effective Date, save for Clauses 1 (Definitions and Interpretation), 3 (Warranties), 4 (Term), 21 (Confidentiality), 22 (Freedom of Information), 24 (Publicity and Branding), 25 (Limitations on Liability), 37 (Waiver and Cumulative Remedies), 38 (Relationship of the Parties), 40 (Severance), 42 (Entire Agreement), 43 (Third Party Rights), 44 (Notices), 45 (Disputes) and 46 (Governing Law and Jurisdiction), which shall be binding and enforceable as between the Parties from the date of signature; and

(b) unless terminated at an earlier date by operation of Law or in accordance with Clause 33 (Termination Rights), terminate on the tenth anniversary of the Effective Date.

Conditions Precedent

4.2 Save for Clauses 1 (Definitions and Interpretation), 3 (Warranties), 4 (Term), 21 (Confidentiality), 22 (Freedom of Information), 24 (Publicity and Branding), 25 (Limitations on Liability), 37 (Waiver and Cumulative Remedies), 38 (Relationship of the Parties), 40 (Severance), 42 (Entire Agreement), 43 (Third Party Rights), 44 (Notices), 45 (Disputes) and 46 (Governing Law and Jurisdiction), this Agreement is conditional upon the valid execution and delivery to the Authority of:

(a) the Guarantee; and

(b) the Innovation and Partnership Agreement,

(together, the "**Conditions Precedent**"). The Authority may in its sole discretion at any time agree to waive compliance with any of the Conditions Precedent by giving the Supplier notice in writing.

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

(a) this Agreement shall automatically cease and shall not come into effect; and

(b) 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:

(a) the Mobilisation Services from (and including) the Mobilisation Services Commencement Date; and

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

5.2 The Supplier shall ensure that:

(a) the Services:

(i) comply in all respects with the Service Specification and Authority Requirements; and

(ii) are supplied in accordance with the Supplier Response and the provisions of this Agreement; and

(b) where:

(i) 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

(ii) 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:

(a) perform its obligations under this Agreement, including in relation to the supply of the Services and any Goods in accordance with:

(i) all applicable Law;

(ii) Good Industry Practice;

(iii) the Standards;

(iv) the Baseline Security Requirements;

(v) the Quality Plans;

(vi) the Authority IT Strategy; and

(vii) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 5.3(a)(i) to 5.3(a)(vi); and

(b) 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(a)(i) to 5.3(a)(vi), 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:

(a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Agreement;

(b) 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 Agreement, 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;

(c) ensure that:

(i) 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 Agreement and/or the receipt of the Services by the Authority;

(ii) 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 U (Security Management)) shall notify the Authority 3 months before the release of any new Software or Upgrade;

(iii) 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;

(iv) 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

(v) 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) and will be Euro Compliant;

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

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

(f) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any 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 Agreement for any reason, to enable the timely transition of the Services (or any of them) to the Authority and/or to any Replacement Supplier;

(g) 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;

(h) 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(g);

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

(j) 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 Agreement;

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

(l) 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 Agreement;

(m) 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 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 Supplier's obligations under this Agreement; and

(n) 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 19.2 and 19.3 (IPRs Indemnity) and any other rights and remedies of the Authority howsoever arising, the Supplier shall:

(a) remedy any breach of its obligations in Clauses 5.5(b) to 5.5(d) 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);

(b) remedy any breach of its obligations in Clause 5.5(a) and Clauses 5.5(e) to 5.5(j) inclusive within 20 Working Days of becoming aware of the breach or being notified of the breach by the Authority; and

(c) 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(a) or Clause 5.7(b) 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:

(a) be free from material design and programming errors;

(b) perform in all material respects in accordance with the relevant specifications contained in the Supplier Response and Documentation; and

(c) 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 Agreement and shall not suspend the supply of the Services, notwithstanding:

(a) the existence of an unresolved Dispute; and/or

(b) any failure by the Authority to pay any Charges,

unless the Supplier is entitled to terminate this Agreement under Clause 33.3(a) (Termination by the Supplier) for failure to pay undisputed Charges.

Power of attorney

5.10 By way of security for the performance of its obligations under Clauses 5.5(g) and 5.5(h) (Supplier covenants) the Supplier 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 5.10 (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.

Authority Responsibilities

5.11 The Authority shall comply with the Authority Responsibilities.

Exclusivity

5.12 The Services shall be provided on a non-exclusive basis. Nothing shall prevent the Authority from providing the same or similar services, either itself or through another supplier.

IPCC

5.13 The Independent Police Complaints Commission ("**IPCC**") is legally empowered to investigate certain serious complaints and incidents and may deal with matters of serious misconduct which relate to the exercise of functions of the Authority (including matters relating to the exercise of such functions by the Supplier on behalf of the Authority). The Supplier will provide all cooperation and assistance to the IPCC, the Authority and any police force engaged by the IPCC to undertake a managed or supervised IPCC investigation as may be required, in relation to any investigation carried out by the IPCC.

6 MOBILISATION

Quality Plans

6.1 The Supplier shall develop, within 120 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 Agreement.

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

(a) the Supplier shall design and deliver all Deliverables in accordance with the Quality Plans; and

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

Commencement Date and Permit to Operate

6.4 The Supplier shall provide Mobilisation Services, in accordance with the provisions of Schedule B (Mobilisation and Permit to Operate).

6.5 Without prejudice to the Authority's other rights under this Agreement, the Supplier is required to obtain a Permit to Operate from the Authority on or before 30th April 2018. For the avoidance of doubt, the Authority shall not be liable to make any payment in respect of the Services prior to the Supplier being issued with a Permit to Operate.

6.6 The Supplier shall be responsible for payment of any additional costs incurred by the Authority due to the Supplier's inability to commence the Service by the Commencement of Full Services, save where such inability is a direct result of the Authority's act or omission.

6.7 A minimum of thirty (30) days prior to the date when the Supplier considers it will have satisfied the requirements for obtaining the Permit to Operate, the Supplier shall give written notice to the Authority of such opinion.

6.8 When so notified, the Authority, and such other persons as the Authority may specify, shall carry out necessary testing and inspections for the purpose of issuing the Permit to Operate.

6.9 The Authority shall issue the Permit to Operate unless in the opinion of the Authority (acting reasonably) the requirements for the issue of the Permit to Operate are not satisfied, in which case the Authority shall provide the Supplier with a written record of the reasons why the Permit to Operate will not be issued.

6.10 Where the Authority refuses to issue the Permit to Operate, and a written record of the reasons has been provided to the Supplier, the Supplier shall again follow with the process in Clause 6.7, save that the notice period shall be fourteen (14) days instead of thirty (30) days and the Authority shall respond as soon as reasonably practicable within the notice period, taking into account any reasons for any such refusal.

Mobilisation Plan and Delays

6.11 The Parties shall comply with the provisions of Schedule B (Mobilisation and Permit to Operate) in relation to the agreement and maintenance of the Mobilisation Plan.

6.12 The Supplier shall:

(a) comply with the Mobilisation Plan; and

(b) ensure that each Milestone is Achieved on or before its Milestone Date.

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

(a) it shall:

(i) notify the Authority in accordance with Clause 27.1 (Rectification Plan Process); and

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

(iii) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

Testing and Achievement of Milestones

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

7 KEY PERFORMANCE INDICATORS

7.1 The Supplier shall:

(a) provide the Services in such a manner so as to meet or exceed the Target Performance Level for each Key Performance Indicator from the relevant Operational Service Commencement Date; and

(b) comply with the provisions of Schedule G (Performance Evaluation and Service Unavailability) in relation to the monitoring and reporting on its performance against the Key Performance Indicators.

Performance Failures

7.2 If, in any Service Period:

(a) a KPI Failure occurs, Service Credits shall be deducted from the Service Charges in accordance with Schedule F (Payment Mechanism);

(b) 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(a)); and/or

(c) a KPI Failure occurs, the Supplier shall notify the Authority of the action (if any) it will take to rectify the KPI Failure and/or to prevent the KPI Failure from recurring.

No Double Recovery

7.3 Any amount recovered by the Authority in accordance with the Dispute Resolution Procedure in respect of a KPI Failure shall be reduced by the amount of any Service Credits paid to the Authority for such KPI Failure.

Critical Failure

7.4 If a Critical Failure occurs, the Authority may (subject to the Rectification Process where the Critical Failure is capable of remedy) exercise its rights to terminate this Agreement in whole or in part pursuant to Clause 33.1 or 33.2 (Termination by the Authority).

Changes to Key Performance Indicators and Service Credits

7.5 The circumstances in which Key Performance Indicators can be changed are set out in Schedule G (Performance Evaluation and Service Unavailability).

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 Strategic Contract Review and Delivery Group once every 12 months on:

(a) 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;

(b) 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;

(c) 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 in reduction of operational risk;

(d) 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

(e) 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, MAINTENANCE AND AUTHORITY PREMISES

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 Agreement, the Supplier shall be solely 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 BCDR 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 Agreement, including the Target Performance Levels.

9.4 On the request of the Authority, the Supplier shall provide proof to the Authority's satisfaction that the materials, Supplier Equipment and processes used, or proposed to be used, in the provision of the Services are fit for purpose.

9.5 Any equipment, materials or other goods funded by the Authority to be used by or on behalf of the Supplier shall vest in and become the absolute property of the Authority and the Supplier shall possess and use such equipment, materials or other goods for the purpose of the Agreement only.

9.6 The Supplier shall maintain, repair, insure and, if necessary, replace all items referred to in Clause 9.5 but shall not acquire any ownership or other propriety interest of whatever nature in such items.

9.7 The Supplier shall maintain on an ongoing basis, and produce on an annual basis, an up to date inventory of all items purchased at the Authority’s expense.

Maintenance

9.8 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, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.

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

9.10 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

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

(a) the Supplier shall supply and, where relevant, install the Goods in accordance with the relevant specification;

(b) 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;

(c) 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; and

(d) without prejudice to any other rights or remedies of the Authority:

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

(ii) ownership of the Goods shall pass to the Authority at the time of payment.

Authority Equipment

9.12 Before the Commencement of Full Services, the Authority shall provide to the Supplier an inventory of Authority Assets which the Authority agrees to provide to the Supplier and to allow the Supplier to use in providing the Services throughout the Term ("**Authority Equipment**").

9.13 The Supplier shall have no lien on any Authority Equipment provided by the Authority, whether paid by or charged against the Supplier or not, for any sum due to the Supplier, and the Supplier shall take all such steps as may be reasonably necessary to ensure that the title of the Authority and the exclusion of any such lien are brought to the notice of all persons dealing with any property so provided.

9.14 The Authority Equipment will be maintained by the Supplier at its own expense. The Supplier will use its best endeavours to maintain all such items in the state in which they were supplied. Where such items are made available, the Supplier shall ensure that they are used purely for the purposes of delivering the Services and not for any personal or other use.

9.15 The Supplier shall as soon as reasonably practicable after receipt of Authority Equipment agree with the Authority a schedule of the state and condition of the Authority Equipment allotted to the Supplier by the Authority. The Supplier shall advise the Authority promptly in writing of any material damage to property or equipment made available to it by the Authority and shall, so far as practicable, repair any such damage or, if not practicable, shall replace the damaged property or equipment at its own expense.

9.16 The Supplier shall account for Authority Equipment and shall maintain complete records of receipt and use or disposal of the Authority Equipment. The Authority may determine the form of the records and the extent of the information to be recorded therein.

9.17 All Authority Equipment shall remain the property of the Authority, whether paid for by or charged against the Supplier or not.

9.18 The Supplier shall affix and keep such nameplates or other markings as the Authority may from time to time require on the vehicles, and on any other material, equipment or goods title to which passes to the Authority in accordance with Clause 9.5. The Supplier shall not permit such nameplates or markings to be concealed, altered or removed nor affix or permit to be affixed any other plates or markings inconsistent with or prejudicial to the rights of the Authority.

Vehicle Novation

9.19 The Supplier shall enter into any Vehicle Lease as directed by the Authority in order to provide the Services.

9.20 The Supplier shall obtain the advance written approval of the Authority before entering into any Vehicle Lease which is due to expire after the end of the Term (an "**Extended Vehicle Lease**").

9.21 In the event that the Supplier enters into any Extended Vehicle Lease, or renews any Vehicle Lease during the Term so that it becomes an Extended Vehicle Lease, the Supplier shall ensure that such Extended Vehicle Lease includes a provision in the following terms or, with the advance written approval of the Authority, other terms to the same effect:

> "*[The Leasing Company] agrees that, on written request from [the Supplier] at any time during the period of this [Extended Vehicle Lease], it shall promptly enter into a novation agreement with [the Supplier] and either:*
>
> *(a) the Secretary of State for the Home Department, whereby this [Extended Vehicle Lease] is novated from the [Supplier] to the Secretary of State for the Home Department, such that the Secretary of State for the Home Department becomes the lessee under the [Extended Vehicle Lease] in place of [the Supplier], or;*
>
> *(b) a company (the "Company") which has entered into a contract with the Secretary of State for the Home Department to provide services which require the use of vehicles such as the [Leased Vehicles] for the transportation of detainees, such that the Company becomes the lessee under the [Extended Vehicle Lease] in place of [the Supplier].*
>
> *In the case of a novation to the Secretary of State for the Home Department under Clause [(a)] above, such novation agreement shall include the right for the Secretary of State for the Home Department, at any time during the period of the [Extended Vehicle Lease], to assign or novate its rights and/or obligations under the [Extended Vehicle Lease] to a company which has entered into a contract with the Secretary of State for the Home Department to provide services which require the use of vehicles such as the vehicles which are subject to an [Extended Vehicle Leases] used for the transportation of detainees.*"

9.22 Where required to do so by the Authority in connection with the termination or expiry of the Agreement, the Supplier shall procure that any Extended Vehicle Lease in force shall be novated to a Replacement Supplier, and if the Replacement Supplier is the Authority, that the Authority shall have the right unilaterally to assign, novate and/or otherwise dispose of its rights and obligations as lessee under the Extended Vehicle Lease to any third party which provides any services similar to the Services.

9.23 The Supplier shall obtain the advance written approval of the Authority before entering into any Maintenance Agreement which is due to expire after the end of the Term (an "**Extended Maintenance Agreement**").

9.24 In the event that the Supplier enters into any Extended Maintenance Agreement, or renews any Maintenance Agreement during the Term so that it becomes an Extended Maintenance Agreement, the Supplier shall ensure that such Extended Maintenance Agreement includes a provision in the following terms or, with the advance written approval of the Authority, other terms to the same effect:

"[The Maintenance Provider] agrees that, on written request from [the Supplier] at any time during the period of this [Maintenance Agreement], it shall promptly enter into a novation agreement with [the Supplier] and either:

(a) the Secretary of State for the Home Department, whereby this [Maintenance Agreement] is novated from the [Supplier] to the Secretary of State for the Home Department, such that the Secretary of State for the Home Department becomes a party to the [Maintenance Agreement] in place of [the Supplier], or;

(b) a company (the "Company") which has entered into a contract with the Secretary of State for the Home Department to provide services which require the use of vehicles for the transportation of detainees so that the Company becomes a party to the [Maintenance Agreement] in place of [the Supplier].

In the case of a novation under Clause [(a)] above, such novation agreement shall include the right for the Secretary of State for the Home Department, at any time during the period of the [Maintenance Agreement], to assign, novate or otherwise transfer its rights and/or obligations under the [Maintenance Agreement] to a company which has entered into a contract with the Secretary of State for the Home Department to provide services which require the use of vehicles for the transportation of detainees."

9.25 Where required to do so by the Authority in connection with the termination or expiry of the Agreement, the Supplier shall procure that any Extended Maintenance Agreement in force shall be novated to a Replacement Supplier, and if the Replacement Supplier is the Authority, that the Authority shall have the right unilaterally to assign, novate or otherwise dispose of its rights and obligations as customer under the Extended Maintenance Agreement to any third party which provides any services similar to the Services.

9.26 Where any Vehicle (a "**Transferrable Vehicle**") is identified as a Vehicle which is capable of being transferred to a Replacement Supplier by the novation, assignment or other disposal of the relevant Extended Vehicle Lease, the Supplier shall co-operate fully with the Authority and the Replacement Supplier during the handover of such Transferrable Vehicle in order to achieve an effective transition of the Services to the Replacement Supplier without disruption to routine operational requirements.

9.27 The Supplier shall ensure that, whilst it is a party to any Extended Vehicle Leases, all Transferrable Vehicles are serviced regularly in accordance with the manufacturer's recommendations and any requirements of the relevant Leasing Company and that the interior and exterior of the Transferrable Vehicles are maintained in good condition relative to their respective ages, mileage and the purpose for which they are used in the provision of the Services.

9.28 The Supplier shall co-operate fully with any inspection reasonably requested by the Authority which is required to ascertain the condition of any Transferrable Vehicle. Such inspection may be made by:

(a) the Authority or its appointed agents;

(b) any Replacement Supplier or its appointed agents, at any time during the term of the relevant Extended Vehicle Lease; or

(c) any potential Replacement Supplier which intends to tender for the future provision of services which are the same as or similar to the Services, or its appointed agents, at any time after the Authority has issued an invitation to tender for the same,

provided that, in each case, the Authority has given the Supplier at least seven (7) Working Days' notice, any Replacement Supplier and its appointed agents shall be entitled to carry out an inspection within the period of two (2) weeks immediately before the date when the relevant Transferrable Vehicle is due to be transferred to the Replacement Supplier.

9.29 The Supplier shall ensure that:

(a) any Transferrable Vehicle which is identified for transfer from the Supplier to a Replacement Supplier is in good structural and operative condition;

(b) the Supplier is fully in compliance with the terms of the relevant Extended Vehicle Lease at the time of transfer of the relevant Transferrable Vehicle(s); and

(c) each Transferrable Vehicle is fit in all respects for immediate use by the Replacement Supplier.

9.30 The Supplier shall be responsible for payment of all costs of repair in respect of any damage sustained by a Transferrable Vehicle whilst such Transferrable Vehicle is in its possession, fair wear and tear excepted. Such damage shall include (but shall not be limited to) damage resulting from any accident or from any deliberate or negligent misuse of the Transferrable Vehicle by any person and includes the following, however caused:

(a) cuts, tears, stains or burns to the interior;

(b) exterior dents, untreated rust or scratches;

(c) damage caused by the removal of accessories;

(d) cracks, chips or other damage to the windows, windscreens, light lenses, headlamp glass or mirrors;

(e) damage to the sidewalls of tyres caused by kerbing; and

(f) remedial work previously carried out to an unsatisfactory standard.

9.31 The Supplier shall provide both the Authority and the relevant Replacement Supplier with a condition report and accurate estimates for any repairs falling within Clause 9.30 which are required by the Authority or the Replacement Supplier and have not been carried out before the date when possession of the relevant Transferrable Vehicle is transferred from the Contractor. The Supplier shall pay the Authority the cost of all such repairs in accordance with estimates obtained before the relevant date of transfer, and if the actual cost of such repairs:

(a) exceeds such estimated cost, the Supplier shall pay the Authority the difference between the estimated and actual costs; and

(b) is less than the estimated cost, the Authority shall repay the difference to the Contractor.

9.32 The amount to be paid by the Supplier or repaid by the Authority in accordance with Clause 9.31 (a) or (b) (as appropriate) shall be a debt due under the Agreement which may be enforced notwithstanding the expiry or termination of the Agreement.

9.33 Not less than six (6) weeks before the date when the relevant Transferrable Vehicle is to be transferred from the Supplier to the Authority or a Replacement Supplier (as the case may be), the Supplier shall inform the Authority and/or the Replacement Supplier whether any radio communications equipment in the Transferrable Vehicle shall remain in the Transferrable Vehicle and, if so, the Supplier shall make arrangements with the Replacement Supplier to ensure that the operating frequency can be altered to the operating frequency to be used by the Replacement Supplier.

9.34 At the time when a Transferrable Vehicle is transferred from the Supplier to the Replacement Supplier, the odometer of such Transferrable Vehicle shall be read and the reading shall be compared with any mileage threshold or limit stipulated in the Vehicle Lease for the period of time in which the Transferrable Vehicle has been in operation. The Supplier shall be responsible for payment to the Leasing Company of any excess mileage charge up to the date when the Transferrable Vehicle is transferred.

9.35 At the time when a Transferrable Vehicle is transferred from the Supplier to a Replacement Supplier, the Supplier shall:

(a) ensure that the exterior of the relevant Transferrable Vehicle is not marked with the Contractor's name or other insignia which are personal to the Contractor, and;

(b) remove from the interior of the relevant Transferrable Vehicle all items of property and equipment which are personal to the Contractor.

9.36 The Supplier shall be responsible for payment to the Authority of the costs of any remedial work required to the Transferrable Vehicle to repair any damage or to make good the condition of such Transferrable Vehicle where such remedial work is required as a result of the removal of the Supplier's name or other insignia or the removal of any items of property or equipment which had been placed in or fitted to the Transferrable Vehicle by the Supplier. Any such amount to be paid by the Supplier shall be a debt due to the Authority under the Contract which may be enforced by the Authority notwithstanding the expiry or termination of the Contract.

9.37 Any Dispute between the Supplier and the Authority or a Replacement Supplier relating to the condition of a Transferrable Vehicle at the expiry or termination of the Contract which is not resolved by negotiation between the Authority and the Supplier shall be resolved by the Expert Determination Procedure.

Authority Premises

9.38 Where the Supplier occupies Authority Premises it shall do so as a licensee only and shall acquire no rights of occupation in relation to such property.

9.39 The licence referred to in Clause 9.38 above (the "**Licence**") shall take effect on the Mobilisation Services Commencement Date.

9.40 The Licence shall be:

(a) at a peppercorn rent; and

(b) solely for the purposes of performing the Services under this Agreement.

9.41 The Supplier shall have non-exclusive use of the Authority Premises as licensee and shall vacate the same upon expiry or termination of this Agreement.

9.42 The Supplier shall not, without prior written approval from the Authority, (except in the performance of its day-to-day routine responsibilities under this Agreement):

(a) execute any structural, decorative or other work in the Holding Rooms (or, where relevant, a Residential Short Term Holding Facility) or interfere in any way with the Holding Rooms (or, where relevant, a Residential Short Term Holding Facility) or fixed plant or install additional items of fixed plant;

(b) carry out any business or training activity within the confines of the Holding Rooms (or where relevant a Residential Short Term Holding Facility), nor display any advertisement, sign or notice of any description, other than those required in accordance with Schedule D *(Services Description)*; or

(c) permit the Holding Rooms (or where relevant a Residential Short Term Holding Facility) to be used for any purpose other than those required by this Agreement.

SECTION C – PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

10 FINANCIAL AND TAXATION MATTERS

Charges, Payment and Invoicing

10.1 In consideration of the Supplier carrying out its obligations under this Agreement, 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 F (Payment Mechanism).

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 12 (Records, Reports, Audits and Open Book Data), 22 (Transparency and Freedom of Information), 23 (Protection of Personal Data) and, to the extent specified therein, Clause 29 (Remedial Adviser) and Clause 30 (Step-In Rights).

10.3 If the Authority fails to pay any undisputed Charges properly invoiced under this Agreement, 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.

10.4 Service Innovation Gain Share Payments shall be payable to the Supplier in accordance with the relevant paragraphs of Schedule F (*Payment Mechanism*) and Schedule H (*Innovation and Partnership Agreement*).

VAT

10.5 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.

10.6 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 Agreement. Any amounts due under this Clause 10.6 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

10.7 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 Agreement or under any other agreement between the Supplier and the Authority.

10.8 If the Authority wishes to 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 10.8 it shall give notice to the Supplier within 30 days of receipt of the relevant invoice, setting out the Authority’s reasons for withholding or retaining the relevant Charges.

Financial Distress

10.9 The Parties shall comply with the provisions of Schedule P (Financial Distress) in relation to the assessment of the financial standing of the Supplier 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:

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

(b) promptly provide to the Authority:

(i) 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

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

SECTION D - CONTRACT GOVERNANCE

11 GOVERNANCE AND THE INNOVATION AND PARTNERSHIP AGREEMENT

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

11.2 Promptly after the date on which this Agreement is signed by both Parties, the Parties shall agree the Innovation and Partnership Agreement, and shall thereafter comply with its terms.

11.3 In consideration of savings made as a result of the process set out in the Innovation and Partnership Agreement, the Authority shall make payments to the Supplier in accordance with the provisions of the Innovation and Partnership Agreement and Schedule F (Payment Mechanism).

11.4 Any sums payable under the Innovation and Partnership Agreement shall be agreed in advance by the Authority and shall become due at such time as the relevant saving(s) has/have been realised, subject to the limits set out in the Innovation and Partnership Agreement.

Representatives

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

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

11.7 The initial Authority Representative shall be the person(s) named as such in Schedule M (Key Personnel). The Authority may change the identity of the Authority Representative from time to time by informing the Supplier of the change.

12 RECORDS, REPORTS, AUDITS, MONITORING & OPEN BOOK DATA

12.1 The Supplier shall comply with the provisions of:

(a) Schedule X (Reports and Records Provisions) in relation to the maintenance and retention of Records; and

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

12.2 The Parties shall comply with the provisions of:

(a) Part B of Schedule Q (Financial Reports and Audit Rights) in relation to the provision of the Financial Reports; and

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

Monitoring

12.3 The Supplier shall provide monitoring information in relation to the performance of the Services, as required under this Agreement.

12.4 The Authority may monitor the provision of the Services itself at its discretion, and may increase the extent to which this monitoring is conducted in the event of any Default. The Authority shall inform the Supplier in advance of its intention to increase the level of monitoring.

12.5 The Supplier shall co-operate, and shall procure that its Sub-contractors co-operate, with the Authority in carrying out the monitoring referred to in Clauses 12.3 to 12.9 (inclusive) at no additional charge to the Authority.

The Monitor and Residential Short term Holding Facility

12.6 With effect from the Mobilisation Services Commencement Date, the Supplier shall permit any representative of the Authority and any statutory or regulatory body or properly interested body, including relevant international bodies, to monitor, inspect, or arrange for the inspection of the Services (excluding those at the Juxtaposed Controls), as any of the same may from time to time require and will otherwise co-operate with the same. The aforesaid rights of access and inspection shall be exercisable for any purpose. Such inspections may take place without prior notice.

12.7 The Monitor shall be allowed unrestricted access to Residential Short-term Holding Facility and the Holding Rooms.

12.8 In accordance with Section 149(8) of the Immigration and Asylum Act 1999, the Supplier shall do all that it reasonably can to facilitate the exercise by the Monitor of his or her functions.

12.9 For the avoidance of doubt, the Monitor does not have authority to exercise any right of variation or waiver on behalf of the Authority.

13 CHANGE

Change Control Procedure

13.1 Any requirement for a Change shall be subject to the Change Control Procedure. Only the Authority Representatives shall have the authority to agree any Change on behalf of the Authority.

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 Agreement nor be entitled to an increase in the Charges as the result of:

(a) a General Change in Law; or

(b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date. For the avoidance of doubt, the Parties hereby confirm and agree that, as at the Effective Date, the effects of the decision by the United Kingdom to leave the European Union are deemed to be unforeseeable.

13.3 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 13.2(b)), the Supplier shall:

(a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including:

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

(ii) 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

(b) provide the Authority with evidence:

(i) 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;

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

(iii) demonstrating that any expenditure that has been avoided (for example which would otherwise have been required under the provisions of Clause 8 (Services Improvement)), has been taken into account when recommending any amendments to 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(b)) 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:

(a) 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;

(b) ensure that all Supplier Personnel:

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

(ii) are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Schedule D (Services Description) and Schedule U (Security Management); and

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

(c) subject to Schedule Z (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;

(d) 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 Agreement shall be a Default by the Supplier;

(e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;

(f) 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;

(g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and

(h) procure that the Supplier Personnel shall vacate the Authority Premises immediately upon the termination or expiry of this Agreement.

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

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

(b) 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 M (Key Personnel) lists the Key Roles and names of the persons whom the Supplier shall appoint to fill those Key Roles at the Effective Date.

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(s) selected to fill any of 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:

(a) requested to do so by the Authority;

(b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave;

(c) 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

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

14.6 The Supplier shall:

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

(b) ensure that any Key Role is not vacant for any longer than 10 Working Days;

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

(d) 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

(e) ensure that any replacement for a Key Role:

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

(ii) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

Employment Indemnity

14.7 The Parties agree that:

(a) 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

(b) 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 Agreement, the Supplier shall:

(a) 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

(b) 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:

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

(i) where the Relevant Transfer involves the transfer of Transferring Authority Employees, Part A of Schedule Z (Staff Transfer) shall apply;

(ii) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Schedule Z (Staff Transfer) shall apply;

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

(iv) Part C of Schedule Z (Staff Transfer) shall not apply;

(b) 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 Z (Staff Transfer) shall apply and Parts A and B of Schedule Z (Staff Transfer) shall not apply; and

(c) Part D of Schedule Z (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services.

14.10 The identification of any staffing-related information as Commercially Sensitive Information shall not prevent the disclosure of such information in accordance with or for the purposes of Schedule Z (Staff Transfer).

15 SUPPLY CHAIN RIGHTS AND PROTECTIONS

Appointment of Sub-contractors

15.1 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:

(a) manage any Sub-contractors in accordance with Good Industry Practice;

(b) comply with its obligations under this Agreement in the delivery of the Services; and

(c) 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 Agreement.

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

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

(b) the scope of any Services to be provided by the proposed Sub-contractor; and

(c) 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.

15.3 If requested by the Authority within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 15.2, the Supplier shall also provide:

(a) a copy of the proposed Sub-contract; and

(b) any further information reasonably requested by the Authority.

15.4 The Authority may, within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 15.2 (or, if later, receipt of any further information requested pursuant to Clause 15.3), object to the appointment of the relevant Sub-contractor if it considers that:

(a) 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;

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

(c) the proposed Sub-contractor employs unfit persons; and/or

(d) the proposed Sub-contractor should be excluded in accordance with Clause 15.18;

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

15.5 If:

(a) 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:

(i) the Supplier's notice issued pursuant to Clause 15.2; and

(ii) any further information requested by the Authority pursuant to Clause 15.3; and

(b) the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of the Authority in accordance with Clause 15.6 (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 Y (Third Party Contracts).

Appointment of Key Sub-contractors

15.6 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:

(a) 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;

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

(c) the proposed Key Sub-contractor employs unfit persons; and/or

(d) the proposed Key Sub-contractor should be excluded in accordance with Clause 15.18.

15.7 The Authority consents to the appointment of the Key Sub-contractors listed in Schedule K (Notified Key Sub-contractors).

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

(a) provisions which will enable the Supplier to discharge its obligations under this Agreement;

(b) 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;

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

(d) 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;

(e) obligations no less onerous on the Key Sub-contractor than those imposed on the Supplier under this Agreement in respect of:

(i) data protection requirements set out in Clauses 20 (Authority Data and Security Requirements) and 23 (Protection of Personal Data);

(ii) FOIA requirements set out in Clause 22 (Transparency and Freedom of Information);

(iii) the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 5.5(m) (Services);

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

(v) the conduct of Audits set out in Part C of Schedule Q (Financial Reports and Audit Rights);

(f) 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 33.1(a) (Termination by the Authority) and 34.4 (Payments by the Authority) and Schedule W (Payments on Termination) of this Agreement;

(g) 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;

(h) a provision enabling the Supplier or the Authority to appoint a Remedial Adviser on substantially the same terms as are set out in Clause 29 (Remedial Adviser);

(i) 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 30 (Step-in Rights);

(j) 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

(k) a provision requiring the Key Sub-contractor to:

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

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

(B) 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

(ii) co-operate with the Supplier and the Authority in order to give full effect to the provisions of Schedule P (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 Service Continuity Plan.

15.9 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

15.10 The Supplier shall ensure that all Sub-contracts (which in this sub-clause includes any contract 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 Agreement) contain provisions:

(a) giving 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) requiring 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) that if the Supplier or other party fails to consider and verify an invoice in accordance with sub-paragraph (a), the invoice shall be regarded as valid and undisputed for the purpose of sub-paragraph (c) after a reasonable time has passed;

(d) requiring 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 30 days of verifying that the invoice is valid and undisputed;

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

(f) requiring the Sub-contractor to include a clause to the same effect as this Clause 15.10 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 Agreement.

15.11 The Supplier shall:

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

(b) include within the Monthly Performance Report produced by it pursuant to Schedule G (Performance Evaluation and Service Unavailability) a summary of its compliance with Clause 15.11(a), such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

15.12 Notwithstanding any provision of Clauses 21 (Confidentiality) and 24 (Publicity and Branding), if the Supplier notifies the Authority (whether in a Monthly Performance Report or otherwise) that the Supplier has failed to pay a Sub-contractor's undisputed invoice within 30 days of receipt, 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

15.13 The Authority may require the Supplier to terminate:

(a) a Sub-contract where:

(i) the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause 33.1(b) (Termination by the Authority);

(ii) 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;

(iii) 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

(iv) the Authority has found grounds for exclusion of the Sub-contractor in accordance with clause 15.18; and

(b) a Key Sub-contract where there is a Change of Control of the relevant Key Sub-contractor, 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 the Change of Control took place or the date on which the Authority was given notice of the Change of Control.

Competitive Terms

15.14 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:

(a) 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; or

(b) subject to Clause 15.13, enter into a direct agreement with that Sub-contractor or third party in respect of the relevant item.

15.15 If the Authority exercises either of its options pursuant to Clause 15.14, then the Charges shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.

15.16 The Authority's right to enter into a direct agreement for the supply of the relevant items is subject to:

(a) the Authority making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and

(b) any reduction in the Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

Retention of Legal Obligations

15.17 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.

Exclusion of Sub-contractors

15.18 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:

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

(b) 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.

SECTION F - INTELLECTUAL PROPERTY, DATA AND CONFIDENTIALITY

16 INTELLECTUAL PROPERTY RIGHTS

16.1 Except as expressly set out in this Agreement:

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

(i) the Supplier Software;

(ii) the Third Party Software;

(iii) the Third Party IPRs; and

(iv) the Supplier Background IPRs;

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

(i) the Authority Software

(ii) the Project-Specific IPRs;

(iii) the Specially Written Software;

(iv) the Authority Data; and

(v) the Authority Background IPRs.

16.2 Where either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 16.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

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

16.4 Unless the Authority otherwise agrees in advance in writing:

(a) all Specially Written Software and Project Specific IPRs shall be created in a format, or able to be converted into a format, which is suitable for publication by the Authority as open source software; and

(b) where the Specially Written Software and Project Specific IPRs are written in a format that requires conversion before publication as open source software, the Supplier shall also provide the converted format to the Authority.

17 TRANSFER AND LICENCES GRANTED BY THE SUPPLIER

Specially Written Software and Project Specific IPRs

17.1 Subject to Clause 17.16 (Patents) the Supplier hereby agrees to transfer to the Authority, or shall procure the transfer to the Authority of, all rights in the Specially Written Software and the Project Specific IPRs including):

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

(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

(c) the Project Specific IPRs.

17.2 The Supplier:

(a) shall:

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

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

(b) acknowledges and agrees that the ownership of the media referred to in Clause 17.2(a)(ii) shall vest in the Authority upon their receipt by the Authority; and

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

Supplier Software and Supplier Background IPRs

17.3 The Supplier hereby grants to the Authority:

(a) subject to the provisions of Clause 17.16 (Patents) and Clause 34.11(b) (Consequences of expiry or termination), perpetual, royalty-free and non-exclusive licences to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

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

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

(b) a licence to use the Supplier COTS Software and Supplier COTS Background IPRs on the licence terms reasonably identified by the Authority provided always that the Authority shall remain entitled to sub-license and to assign and novate the Supplier COTS Software and Supplier COTS Background IPRs on equivalent terms to those set out in Clauses 17.7 and 17.8(b) in relation to the Supplier Non-COTS Software and Supplier Non-COTS Background IPRs.

17.4 At any time during the Term or following termination or expiry of this Agreement, the Supplier may terminate the licence granted in respect of the Supplier Non-COTS Software under Clause 17.3(a)(i) or in respect of the Supplier Non-COTS Background IPRs under Clause 17.3(a)(ii) by giving 30 days' notice in writing (or such other period as agreed by the Parties) if the Authority or any person to whom the Authority grants a sub-licence pursuant to Clause 17.7 (Authority's right to sub-license) commits any material breach of the terms of Clause 17.3(a)(i) or 17.3(a)(ii) or 17.7(a)(ii) (as the case may be) which, if the breach is capable of remedy, is not remedied within 20 Working Days after the Supplier gives the Authority written notice specifying the breach and requiring its remedy.

17.5 In the event the licence of the Supplier Non-COTS Software or the Supplier Non-COTS Background IPRs is terminated pursuant to Clause 17.4, the Authority shall:

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

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

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

Authority's right to sub-license

17.6 Subject to Clause 17.16 (Patents) the Authority may sub-license:

(a) the rights granted under Clause 17.3(a) (Supplier Software and Supplier Background IPRs) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:

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

(ii) the sub-licence authorises the third party to use the rights licensed in Clause 17.3(a) (Supplier Software and Supplier Background IPRs) only

for purposes relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Central Government Body's) business or function; and

(iii) the sub-licensee shall have executed a confidentiality undertaking in favour of the Supplier on terms substantially similar to Clause 21 (Confidentiality); and

(b) the rights granted under Clause 17.3(a) (Supplier Software and Supplier Background IPRs) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Specifically Written Software and/or the Project Specific IPRs provided that:

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

(ii) the Supplier has received a confidentiality undertaking in its favour on terms substantially similar to Clause 21 (Confidentiality) duly executed by the Approved Sub-Licensee.

Authority's right to assign/novate licences

17.7 The Authority may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Clause 17.3(a) (Supplier Software and Supplier Background IPRs) to:

(a) A Central Government Body; or

(b) to 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.

17.8 Any change in the legal status of the Authority which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 17.3 (Supplier Software and Supplier Background IPRs). If the Authority ceases to be a Central Government Body, the successor body to the Authority shall still be entitled to the benefit of the licence granted in Clause 17.3 (Supplier Software and Supplier Background IPRs).

17.9 If a licence granted in Clause 17.3 (Supplier Software and Supplier Background IPRs) is novated under Clause 17.7 (Authority's right to assign/novate licences) or there is a change of the Authority's status pursuant to Clause 17.8, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the Authority.

Third Party Software and Third Party IPRs

17.10 The Supplier shall not use in the provision of the Services any Third Party Non-COTS Software or Third Party Non-COTS IPRs unless in each case it has:

(a) first procured that the owner or an authorised licensor of the relevant Third Party Non-COTS IPRs or Third Party Non-COTS Software (as the case may be) has granted a direct licence to the Authority on a royalty-free basis to the Authority and on terms no less favourable to the Authority than those set out

in Clauses 17.3(a) and 17.4 (Supplier Software and Supplier Background IPRs) and Clause 17.7 (Authority's right to assign/novate licences); or

(b) complied with the provisions of Clause 17.11.

17.11 If the Supplier cannot obtain for the Authority a licence in respect of any Third Party Non-COTS Software and/or Third Party Non-COTS IPRs in accordance with the licence terms set out in Clause 17.10(a), the Supplier shall:

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

(b) use the relevant Third Party Non-COTS Software and/or Third Party Non-COTS IPRs only if the Authority has first approved in writing the terms of the licence from the relevant third party.

17.12 The Supplier shall:

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

(b) unless instructed otherwise in writing by the Authority in any case within 20 Working Days of notification pursuant to Clause 17.11(a), use all reasonable endeavours to procure in each case that the owner or an authorised licensor of the relevant Third Party COTS Software and Third Party COTS IPRs grants a direct licence to the Authority on terms no less favourable (including as to indemnification against IPRs Claims) than those on which such software is usually made commercially available by the relevant third party.

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

Termination and Replacement Suppliers

17.14 For the avoidance of doubt, the termination or expiry of this Agreement shall not of itself result in any termination of any of the licences granted by the Supplier or relevant third party pursuant to or as contemplated by this Clause 17.

17.15 The Supplier shall, if requested by the Authority and at the Supplier's cost:

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

(i) a licence to use any Supplier Non-COTS Software, Supplier Non-COTS Background IPRs, Third Party Non-COTS IPRs and/or Third Party Non-COTS Software on a royalty-free basis to the Replacement Supplier and on terms no less favourable than those granted to the Authority in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this Clause 17 subject to receipt by the Supplier of a confidentiality undertaking in its favour on

terms substantially similar to Clause 21 (Confidentiality) duly executed by the Replacement Supplier;

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

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

Patents

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

18 LICENCES GRANTED BY THE AUTHORITY

18.1. The Authority hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Term to use the Authority Software, the Authority Background IPRs, the Specially Written Software, the Project Specific IPRs and the Authority Data solely to the extent necessary for performing the Services in accordance with this Agreement, including (but not limited to) the right to grant sub-licences to Sub-contractors provided that:

(a) any relevant Sub-contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 21 (Confidentiality); and

(b) the Supplier shall not, without the Authority's prior written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Authority.

18.2. In the event of the termination or expiry of this Agreement, the licence granted pursuant to Clause 18.1 and any sub-licence granted by the Supplier in accordance with Clause 18.1 shall terminate automatically on the date of such termination or expiry and the Supplier shall:

(c) immediately cease all use of the Authority Software, the Authority Background IPRs and the Authority Data (as the case may be);

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

(e) ensure, so far as reasonably practicable, that any Authority Software, Authority Background IPRs and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Supplier computer, word processor, voicemail system or any other Supplier device containing such Authority Software, Authority Background IPRs and/or Authority Data.

19 IPRs INDEMNITY

19.1 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.

19.2 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:

(a) 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

(b) replace or modify the relevant item with non-infringing substitutes provided that:

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

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

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

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

19.3 If the Supplier elects to procure a licence in accordance with Clause 19.2(a) or to modify or replace an item pursuant to Clause 19.2(b), but this has not avoided or resolved the IPRs Claim, then:

(a) the Authority may terminate this Agreement (if subsisting) with immediate effect by written notice to the Supplier; and

(b) without prejudice to the indemnity set out in Clause 19.1, 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.

19A OPEN SOURCE PUBLICATION

19A.1 The Supplier agrees that the Authority may at its sole discretion publish as Open Source Software all or part of the Specially Written Software and the Project Specific IPRs after the Operational Services Commencement Date.

19A.2 The Supplier hereby warrants that the Specially Written Software and the Project Specific IPRs:

(a) are suitable for release as Open Source and that any release will not allow a third party to use the Open Source software to in any way compromise the operation, running or security of the Specially Written Software, the Project Specific IPRs or the Authority System;

(b) shall not cause any harm or damage to any party using anything published as Open Source and that the Specially Written Software and the Project Specific IPRs do not contain any Malicious Software;

(c) do not contain any material which would bring the Authority into disrepute upon publication as Open Source;

(d) do not contain any Non-Party IPRs which are not licensed to the Authority under Clause 17.11 (Third Party Software and Third Party IPRs); and

(e) will be supplied in a format suitable for publication as Open source (the "**Open Source Publication Material**") no later than the date in sub-clause 19A.1.

19A.3 The Supplier shall ensure that the Open Source Publication Material provided to the Authority does not include any Supplier Background IPRs save that any Supplier Background IPRs that the Supplier is willing to allow to be included in any Open Source publication can remain in the Open Source Publication Material supplied to the Authority. In such a case, the Supplier hereby acknowledges that any such Supplier Background IPRs will become Open Source and will be licensed and treated as such following publication by the Authority and any third party that uses the Open Source Publication Materials on the terms of the Open Source licence used by the Authority when publishing as Open Source.

19A.4 The Supplier hereby indemnifies the Authority against all claims in which the Authority is, or is threatened to be, a party for any alleged infringement of any Non-Party IPRs arising from publication of the Specially Written Software and the Project Specific IPRs as Open Source under sub-clause 19A.1.

19A.5 In this Clause "Non-Party IPRs" means any Intellectual Property Right owned or claimed to be owned by any third party which is found, or alleged to be found, in the Specially Written Software and the Project Specific IPRs.

20 AUTHORITY DATA AND SECURITY REQUIREMENTS

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

20.2 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 Agreement or as otherwise expressly authorised in writing by the Authority.

20.3 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 D (Services Description).

20.4 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.

20.5 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 BCDR 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).

20.6 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.

20.7 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:

(a) 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 V (Business Continuity and Disaster Recovery) 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

(b) 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 V (Business Continuity and Disaster Recovery).

20.8 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.

20.9 The Supplier shall comply with the requirements of Schedule U (Security Management).

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

20.11 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.

20.12 Until and/or unless a change to the Charges is agreed by the Authority pursuant to Clause 20.11 the Supplier shall continue to perform the Services in accordance with its existing obligations.

Malicious Software

20.13 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions and software available from an industry accepted

anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software in the IT Environment (or as otherwise agreed by the Parties).

20.14 Notwithstanding Clause 20.13, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.

20.15 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 20.14 shall be borne by the Parties as follows:

(a) by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Authority has waived the obligation set out in Clause 20.13) or the Authority Data (whilst the Authority Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority when provided to the Supplier; and

(b) otherwise by the Authority.

21 CONFIDENTIALITY

21.1 For the purposes of this Clause 21, 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.

21.2 Except to the extent set out in this Clause 21 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:

(a) 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);

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

(c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement; and

(d) 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.

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

(a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 22 (Transparency and Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;

(b) the need for such disclosure arises out of or in connection with:

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

(ii) 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 Agreement; or

(iii) the conduct of a Central Government Body review in respect of this Agreement; or

(c) 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.

21.4 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.

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

(a) 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 Agreement;

(b) its auditors; and

(c) its professional advisers for the purposes of obtaining advice in relation to this Agreement.

Where the Supplier discloses Confidential Information of the Authority pursuant to this Clause 21.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.

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

(a) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;

(b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

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

(d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 21.6(a) (including

any benchmarking organisation) for any purpose relating to or connected with this Agreement;

(e) on a confidential basis for the purpose of the exercise of its rights under this Agreement, including the Audit Rights, its step-in rights pursuant to Clause 30 (Step-In Rights), its rights to appoint a Remedial Adviser pursuant to Clause 29 (Remedial Adviser) and Exit Management rights; or

(f) 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 Agreement,

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 21.

21.7 Nothing in this Clause 21 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Agreement 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.

22 TRANSPARENCY AND FREEDOM OF INFORMATION

22.1 The Parties acknowledge that

(a) the Transparency Reports; and

(b) the content of this Agreement, including any changes to this Agreement agreed from time to time, except for:

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

(ii) Commercially Sensitive Information,

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

22.2 Notwithstanding any other provision of this Agreement, 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.

22.3 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 X (Reports and Records Provisions).

22.4 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.

22.5 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 Agreement is being performed, having regard to the context of the wider commercial relationship with the Supplier.

22.6 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 21.6(c)) and Open Book Data) publish such Information. The Supplier shall provide to the Authority within 5 working days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.

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

(a) 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;

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

(c) 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

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

22.8 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 Agreement) 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.

23 PROTECTION OF PERSONAL DATA

23.1 With respect to the Parties' rights and obligations under this Agreement, the Parties acknowledge that the Authority is a Data Controller and that the Supplier is a Data Processor.

23.2 The Supplier shall:

(a) Process the Personal Data only in accordance with instructions from the Authority to perform its obligations under this Agreement**;**

(b) ensure that at all times it has in place appropriate technical and organisational measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data, including the measures as are set out in Clause 20 (Authority Data and Security Requirements);

(c) not disclose or transfer the Personal Data to any third party or Supplier Personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Agreement);

(d) take all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:

(i) are aware of and comply with the Supplier's duties under this Clause 23 and Clauses 21 (Confidentiality) and 20 (Authority Data and Security Requirements);

(ii) 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 Authority or as otherwise permitted by this Agreement; and

(iii) have undergone adequate training in the use, care, protection and handling of personal data (as defined in the DPA);

(e) notify the Authority within 5 Working Days if it receives:

(i) from a Data Subject (or third party on their behalf):

(A) a Data Subject Access Request (or purported Data Subject Access Request);

(B) a request to rectify, block or erase any Personal Data; or

(C) any other request, complaint or communication relating to the Authority's obligations under the DPA;

(ii) any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or

(iii) 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;

(f) provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any complaint, communication or request made as referred to in Clause 23.2(e), including by promptly providing:

(i) the Authority with full details and copies of the complaint, communication or request;

(ii) where applicable, such assistance as is reasonably requested by the Authority to enable the Authority to comply with the Data Subject Access Request within the relevant timescales set out in the DPA; and

(iii) the Authority, on request by the Authority, with any Personal Data it holds in relation to a Data Subject; and

(g) if requested by the Authority, provide a written description of the measures that it has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this Clause 23 and provide to the Authority copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

23.3 The Supplier shall not Process or otherwise transfer any Personal Data in or to any Restricted Country. If, after the Effective Date, the Supplier or any Sub-contractor wishes to Process and/or transfer any Personal Data in or to any Restricted Country, the following provisions shall apply:

(a) the Supplier shall submit a Change Request to the Authority which, if the Authority agrees to such Change Request, shall be dealt with in accordance with the Change Control Procedure and Clauses 23.3(b) to 23.3(d);

(b) the Supplier shall set out in its Change Request and/or Impact Assessment details of the following:

(i) the Personal Data which will be transferred to and/or Processed in any Restricted Country;

(ii) the Restricted Country or Countries which the Personal Data will be transferred to and/or Processed in; and

(iii) any Sub-contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;

(iv) how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's compliance with the DPA;

(c) in providing and evaluating the Change Request and Impact Assessment, the Parties shall ensure that they have regard to and comply with then-current Authority, Central Government Bodies and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals

processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Country; and

(d) the Supplier shall comply with such other instructions and shall carry out such other actions as the Authority may notify in writing, including:

(i) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the DPA) into this Agreement or a separate data processing agreement between the Parties; and

(ii) procuring that any Sub-contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Country either enters into:

(A) a direct data processing agreement with the Authority on such terms as may be required by the Authority; or

(B) a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Authority and the Sub-contractor relating to the relevant Personal Data transfer,

and in each case which the Supplier acknowledges may include the incorporation of model contract provisions (which are approved by the European Commission as offering adequate safeguards under the DPA) and technical and organisation measures which the Authority deems necessary for the purpose of protecting Personal Data.

23.4 The Supplier shall use its reasonable endeavours to assist the Authority to comply with any obligations under the DPA and shall not perform its obligations under this Agreement in such a way as to cause the Authority to breach any of the Authority's obligations under the DPA to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

24 PUBLICITY AND BRANDING

24.1 The Supplier shall not:

(a) make any press announcements or publicise this Agreement or its contents in any way; or

(b) 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.

24.2 The Supplier shall not, and shall ensure the Supplier Personnel and Sub-contractors shall not, communicate with representatives of the press, television, radio or other communications media on any matter concerning this Agreement, including its contents, without the prior written approval of the Authority.

24.3 No permission or facilities to photograph or film: (a) any part of the provision of the Services; or (b) in or upon the Authority Premises, shall be given or permitted by the Supplier.

24.4 Each Party acknowledges to the other that nothing in this Agreement 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

25 LIMITATIONS ON LIABILITY

Unlimited liability

25.1 Neither Party limits its liability for:

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

(b) fraud or fraudulent misrepresentation by it or its employees;

(c) 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

(d) any liability to the extent it cannot be limited or excluded by Law.

25.2 The Supplier's liability in respect of the indemnities in Clause 10.6 (VAT), Clause 14.7 (Employment Indemnity), Clause 14.8 (Income Tax and National Insurance Contributions), Clause 19 (IPRs Indemnity), Schedule Z (Staff Transfer) and the Annexes to Schedule Z (Staff Transfer) shall be unlimited.

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

Financial and other limits

25.4 Subject to Clauses 25.1 and 25.2 (Unlimited Liability) and Clauses 25.7 and 25.8 (Consequential losses):

(a) 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 £ [redacted]

(b) the Supplier's aggregate liability in respect of all:

(i) Service Credits; and

(ii) Compensation for Unacceptable KPI Failure;

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

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

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

(ii) 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 Agreement in the Contract Year immediately preceding the occurrence of the Default; and

(iii) 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 in Clause 25.4(c) have been incurred by the Authority as a result of the Supplier's abandonment of this Agreement or the Supplier's wilful default, wilful breach of a fundamental term of this Agreement or wilful repudiatory breach of this Agreement, the references in such Clause to 150% shall be deemed to be references to 200%.

25.5 Deductions from Charges shall not be taken into consideration when calculating the Supplier's liability under Clause 25.4(c).

25.6 Subject to Clauses 25.1 and 25.3 (Unlimited Liability) and Clause 25.7(Consequential Losses) and without prejudice to the Authority's obligation to pay the Charges as and when they fall due for payment:

(a) the Authority's total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of early termination of this Agreement by the Authority pursuant to Clause 33.1(a) (Termination by the Authority) or by the Supplier pursuant to Clause 33.3(a) (Termination by the Supplier) shall in no event exceed the following amounts:

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

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

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

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

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

(ii) 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 Agreement in the Contract Year immediately preceding the occurrence of the Default; and

(iii) 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

25.7 Subject to Clauses 25.1, 25.2 and 25.3 (Unlimited Liability) and Clause 25.8, neither Party shall be liable to the other Party for:

(a) any indirect, special or consequential Loss; or

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

25.8 Notwithstanding Clause 25.7 but subject to Clause 25.4, 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:

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

(b) any wasted expenditure or charges;

(c) the additional 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 Agreement;

(d) any compensation or interest paid to a third party by the Authority;

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

Conduct of indemnity claims

25.9 Where under this Agreement one Party indemnifies the other Party, Clauses 25.9 to 25.17 (inclusive) shall apply to the conduct, by a Party from whom an indemnity is sought under this Agreement (the "**Indemnifier**"), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the "**Beneficiary**").

25.10 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 Agreement (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.

25.11 Subject to Clauses 25.14 and 25.15, 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 Clause 25.15, 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.

25.12 With respect to any Claim conducted by the Indemnifier pursuant to Clause 25.11:

(a) the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;

(b) the Indemnifier shall not bring the name of the Beneficiary into disrepute;

(c) 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

(d) the Indemnifier shall conduct the Claim with all due diligence.

25.13 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 Agreement if:

(a) the Indemnifier is not entitled to take conduct of the Claim in accordance with Clause 25.11

(b) 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

(c) the Indemnifier fails to comply in any material respect with the provisions of Paragraph 25.12.

Sensitive Claims

25.14 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.

25.15 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 Clause 25.11 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

Recovery of sums

25.16 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:

(a) 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

(b) the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

Mitigation

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

26 INSURANCE

The Supplier shall comply with the provisions of Schedule A (Insurances) in relation to obtaining and maintaining insurance.

SECTION H – REMEDIES AND RELIEF

27 RECTIFICATION PLAN PROCESS

27.1 In the event that:

(a) there is, or is reasonably likely to be, a Delay;

(b) in any Service Period there has been a Material KPI Failure;

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

(each a "**Notifiable Default**"), the 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 Agreement in whole or in part on the grounds of the Notifiable Default without first following the Rectification Plan Process.

Notification

27.2 If:

(a) the Supplier notifies the Authority pursuant to Clause 27.1 that a Notifiable Default has occurred; or

(b) 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.

27.3 The "**Rectification Plan Process**" shall be as set out in Clauses 27.4 (Submission of the draft Rectification Plan) to 27.9 (Agreement of the Rectification Plan).

Submission of the draft Rectification Plan

27.4 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 27.2 (Notification). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.

27.5 The draft Rectification Plan shall set out:

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

(b) the actual or anticipated effect of the Notifiable Default; and

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

27.6 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 J (Dispute Resolution Procedure).

Agreement of the Rectification Plan

27.7 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:

(a) is insufficiently detailed to be capable of proper evaluation;

(b) will take too long to complete;

(c) will not prevent reoccurrence of the Notifiable Default; and/or

(d) will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.

27.8 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.

27.9 If the Authority consents to the Rectification Plan:

(a) the Supplier shall immediately start work on the actions set out in the Rectification Plan; and

(b) the Authority may no longer terminate this Agreement in whole or in part on the grounds of the relevant Notifiable Event.

28 NOT USED

29 REMEDIAL ADVISER

29.1 If:

(a) any of the Intervention Trigger Events occur; or

(b) 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:

(i) a meeting between the Authority Representative and the Supplier Representative to discuss the Intervention Cause; and/or

(ii) the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this Clause 29.

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 29.1 prior to or instead of exercising its right to terminate this Agreement.

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

(a) the Remedial Adviser shall be:

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

(ii) 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;

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

(c) any right of the Authority to terminate this Agreement pursuant to Clause 33.1(b) (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"**).

29.3 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 Agreement), the Parties agree that the Remedial Adviser may undertake any one or more of the following actions:

(a) 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;

(b) gather any information the Remedial Adviser considers relevant in the furtherance of its objective;

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

(d) 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

(e) 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.

29.4 The Supplier shall:

(a) 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;

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

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

(d) 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

(e) 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).

29.5 The Supplier shall be responsible for:

(a) the costs of appointing, and the fees charged by, the Remedial Adviser; and

(b) its own costs in connection with any action required by the Authority and/or the Remedial Adviser pursuant to this Clause 29.

29.6 If:

(a) the Supplier:

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

(ii) is in Default of any of its obligations under Clause 2.4; and/or

(b) 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 Agreement pursuant to Clause 33.1(b) (Termination by the Authority).

30 STEP-IN RIGHTS

30.1 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 30 (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 21 (Confidentiality)). The Step-In Notice shall set out the following:

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

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

(c) the date on which it wishes to commence the Required Action;

(d) the time period which it believes will be necessary for the Required Action;

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

(f) 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.

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

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

(b) keep records of the Required Action taken and provide information about the Required Action to the Supplier;

(c) 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

(d) 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 30.

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

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

(b) 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 30.4 shall apply to Deductions from Charges in respect of other Services; and

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

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

(a) the degradation of any Services not subject to the Required Action; or

(b) 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.

30.5 Before ceasing to exercise its step in rights under this Clause 30 the Authority shall deliver a written notice to the Supplier (a "**Step-Out Notice**"), specifying:

(a) the Required Action it has actually taken; and

(b) the date on which the Authority plans to end the Required Action (the **"Step-Out Date"**) subject to the Authority being satisfied with the Supplier's ability to resume the provision of the Services and the Supplier's plan developed in accordance with Clause 30.6.

30.6 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 Agreement.

30.7 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.

30.8 The Supplier shall bear its own costs in connection with any step-in by the Authority under this Clause 30, 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:

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

(b) limbs (e), (f) and (g) 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).

Appointment of a Controller

30.9 Where it appears to the Authority, acting reasonably, that effective control has been lost or is likely to be lost at a Residential Short-Term Holding Facility or any other detention or holding facility or that there is a risk to the safety of any person or of serious damage to property, notice may be given of the appointment by the Authority of a Controller.

30.10 The Controller shall be granted authority to direct the management and operation of the Services. Upon such appointment, all provisions of the Contract shall continue to operate, save that all functions which would otherwise be directed by the Supplier will be directed by the Controller. The Supplier shall continue to provide all Services (unless otherwise directed by the Controller), and shall do so at the direction of the Controller.

30.11 The Supplier shall ensure that all Supplier Personnel shall comply with any directions given by the Controller in the exercise of his or her responsibilities.

30.12 Upon appointment of a Controller, the Supplier's liability for loss or damage and its duties in relation to insurance and public risk insurance shall continue, save that the acts and omissions of the Supplier which are a direct result of instructions given by

the Controller (or a result of failure to give requested instructions) shall be deemed to be acts and omissions of the Authority.

30.13 If a Controller has been appointed, the Parties shall co-operate to resolve the underlying causes of the events triggering the appointment of the Controller. The Controller's appointment shall come to an end when, in the Authority's reasonable opinion, the underlying causes of the events triggering the appointment of the Controller have been removed.

30.14 For the avoidance of doubt, the Authority may appoint a Controller whether an Intervention Trigger Event or Step-in Trigger Event has occurred or not.

31 AUTHORITY CAUSE

31.1 Notwithstanding any other provision of this Agreement, if the Supplier has failed to:

(a) Achieve a Milestone by its Milestone Date;

(b) provide the Operational Services in accordance with the Target Performance Levels; and/or

(c) comply with its obligations under this Agreement,

(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 31):

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

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

(A) to terminate this Agreement pursuant to Clause 33.1(b) (Termination by the Authority); or

(B) to take action pursuant Clauses 29 (Remedial Adviser) or 30 (Step-In);

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

(A) 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;

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

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

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

(B) 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.

31.2 In order to claim any of the rights and/or relief referred to in Clause 31.1, 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:

(a) the Supplier Non-Performance;

(b) the Authority Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Agreement;

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

(d) the relief and/or compensation claimed by the Supplier.

31.3 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.

31.4 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.

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

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

(b) 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.

31.6 Any Change that is required to the Mobilisation Plan or to the Charges pursuant to this Clause 31 shall be implemented in accordance with the Change Control Procedure.

32 FORCE MAJEURE

32.1 Subject to the remaining provisions of this Clause 32 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule V (Business Continuity and Disaster Recovery)), a Party may claim relief under this Clause 32 from liability for failure to meet its obligations under this Agreement 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 Agreement 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.

32.2 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.

32.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 32 to the extent that consequences of the relevant Force Majeure Event:

(a) are capable of being mitigated by any of the Services including the BCDR Services, but the Supplier has failed to do so; and/or

(b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Agreement.

32.4 Subject to Clause 32.5, 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.

32.5 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.

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

(a) an Affected Party fails to perform its obligations in accordance with this Agreement, then during the continuance of the Force Majeure Event:

(i) the other Party shall not be entitled to exercise any rights to terminate this Agreement in whole or in part as a result of such failure other than pursuant to Clause 33.1(c) (Termination by the Authority) or Clause 33.3(b) (Termination by the Supplier); and

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

(b) the Supplier fails to perform its obligations in accordance with this Agreement:

(i) the Authority shall not be entitled during the continuance of the Force Majeure Event to exercise its rights under Clause 29 (Remedial Adviser) and/or Clause 30 (Step-in Rights) as a result of such failure and;

(ii) 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 Agreement during the occurrence of the Force Majeure Event.

32.7 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 Agreement.

32.8 Relief from liability for the Affected Party under this Clause 31 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 Agreement and shall not be dependent on the serving of notice under Clause 32.7.

SECTION I – TERMINATION AND EXIT MANAGEMENT

33 TERMINATION RIGHTS

Termination by the Authority

33.1 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier:

(a) for convenience at any time, including where the Agreement should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU;

(b) if a Supplier Termination Event occurs;

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

(d) if the Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

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

33.2 Where the Authority:

(a) is terminating this Agreement under Clause 33.1(b) due to the occurrence of either limb (b) and/or (g) 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

(b) has the right to terminate this Agreement under Clause 33.1(b) or Clause 33.1(c), it may, prior to or instead of terminating the whole of this Agreement, serve a Termination Notice requiring the partial termination of this Agreement to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

Termination by the Supplier

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

(a) this Agreement if the Authority fails to pay an undisputed sum due to the Supplier under this Agreement which in aggregate exceeds £[redacted] being the estimated average Charges which shall become payable in a six month period and such amount remains outstanding 40 Working Days after the receipt by the Authority of a notice of non-payment from the Supplier; or

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

and this Agreement 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 33.3(b) would result in a Partial Termination, the provisions of Clause 33.4 (Partial Termination) shall apply.

Partial Termination

33.4 If the Supplier notifies the Authority pursuant to Clause 33.3(b) (Termination by the Supplier) that it intends to terminate this Agreement 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 Agreement by serving a Termination Notice to the Supplier within 1 month of receiving the Supplier's Termination Notice. For the purpose of this Clause 33.4, 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.

33.5 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:

(a) 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;

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

(c) the Supplier shall not be entitled to reject the Change.

Break Clause

33.6 The Authority may terminate this Agreement on the sixth or eighth anniversary of the Effective Date by giving the Supplier no less than six months' notice. No Termination Payment, Compensation Payment or other compensation of any kind shall be due as a result of the Authority's exercise of this termination right.

34 CONSEQUENCES OF EXPIRY OR TERMINATION

General Provisions on Expiry or Termination

34.1 The provisions of Clauses 5.8 (Specially Written Software warranty), 10.5 and 10.6 (VAT), 10.7 and 10.8 (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 (Licences Granted by the Supplier), 19.1 (IPRs Indemnity), 21 (Confidentiality), 22 (Freedom of Information), 23 (Protection of Personal Data), 25 (Limitations on Liability), 34 (Consequences of Expiry or Termination), 40 (Severance), 42 (Entire Agreement), 43 (Third Party Rights), 45 (Disputes) and 46 (Governing Law and Jurisdiction), and the provisions of Schedules F (Payment Mechanism), W (Payments on Termination), Q (Financial Reports and Audit Rights), J (Dispute Resolution Procedure), X (Reports and Records Provisions), N (Exit Management), and Z (Staff Transfer), shall survive the termination or expiry of this Agreement.

Exit Management

34.2 The Parties shall comply with the provisions of Schedule N (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

34.3 If this Agreement is terminated by the Authority pursuant to Clause 33.1(a) (Termination by the Authority) or by the Supplier pursuant to Clause 33.3(a) (Termination by the Supplier), the Authority shall pay the Supplier the following payments (which shall be the Supplier's sole remedy for the termination of this Agreement):

(a) the Termination Payment; and

(b) the Compensation Payment, if either of the following periods is less than 365 days:

(i) the period from (but excluding) the date that the Termination Notice is given by the Authority pursuant to Clause 33.1(a) (Termination by the Authority)) to (and including) the Termination Date; or

(ii) the period from (and including) the date of the non-payment by the Authority referred to in Clause 33.3(a) (Termination by the Supplier) to (and including) the Termination Date.

34.4 If this Agreement is terminated (in part or in whole) by the Authority pursuant to Clauses 33.1(b), 33.1(c), 33.2 (Termination by the Authority) or 33.6 (Break Clause), 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:

(a) payments in respect of any Assets or apportionments in accordance with Schedule N (Exit Management); and

(b) payments in respect of unpaid Charges for Services received up until the Termination Date.

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

(a) either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event pursuant to Clauses 33.1(c) or 33.2(b) (Termination by the Authority) or 33.3(b) (Termination by the Supplier); or

(b) the Authority terminates this Agreement under Clause 33.1(d) or 33.6 (Break Clause).

Payments by the Supplier

34.6 In the event of termination or expiry of this Agreement, 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.

34.7 If this Agreement is terminated (in whole or in part) by the Authority pursuant to Clause 33.1(b) (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.

34.8 A Milestone Adjustment Payment Notice shall specify:

(a) each CPP Milestone to which it relates;

(b) 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

(c) 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.

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

(a) 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

(b) 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;

(c) 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:

(i) all relevant Milestone Payments; and

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

(d) provide the Authority with such supporting information as the Authority may require.

34.10 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.

34.11 If the Authority issues a Milestone Adjustment Payment Notice pursuant to Clause 34.7:

(a) the Authority shall:

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

(ii) 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

(b) all licences granted pursuant to Clause 17 (Licences granted by the Supplier) 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

35 COMPLIANCE

Health and Safety

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

(a) all applicable Law regarding health and safety; and

(b) the Health and Safety Policy whilst at the Authority Premises.

35.2 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 Agreement. 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.

Equality and Diversity

35.3 The Supplier shall:

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

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

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

(iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and

(b) take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

Official Secrets Act and Finance Act

35.4 The Supplier shall comply with the provisions of:

(a) the Official Secrets Acts 1911 to 1989; and

(b) section 182 of the Finance Act 1989.

36 ASSIGNMENT AND NOVATION

36.1 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 Agreement without the prior written consent of the Authority.

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

(a) any Central Government Body; or

(b) 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 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 36.2.

36.3 A change in the legal status of the Authority such that it ceases to be a Central Government Body shall not (subject to Clause 36.4) affect the validity of this Agreement and this Agreement shall be binding on any successor body to the Authority.

36.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a body which is not a Central Government Body or if a body which is not a Central Government 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 (i) of the definition of Supplier Termination Event (as if references in that limb (i) to the Supplier and the Guarantor and references to a Party in the definition of Insolvency Event were references to the Successor Body).

37 WAIVER AND CUMULATIVE REMEDIES

37.1 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.

37.2 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.

38 RELATIONSHIP OF THE PARTIES

Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, 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.

39 PREVENTION OF FRAUD AND BRIBERY

39.1 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:

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

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

39.2 The Supplier shall not during the term of this Agreement:

(a) commit a Prohibited Act; and/or

(b) 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.

39.3 The Supplier shall during the term of this Agreement:

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

(b) keep appropriate records of its compliance with its obligations under Clause 39.3(a) and make such records available to the Authority on request.

39.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 39.1 and/or 39.2, or has reason to believe that it has or any of the Supplier Personnel have:

(a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

(c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.

39.5 If the Supplier makes a notification to the Authority pursuant to Clause 39.4, 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).

39.6 If the Supplier is in Default under Clauses 39.1 and/or 39.2, the Authority may by notice:

(a) require the Supplier to remove from performance of this Agreement any Supplier Personnel whose acts or omissions have caused the Default; or

(b) immediately terminate this Agreement.

39.7 Any notice served by the Authority under Clause 39.6 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 Agreement shall terminate).

40 SEVERANCE

40.1 If any provision of this Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Agreement are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Agreement shall not be affected.

40.2 In the event that any deemed deletion under Clause 40.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.

40.3 If the Parties are unable to agree on the revisions to this Agreement within 5 Working Days of the date of the notice given pursuant to Clause 40.2, the matter shall be dealt with in accordance with Paragraph 4 (Commercial Negotiation) of Schedule J (Dispute Resolution Procedure) except that if the representatives are unable to resolve the dispute within 30 Working Days of the matter being referred to them, this Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Agreement is terminated pursuant to this Clause 40.3.

41 FURTHER ASSURANCES

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 Agreement.

42 ENTIRE AGREEMENT

42.1 This Agreement 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.

42.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.

42.3 Nothing in this Clause 42 shall exclude any liability in respect of misrepresentations made fraudulently.

43 THIRD PARTY RIGHTS

43.1 The provisions of Clause 19.1 (IPRs Indemnity), Paragraphs 2.1 and 2.6 of Part A, Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, Paragraphs 2.1 and 2.3 of Part C and Paragraphs 1.4, 2.3 and 2.8 of Part D of Schedule Z (Staff Transfer) and the provisions of Paragraph 6.9 of Schedule N (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named 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.

43.2 Subject to Clause 43.1, a person who is not a Party to this Agreement has no right under the CRTPA 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.

43.3 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.

43.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 43.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

44 NOTICES

44.1 Any notices sent under this Agreement must be in writing.

44.2 Subject to Clause 44.4, 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	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

	Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	

44.3 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:

	Supplier	**Authority**
Contact	[redacted] (Contract Manager)	[redacted]
Address	Care & Custody Limited [redacted]	Home Office [redacted]
Email	[redacted]	[redacted]

44.4 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 44.2:

(a) Step-In Notices;

(b) Force Majeure Notices;

(c) notices issued by the Supplier pursuant to Clause 33.3 (Termination by the Supplier);

(d) Termination Notices; and

(e) Dispute Notices.

44.5 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 44.4 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 44.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

44.6 This Clause 44 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 J (Dispute Resolution Procedure)).

45 DISPUTES

45.1 The Parties shall resolve Disputes arising out of or in connection with this Agreement in accordance with the Dispute Resolution Procedure.

45.2 The Supplier shall continue to provide the Services in accordance with the terms of this Agreement until a Dispute has been resolved.

46 GOVERNING LAW AND JURISDICTION

46.1 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.

46.2 Subject to Clause 45 (Disputes) and Schedule J (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 Agreement or its subject matter or formation.

IN WITNESS of which this Agreement has been duly executed by the Parties on the date first above written.

SIGNED for and on behalf of **HER MAJESTY'S SECRETARY OF STATE FOR THE HOME DEPARTMENT**

.....

Authorised Signatory (Signature)

.....

Authorised Signatory (Name in block capitals)

.....

Position of Authorised Signatory

SIGNED for and on behalf of **MITIE CARE AND CUSTODY LIMITED**

.....

First Director (Signature)

.....

First Director (Name in block capitals)

.....

Second Director/ Company Secretary (Signature)

.....

Second Director/ Company Secretary (Name in block capitals)

Annex 1

Definitions

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below.

"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 C (Testing Procedures),

and **"Achieved"** and **"Achievement"** shall be construed accordingly;

"Acquired Rights Directive"

the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;

"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 Price Adjustment"

has the meaning given in Clause 34.8(c) (Payments by the Supplier);

"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 Pricing 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;

"Annual Contract Report" has the meaning given in Schedule Q (Financial Reports and Audit Rights);

"Anticipated Contract Life Profit Margin" the anticipated Supplier Profit Margin over the Term as reflected in the Financial Model;

"Approved Sub-Licensee" any of the following:

(a) a Central Government Body;

(b) any third party providing services to a Central Government 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 Agreement but excluding the Authority Assets;

"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 this Agreement, including in Schedule Q (Financial

Reports and Audit Rights);

"Audit" any exercise by the Authority of its Audit Rights pursuant to this Agreement, including Clause 12 (Records, Reports, Audit and Open Book Data) and Schedule Q (Financial Reports and Audit Rights);

"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 Agreement; and/or

(c) Crown Copyright which is not available to the Supplier otherwise than under this Agreement;

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 Agreement; or

(b) any Personal Data for which the Authority is the Data 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 Central Government 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(s) appointed by the Authority pursuant to Clause 11.4 (Representatives);

"Authority Requirements" all requirements of the Authority and obligations of the Supplier set out in Schedules D (Services Description), G (Performance Evaluation and Service Unavailability), T (Standards), U (Security Management), A (Insurances), B (Mobilisation and Permit to Operate), X (Reports and Records Provisions), N (Exit Management), V (Business Continuity and Disaster Recovery) and R (IT System Requirements);

"Authority Responsibilities" the responsibilities of the Authority specified in Schedule D Part 2 (Supplier Response);

"Authority Software" software which is owned by or licensed to the Authority (other than under or pursuant to this Agreement) 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 Agreement 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;
"Baseline Security Requirements"	the Authority's baseline security requirements, the current copy of which is contained in Annex 1 of Schedule U (Security Management), as updated from time to time by the Authority and notified to the Supplier;
"BCDR Plan"	any plan prepared pursuant to Paragraph 2 of Schedule V (Business Continuity and Disaster Recovery), as may be amended from time to time;
"BCDR Services"	the business continuity and disaster recovery services set out in Schedule V (Business Continuity and Disaster Recovery);
"Breakage Costs Payment"	has the meaning given in Schedule W (Payments on Termination);
"Central Government Body"	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; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
"Certificate of Costs"	has the meaning given in Schedule F (Payment Mechanism);
"Change Authorisation Note"	a form setting out an agreed Contract Change which shall be substantially in the form of Annex 2 of Schedule L (Change Control Procedure);

"Change Control Procedure"	the procedure for changing this Agreement set out in Schedule L (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 Annex 1 of Schedule L (Change Control Procedure);
"Change"	any change to this Agreement;
"Charges"	the charges for the provision of the Services set out in or otherwise calculated in accordance with Schedule F (Payment Mechanism), including any Milestone Payment or Service Charge;
"**Commencement of Full Services**"	the date on which all the Services are fully operational which, at the Effective Date, is scheduled to be 1st May 2018;
"Commercial and Operational Review Group "	the body described as such in Schedule S (Governance);
"Commercially Sensitive Information"	the information listed in Schedule I (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;
"Comparable Supply"	the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
"Compensation Payment"	has the meaning given in Schedule W (Payments on Termination);
"Conditions Precedent"	has the meaning given in Clause 4.2 (Conditions 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 Agreement 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 Agreement 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 Agreement;

(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 Agreement 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 Agreement 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 Agreement; or
2. failure to pay any Sub-contractor as required pursuant to Clause 15.11(a) (Supply Chain Protection);

"Continuous Improvement Efficiency"	has the meaning given in Paragraph 3.1 of Schedule O (Service Improvement);
"Continuous Improvement Payment"	has the meaning given in Paragraph 3.4 of Schedule O (Service Improvement);
"Contract Change"	any change to this Agreement other than an Operational Change;
"Contract Service Improvement Payment"	has the meaning given in Paragraph 2.11 of Schedule O (Service Improvement);
"Contract Service Improvement"	has the meaning given in Paragraph 2.8 of Schedule O (Service Improvement);
"Contract Year"	means a period of 12 months commencing on 1st May, provided that: (a) the first Contract Year shall be the period commencing from the Commencement of Full Services and ending on the following 30th April; and (b) the final Contract Year shall be the period commencing on 1st May preceding the last day of the Contract Term and ending on that day;
"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"	the person who may be appointed by the Authority in accordance with section 151 of the Immigration and Asylum Act 1999 (as amended) to manage elements of the Services in accordance with Clause 30.9;
"Costs"	has the meaning given in Schedule F (Payment Mechanism);

"CPP Milestone"	a contract performance point as set out in the Mobilisation Plan, being the Milestone at which the Supplier has demonstrated that the Service is working satisfactorily in its operating environment in accordance with Schedule C (Testing Procedures);
"Critical Failure"	the failure of a KPI with a CF designation in Schedule G (Performance Evaluation and Service Unavailability); or the Supplier accruing Service Credits and/or Compensation for Unacceptable KPI Failure which meet or exceed the Service Credit Cap;
"CRTPA"	the Contracts (Rights of Third Parties) Act 1999;
"Data Controller"	has the meaning given in the DPA;
"Data Processor"	has the meaning given in the DPA;
"Data Subject Access Request"	a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;
"Data Subject"	has the meaning given in the DPA;
"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 Agreement;
"Default"	any breach of the obligations of the relevant Party (including abandonment of this Agreement 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 Agreement 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 Deduction Period" the period of 100 days commencing on the relevant Milestone Date;

"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 Mobilisation Plan;

"Deliverable" an item or feature delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of this Agreement;

"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 Central Government Body with which the Authority or the Supplier interacts in connection with this Agreement;

"Disclosing Party" has the meaning given in Clause 21.1 (Confidentiality);

"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 J (Dispute Resolution Procedure);
"Dispute"	any dispute, difference or question of interpretation arising out of or in connection with this Agreement, 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 Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Documentation"	descriptions of the Services and Key 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 Agreement; (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;
"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"	the Data Protection Act 1998 and any other applicable Laws relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or a relevant Central Government Body in relation to such Laws;
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Authority prior to the Effective Date;
"Effective Date"	the later of: (a) the date on which this Agreement is signed by both Parties; and (b) the date on which the Conditions Precedent has been satisfied or waived in accordance with Clause 4.2 (Conditions Precedent);
"EIRs"	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Central Government Body in relation to such Regulations;
"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;
"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;

"Employment Regulations" the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;

"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 Pricing Model;

"Estimated Year 1 Charges" the estimated Charges payable by the Authority during the first Contract Year, as set out in the Financial Pricing Model;

"Euro Compliant" means that: (i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Authority's business; (ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and (iii) in particular each and every relevant item

shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):

(a) be able to perform all such functions in any number of currencies and/or in euros;

(b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;

(c) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;

(d) incorporate protocols for dealing with rounding and currency conversion;

(e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and

(f) permit the input of data in euro and display an outcome in euro where such data, supporting the Authority's normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK;

"**Evaluators' Clarification Questions**"

means clarification questions that:

(a) were asked by the Authority of the Supplier during the procurement of the Services; and

(b) together with the Supplier's responses to those questions, are set out in Appendix 1;

"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 N (Exit Management);

"Exit Plan"

the plan produced and updated by the Supplier during the Term in accordance with Paragraph 4 of Schedule N (Exit Management);

"Expedited Dispute Timetable"	the reduced timetable for the resolution of Disputes set out in Paragraph 3 of Schedule J (Dispute Resolution Procedure);
"Expert Determination"	the process described in Paragraph 6 of Schedule J (Dispute Resolution Procedure);
"Expert"	has the meaning given in Schedule J (Dispute Resolution Procedure);
"Extended Maintenance Agreement"	has the meaning given in Clause 9.23;
"Extended Vehicle Lease"	has the meaning given in Clause 9.20;
"Financial Distress Event"	the occurrence of one or more of the events listed in Paragraph 3.1 of Schedule P (Financial Distress);
"Financial Distress Service Continuity Plan"	a plan setting out how the Supplier (together with the Guarantor and Sub-contractors, where appropriate) will ensure the continued performance and delivery of the Services in accordance with this Agreement in the event that the Supplier, the Guarantor and/or a Sub-contractor suffers a Financial Distress Event;
"Financial Pricing Model" or **"FPM"**	has the meaning given in Schedule Q (Financial Reports and Audit Rights);
"Financial Reports"	has the meaning given in Schedule Q (Financial Reports and Audit Rights);
"Financial Transparency Objectives"	has the meaning given in Schedule Q (Financial Reports and Audit Rights);
"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 Central Government 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 Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or 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;
"Former Supplier"	has the meaning given in Schedule Z (Staff Transfer);
"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;
"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 9.7 (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 Agreement (which is in the form set out in Schedule E (Guarantee)), or any guarantee acceptable to the Authority that replaces it from time to time;
"Guarantor"	Mitie Group Plc, a company registered in United Kingdom with company number SC19230 and whose registered office is at 35 Duchess Road, Rutherglen, Glasgow, United Kingdom G73 1AU;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"Health and Safety Policy"	the health and safety policy of the Authority and/or other relevant Central Government 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;
"HMRC"	HM Revenue & Customs;
"Holding Rooms" or **"Holding Areas"**	areas or rooms allocated at each port for the holding of persons awaiting a decision as to whether entry to the United Kingdom will be allowed, or held pending removal to either a removal centre or pending removal from the United Kingdom, whether such area or room is in an asylum screening unit, a reporting centre or otherwise;
"Impact Assessment"	has the meaning given in Schedule L (Change Control Procedure);
"In-country Performance Percentage"	the Performance Percentage for In-country Services calculated using the Authority's performance metrics and the mechanism in Annex A of Schedule G (Performance Evaluation and Service Unavailability);
"In-country" or **"ICE"**	the Services to be provided in accordance with Schedule D3 (In-Country Escorting);
"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 Agreement;
"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);
"Innovation and Partnership Agreement"	an agreement in the form set out at Schedule H;
"Insolvency Event"	(a) the other Party 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) the other Party 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 other Party with one or more other companies or the solvent reconstruction of that other Party;

(c) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;

(d) a creditor or encumbrancer of the other Party 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 the other Party's assets and such attachment or process is not discharged within 14 days;

(e) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

(f) where the other Party is a company, a LLP or a partnership:

(i) a petition is presented (which is not dismissed within 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 other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction

of that other Party;

(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 the other Party;

(iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that other Party 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 other Party has become entitled to appoint or has appointed an agricultural receiver; or

(g) any event occurs, or proceeding is taken, with respect to the other Party 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, trade marks, 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;

"Intervention Cause" has the meaning given in Clause Clause 29.1 (Remedial Adviser);

"Intervention Notice" has the meaning given in Clause 29.1 (Remedial Adviser);

"Intervention Period" has the meaning given in Clause 29.2(c) (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 accruing Service Credits which meet or exceed 75% of the Service Credit Cap; and/or (d) the Supplier not Achieving a Key Milestone within 75 days of its relevant Milestone Date;
"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 Agreement or for a purpose not reasonably to be inferred from the Services Description or the provisions of this Agreement;
"IT Environment"	the Authority System and the Supplier System;
"IT"	information and communications technology;
"Juxtaposed Controls"	the UK border control operations operated in Northern France;
"Key Milestone"	the Milestones identified in the Mobilisation Plan as key milestones;
"Key Performance Indicator" or **"KPI"**	the key performance indicators set out in Schedule G (Performance Evaluation and Service Unavailability) and Appendix C of Schedule R (IT System Requirements);
"Key Personnel"	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Schedule M (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 M (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 Agreement (as set out in the Financial Pricing 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 Agreement;

"KPI Failure" a failure to meet the Target Performance Level in respect of a Key Performance Indicator;

"Law" any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, 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;

"Leasing Company" the counterparty to any Vehicle Lease;

"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 Agreement, including any Supplier Software, Third Party Software and/or any Specially Written Software;

"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 Agreement"	an agreement to maintain any Assets;
"Maintenance Provider"	the counterparty to any Maintenance Agreement;
"Maintenance Schedule"	shall have the meaning set out in Clause 9.4 (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;
"Management Information"	the management information specified in Schedule G (Performance Evaluation and Service Unavailability), Schedule F (Payment Mechanism) and Schedule S (Governance) to be provided by the Supplier to the Authority;
"Material KPI Failure"	(a) a Critical Failure; or (b) Sustained poor performance on In-country Escorting Services (below 90%), and/or sustained poor performance on Overseas Escorting Services (below 93%) for a period of 3 months; or (c) repeated failure of the same or multiple KPIs, (excluding SP03, and SP04) over a prolonged period (not less than 3 months), which in the reasonable opinion of the Authority has had a material effect upon service delivery;
"Measurement Period"	in relation to a Key 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 Achievement	the certificate to be granted by the Authority when the Supplier has Achieved a Milestone, as referred

Certificate"	to in Paragraph 13 of Schedule C (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 34.7 (Payments by the Supplier);
"Milestone Date"	the target date set out against the relevant Milestone in the Mobilisation Plan by which the Milestone must be Achieved;
"Milestone Payment"	a payment identified in Schedule F (Payment Mechanism) to be made following the issue of a Milestone Achievement Certificate;
"Milestone Retention"	has the meaning given in Schedule F (Payment Mechanism);
"Milestone"	an event or task, including those described in the Mobilisation Plan which, if applicable, shall be completed by the relevant Milestone Date;
"Mobilisation Period"	the period from the Mobilisation Services Commencement Date to the achievement of the final PTO Milestone;
"Mobilisation Plan"	the plan approved by the Authority pursuant to Paragraph 1 of Schedule B (Mobilisation and Permit to Operate) as updated in accordance with Paragraph 1.3 of Schedule B (Mobilisation and Permit to Operate) from time to time;

"Mobilisation Services Commencement Date"	the date on which the Supplier is to commence provision of the Mobilisation Services, being 30 November 2017;
"Mobilisation Services"	the implementation and Mobilisation services set out in this Agreement, including the performance of the Mobilisation Plan and the obligations in Schedule B (Mobilisation and Permit to Operate);
"Mobilisation"	the performance of the Mobilisation Services by the Supplier;
"Monitor"	the Crown servant or servants appointed by the Authority as a contract monitor in accordance with Section 149(4) of the Immigration and Asylum Act 1999;
"month"	a calendar month and **"monthly"** shall be interpreted accordingly;
"Monthly Performance Report"	the performance report required in Paragraph 4 of Schedule G (Performance Evaluation and Service Unavailability);
"Multi-Party Dispute Resolution Procedure"	has the meaning given in Paragraph 9.1 of Schedule J (Dispute Resolution Procedure);
"Multi-Party Procedure Initiation Notice"	has the meaning given in Paragraph 9.2 of Schedule J (Dispute Resolution Procedure);
"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;
"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;
"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;
"Notifiable Default"	shall have the meaning given in Clause 27.1(Rectification Plan Process);
"Notifiable Incident"	any event that the Contractor is required to inform the Authority of, or request the Authority's instructions in respect of, under this Agreement;
"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;
"Open Book Data"	has the meaning given in Schedule Q (Financial Reports and Audit Rights)
"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 Agreement;

"Operational Service Commencement Date" in relation to an Operational Service, the later of:

(a) the date identified in the Mobilisation Plan upon which the relevant Operational Service is to commence; and

(b) where the Mobilisation Plan states that the Supplier must have Achieved a relevant Milestone before it can commence the provision of that Operational Service, the date upon which the Supplier Achieves the relevant Milestone.

For the avoidance of doubt, as at the Date of Contract, the intention of the Parties is that there will be a single Operational Service Commencement Date, and that this will occur on or before 1st May 2018;

"Operational Services" the operational services described as such in the Services Description in Schedule D;

"Other Supplier" any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;

"Overseas Performance Percentage" the Performance Percentage for Overseas Services calculated using the Authority's performance metrics and the mechanism in Annex A of Schedule G (Performance Evaluation and Service Unavailability);

"Overseas Escorting" or **"OSE"** The Services to be provided in accordance with Schedule D4 (Overseas Escorting);

"Partial Termination" the partial termination of this Agreement to the extent that it relates to the provision of any part of the Services as further provided for in

	Clause 33.2(b) (Termination by the Authority) or 33.3(b) (Termination by the Supplier);
"Parties" and **"Party"**	have the meanings respectively given on the first page of this Agreement;
"Performance Failure"	a KPI Failure;
"Performance Monitoring Report"	has the meaning given in Schedule G (Performance Evaluation and Service Unavailability);
"Performance Percentage"	In-country Performance Percentage and/or Overseas Performance Percentage;
"Performance Quarter"	each successive period of 3 whole months from the Effective Date until the end of the Term, commencing on the first day of the first month after the Effective Date;
"Permit to Operate" or "PTO"	means the permit issued by the Authority in respect of the PTO Milestone which authorises the Supplier to commence the provision of the relevant Operational Services, following which there will be the Commencement of Full Services by the Supplier to the Authority. The PTO shall be: (a) issued by the Authority; (b) in the form of a Milestone Achievement Certificate; and (c) stated to be issued as a result of the Supplier achieving the PTO Milestone;
"Permitted Maintenance"	has the meaning given in Clause 9.4 (Maintenance);
"Personal Data"	personal data (as defined in the DPA) which is Processed by the Supplier or any Sub-contractor on behalf of the Authority or a Central Government Body pursuant to or in connection with this Agreement;
"Preceding Services"	has the meaning given in Clause 5.2(b) (Standard of Services);
"Process"	has the meaning given to it under the DPA and "**Processed**" and "**Processing**" shall be construed accordingly;

"Profit Share Base"	has the meaning given in Paragraph 2.9 of Schedule O (Service Improvement);
"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 Agreement; (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; 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;
"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 Agreement 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 Agreement; but shall not include the Supplier Background IPRs or the Specially Written Software;
"PTO Milestone"	the Milestone linked to the issue of the Permit to

Operate as set out in the Mobilisation Plan;

"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 Agreement);

"Recipient" has the meaning given in Clause 21.1 (Confidentiality);

"Records" has the meaning given in Schedule X (Records Provisions);

"Rectification Plan Failure"

(a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in Clauses 27.4 (Submission of the draft Rectification Plan) or 27.8 (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 27.7 (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 27.2 (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 27.4 (Submission of the Rectification Plan) to 27.9 (Agreement of the Rectification Plan);

"Rectification Plan" a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;

"Registers" has the meaning given in Schedule N (Exit Management);

"Reimbursable Expenses" has the meaning given in Schedule F (Payment Mechanism);

"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 Agreement 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 Preceding Services" has the meaning given in Clause 5.2(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 31.2 (Authority Cause);
"Remedial Adviser Failure"	has the meaning given in Clause 29.6 (Remedial Adviser);
"Remedial Adviser"	the person appointed pursuant to Clause 29.2 (Remedial Adviser);
"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 Agreement, 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 29.1(a) (Step-In Rights);
"Request for Proposal" or "RFP"	means the request for proposal for provision of the Services, as updated and reissued by the Authority at successive stages during the process of procuring the Services. For the avoidance of doubt, the final form of the Request for Proposal was the request for a best and final offer issued on 17th May 2017.
"Residential Short Term Holding Facility" or "RSTHF"	means secure short-term accommodation where Detainees can be held for a maximum of 5 days (7 days if Removal Directions have been set and effected within the additional 2 days);
"Restricted Country"	(a) any country outside the European Economic Area, and (b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;

"Retained Deliverables"	has the meaning given in Clause 33.8 (b) (Payments by the Supplier);
"Security Management Plan"	the Supplier's security plan as attached as Annex 2 of Schedule U (Security Management) and as subsequently developed and revised pursuant to Paragraphs 3 and 4 of Schedule U (Security Management);
"Service Charges"	the periodic payments made in accordance with Schedule F (Payment Mechanism) in respect of the supply of the Operational Services;
"Service Credit Cap"	Has the meaning given in paragraph 4 of Part G to Schedule F (Payment Mechanism);
"Service Credits"	credits payable by the Supplier due to the occurrence of 1 or more KPI Failures, or Unavailability Events, calculated in accordance with Schedule G (Performance Evaluation and Service Unavailability);
"Service Debits"	the recovery of certain Service Credits awarded in the previous Performance Quarter as set out in Paragraph 7.7 of Schedule G (Performance Evaluation and Service Unavailability);
"Service Delivery Plans"	means the Service delivery plans to be produced in accordance with this Agreement, particularly Paragraph 3.4 of Schedule D1 (Management Services);
"Service Improvement Payments"	Contract Service Improvement Payments and Continuous Improvement Payments, as specified in Paragraph 5 of Schedule O (Service Improvement);
"Service Improvements"	Contract Service Improvements and Continuous Improvement Efficiencies;
"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;

"Service Specification"	the Schedule D1 to D8 and Schedule R (IT System Requirements);
"Service Transfer Date"	has the meaning given in Schedule Z (Staff Transfer);
"Services"	any and all of the services to be provided by the Supplier under this Agreement, including those set out in Schedule D (Services Description);
"Sites"	any premises (including the Authority Premises, the Supplier's premises or third party premises): (a) from, to or at which: (i) the Services are (or are to be) provided; or (ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or (b) where: (i) any part of the Supplier System is situated; or (ii) any physical interface with the Authority System takes place;
"Sliding Scale Reductions"	in-month reductions in Service Credits as set out in Schedule G (Performance Levels and Service Unavailability);
"Software Supporting Materials"	has the meaning given in Clause 17.1(b) (Specially Written Software and Project Specific IPRs);
"Software"	Specially Written Software, Supplier Software and Third Party Software;
"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 Agreement, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Agreement.
"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;
"Staffing Information"	has the meaning given in Schedule Z (Staff Transfer);
"Standards"	the standards, polices and/or procedures identified in Schedule T (Standards);
"Step-In Notice"	has the meaning given in Clause 30.1 (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 Agreement; (d) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under Clause 30 (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 30.5(b) (Step-In Rights);
"Step-Out Notice"	has the meaning given in Clause 30.5 (Step-In Rights);

"Step-Out Plan"	has the meaning given in Clause 30.6 (Step-In Rights);
"Strategic Contract Review and Delivery Group"	the body described as such in Schedule S (Governance);
"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;
"Successor Body"	has the meaning given in Clause 36.4 (Assignment and Novation);
"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 Agreement, 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’s Allowable Assumptions”	means assumptions which: (a) were made by the Supplier in relation to the Supplier’s Response; (b) are subject to responses made by the

Authority; and

(c) together with the responses made by the Authority are set out in Appendix 2;

“Supplier’s Clarification Questions”

means clarification questions that:

(a) have been asked by the Supplier of the Authority during the procurement of the Services; and

(b) together with responses from the Authority to those questions are set out in Appendix 3;

"Supplier COTS Background IPRs"

Supplier Background IPRs that:

(a) the Supplier makes generally available commercially prior to the date of this Agreement (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 Agreement (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 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 31.1 (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 Agreement;
"Supplier Profit"	has the meaning given in Schedule F (Payment Mechanism);
"Supplier Representative"	the representative(s) appointed by the Supplier pursuant to Clause 11.3 (Representatives);
"Supplier Response"	the Supplier's solution for the Services set out in Schedule D Part 2 (Supplier Response) including any Annexes of that Schedule;
"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;
"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 Failure; (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 25.6(a) (Financial Limits); (d) a Remedial Adviser Failure; (e) a Rectification Plan Failure; (f) where a right of termination is expressly reserved in this Agreement, including pursuant to: (i) Clause 19 (IPRs Indemnity); (ii) Clause 39.6(b) (Prevention of Fraud and Bribery); and/or (iii) Paragraph 4 of Schedule P (Financial

Distress);

(g) the representation and warranty given by the Supplier pursuant to Clause 3.2(i) (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(j) (Services);

(ii) Clause 23 (Protection of Personal Data);

(iii) Clause 22 (Freedom of Information);

(iv) Clause 21 (Confidentiality); and

(v) Clause 35 (Compliance); and/or

in respect of any security requirements set out in Schedule D (Services Description), Schedule U (Security Management) or the Baseline Security Requirements; and/or

in respect of any requirements set out in Schedule Z (Staff Transfer);

(j) an Insolvency Event occurring in respect of the Supplier or the Guarantor;

(k) 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);

(l) 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;

(m) 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 15.6 (Appointment of Key Sub-contractors);

(n) any failure by the Supplier to enter into or to comply with an Admission Agreement under the Annex to either Part A or Part B of Schedule Z (Staff Transfer);

(o) 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 Agreement;

(p) a breach by the Supplier or any Sub-contractor of the Modern Slavery Act 2015 or the Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015;

(q) the performance of any of the material obligations under this Contract is or becomes unlawful; or

(r) 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.

"Target Performance Level" the minimum level of performance for a Key Performance Indicator which is required by the Authority, as set out against the relevant Key Performance Indicator in the tables in Schedule G (Performance Evaluation and Service Unavailability);

"Term" the period commencing on the Effective Date and ending ten years later, or on termination of this Agreement, if earlier;

"Termination Assistance Notice" has the meaning given in Paragraph 5.10 of Schedule N (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 N (Exit Management);
"Termination Date"	the date set out in a Termination Notice on which this Agreement (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 Agreement on a specified date and setting out the grounds for termination;
"Termination Payment"	the payment determined in accordance with Schedule W (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 N (Exit Management), and any other services required pursuant to the Termination Assistance Notice;
"Test Issues"	has the meaning given in Schedule C (Testing Procedures);
"Test Success Criteria"	has the meaning given in Schedule C (Testing Procedures);
"Tests" and "Testing"	any tests required to be carried out under this Agreement, as further described in Schedule C (Testing Procedure) and "**Tested"** shall be construed accordingly;
"Third Party Beneficiary"	has the meaning given in Clause 43.1 (Third Party Rights);
"Third Party COTS IPRs"	Third Party IPRs that: (a) the Supplier makes generally available commercially prior to the date of this Agreement (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 Agreement (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;
"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 43.1 (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;
"Transferrable Vehicle"	has the meaning given in Clause 9.26;
"Transferring Assets"	has the meaning given in Paragraph 6.2(a) of Schedule N (Exit Management);
"Transferring Authority Employees"	has the meaning given in Schedule Z (Staff Transfer);
"Transferring Former Supplier Employees"	has the meaning given in Schedule Z (Staff Transfer);
"Transferring Supplier Employees"	has the meaning given in Schedule Z (Staff Transfer);
"Transparency Information"	has the meaning given in Clause 22.1;
"Transparency Reports"	reports containing the information identified in Annex 1 (Transparency Reports) to Schedule X (Reports and Records Provisions), as required in accordance

	with paragraph 1 (Transparency Reports) of Schedule X (Reports and Records Provisions);
"UK"	the United Kingdom;
"Unavailability Event"	has the meaning given in Paragraph 12 of Schedule G (Performance Evaluation and Service Unavailability);
"Unlawful Removal"	a removal from the United Kingdom of any person which is in any way unlawful;
"Unrecovered Payment"	has the meaning given in Schedule W (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;
"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;
"VAT"	value added tax as provided for in the Value Added Tax Act 1994;
"Vehicle Lease"	an agreement to hire a vehicle for the purposes of providing the Services;
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales; and
"Year End Performance Related Payment"	the performance-related payment set out in Paragraph 8 of Schedule G (Performance Evaluation and Service Unavailability).
"Year End Performance Related Payments"	an additional payment the Supplier may earn in accordance with Paragraph 8 of Schedule G (Performance Evaluation and Service Unavailability);