

Trace Detection Devices Maintenance and Servicing Agreement

REF: PRJ_3765 TRACE DETECTION – PART 1

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Trace Detection Devices Maintenance and Servicing Agreement**AWARD FORM V3.0**

This Award Form creates the Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

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| 1. | Buyer | (REDCATED) |
| 2. | Supplier | (REDACTED) |
| 3. | Contract | <p>This Contract between the Buyer and the Supplier is for the supply of Deliverables. Ref: Find a Tender Service Prior Information Notice Publication reference: 2021/S 000-028531 Publication date: 15 November 2021 Maintenance, Product Development (hardware, software and drugs library updates) and Consumables for HMPPS Rapiscan Itemisers</p> |
| 4. | Contract Reference | Prj_3765 |
| 5. | Deliverables | Trace detection devices maintenance and servicing services. See Schedule 2 (Specification) for further details. |
| 6. | Start Date | 1 st April 2022 (or contract signing date if later) |
| 7. | End Date | 31st March 2032 |
| 8. | Extension Period | Not Applicable |

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| 9. | <p>Incorporated Terms</p> <p>(together these documents form the 'the Contract')</p> | <p>The following documents are incorporated into the Contract. Where numbers are missing, we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ol style="list-style-type: none"> 1. This Award Form; 2. Any Special Terms (see Section 10 Special Terms in this Award Form); 3. Core Terms; 4. Schedule 1 (Definitions); 5. Schedule 20 (Processing Data) <p>6. The following Schedules (in equal order of precedence):</p> <ul style="list-style-type: none"> • Schedule 2 (Specification) • Schedule 3 (Charges) • Schedule 5 (Commercially Sensitive Information) • Schedule 6 (Transparency Reports) • Schedule 7 (Staff Transfer) • Schedule 8 (Implementation Plan & Testing) • Schedule 10 (Service Levels) • Schedule 11 (Continuous Improvement) |
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| | | <ul style="list-style-type: none"> • Schedule 12 (Benchmarking) • Schedule 13 (Contract Management) • Schedule 14 (Business Continuity and Disaster Recovery) • Schedule 16 (Security) • Schedule 17 (Clustering) • Schedule 18 (Supply Chain Visibility) • Schedule 19 (Cyber Essentials Scheme) • Schedule 20 (Processing Data) • Schedule 21 (Variation Form) • Schedule 22 (Insurance Requirements) • Schedule 23 (Guarantee) • Schedule 24 (Financial Difficulties) • Schedule 25 (Rectification Plan) • Schedule 27 (Key Subcontractors) • Schedule 28 (ICT Services) • Schedule 29 (Key Supplier Staff) • Schedule 30 (Exit Management) • Schedule 32 (Background Checks) • Schedule 33 (Scottish Law) • Schedule 34 (Northern Ireland Law) • Schedule 36 (Prison Security Information) • Schedule 37 (Asset Register) <p>7. Schedule 26 (Corporate Social Responsibility); and</p> <p>8. Schedule 4 (Tender), except for any part of the Tender that offers a better commercial and legal position for the Buyer (as to be determined by the Buyer). Such part or parts will take precedence over the documents listed above.</p> |
| 10. | Special Terms | <p>Special Term 1 – Non-exclusivity The Supplier acknowledges that:</p> <p>(a) the Buyer is not obliged to purchase any Goods or Services from the Supplier under this Contract;</p> <p>(b) the Buyer makes no representation as to the number, type, or value of Goods or Services, that it may purchase, from the Supplier under this Contract; and</p> <p>(c) the Supplier cannot prevent the Buyer from purchasing from any third party any Good or Services, that are the same or similar to the Goods or Services referred to in this Contract.'</p> |
| 11. | Buyer's Environmental Policy | Not Applicable. |
| 12. | Buyer's Security Policy | Schedule 16 Security Policy Framework - https://www.gov.uk/government/publications/securitypolicy-framework |
| 13. | Social Value Commitment | The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with the social value reporting commitments in Schedule 10 (Service Levels). |
| 14. | Commercially Sensitive Information | Supplier's Commercially Sensitive Information : Schedule 3 (Charges) |
| 15. | Charges | <p>Details in Schedule 3 (Charges).</p> <p>All charges subject to potential indexation if applicable from commencement of third contract year (i.e. are fixed for the term of this Agreement).</p> |
| 16. | Reimbursable expenses | None. |

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| 17. | Ordering and Payment method | <p>All orders for Goods and Services under this Award Form, will be made by:</p> <p>(a) Purchase Order; or</p> <p>(b) such other method as the Buyer may choose.</p> |
| | | Payment for Goods and Services shall be made in accordance with Schedule 3 – Charges. |
| 18. | Service Levels | Service Credits will accrue in accordance with Schedule 10 (Service Levels). The Service Credit Cap is as detailed in Schedule 10 (Service Levels). The Service Period is Monthly. |
| 19. | Insurance | Details in the Annex of Schedule 22 (Insurance Requirements). |
| 20. | Liability | In accordance with Clause 11.1 of the Core Terms, each Party's total aggregate liability in each Contract Year under the Contract, (whether in tort, contract or otherwise) is no more than the greater of £5 million, or 150 % of the Estimated Yearly Charges. |
| 21. | Cyber Essentials Certification | Cyber Essentials Scheme Plus Certificate (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme). |
| 22. | Progress Meetings and Progress Reports | The Supplier shall attend Progress Meetings with the Buyer as detailed in the Contract. |
| 23. | Guarantee | Not Applicable |
| 24. | Supplier Contract Manager | (REDACTED) |
| 25. | Supplier Authorised Representative | (REDACTED) |
| 26. | Supplier Compliance Officer | (REDACTED) |

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| 27. | Supplier Data Protection Officer | (REDACTED) |
| 28. | Supplier Marketing Contact | (REDACTED) |
| 29. | Key Subcontractors | No appointed subcontractors |
| 30. | Buyer Authorised Representative | (REDACTED) |

Trace Detection Devices Maintenance and Servicing Agreement Core Terms

CORE TERMS BACKGROUND

RECITALS:

(A) The Parties

THIS AGREEMENT IS MADE BETWEEN:

Secretary of State for Justice (hereafter called “the Buyer”) of (REDACTED)

Rapiscan Systems Limited (hereafter called “the Supplier”) registered address of (REDACTED)

(B) The Goods and Services are specified in the Contract and relate to servicing, maintenance and repair services to be undertaken on existing Supplier drug trace detection machinery as currently owned and operated by the Buyer.

(C) Subject to the terms and conditions of this Contract, the Buyer has accepted [the Suppliers Offer]/[the Suppliers Offers] and in doing has appointed [the Supplier]/[the Suppliers] to provide and maintain the Goods and Services.

(D) The Core Terms which are part of the Contract are set out below.

1. Definitions used in the Contract

1.1 Interpret this Contract using Schedule 1 (Definitions).

2. How the Contract works

2.1 If the Buyer decides to buy Deliverables under the Contract, the Buyer may order the Deliverables, which includes setting out its requirements, in accordance with the Award Form.

2.2 If allowed by the Regulations, the Buyer can:

- make changes to Award Form;
- create new Schedules;
- exclude optional template Schedules; and/or
- use Special Terms in the Award Form to add or change terms.

2.3 The Contract:

- is between the Supplier and the Buyer; and
- includes Core Terms, Schedules to the Core Terms, the Award Form and any change to, or items in the completed Award Form.

2.4 The Supplier acknowledges it has all the information required to perform its obligations under the Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.

2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

- verify the accuracy of the Due Diligence Information; or
- properly perform its own adequate checks.

2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.

2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate and that it will advise the Buyer of any fact, matter or circumstance of which it may become aware which would render such information to be false, inaccurate, or misleading.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the Tender Response and the Contract;
- using Good Industry Practice;
- using all reasonable, care skill and diligence;
- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;

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- on the dates agreed; and
- that comply with the Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 12 months from Delivery against all defects in design, materials and workmanship.

3.2 Goods clauses

3.2.1 All Goods delivered must be new, or as new if recycled and agreed in advance with the Buyer, unused and of recent origin. ,

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.

3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

3.2.6 The Supplier must deliver the Goods on the date and to the specified location for Delivery during the Buyer's working hours.

3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.

3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.

3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.

3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 day's notice, then it will pay the Supplier's reasonable and proven costs

already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.

3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this, it will pay the Buyer's costs including repair or re-supply by a third party.

3.3 Services clauses

3.3.1 Late Delivery of the Services will be a Default of the Contract.

3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.

3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to the Contract.

3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services but doing so does not stop it from using its other rights under the Contract.

4 Pricing and payments

4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.

4.2 All Charges:

- must exclude VAT, which is payable on provision of a valid VAT invoice; and
- must include all costs connected with the Supply of Deliverables

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4.3 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Award Form.

4.4 A Supplier invoice is only valid if it:

- includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer; and
- includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).

4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.6 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.

4.7 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may either:

- require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items; or
- enter into a direct agreement with the Subcontractor or third party for the relevant item.

4.8 If the Buyer uses Clause 4.7 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

4.9 The Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:

- the relevant item being made available to the Supplier if required to provide the Deliverables; and
- any reduction in the Charges excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges.

4.10 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

5. The Buyer's obligations to the Supplier

5.1 If Supplier Non-Performance arises solely from a Buyer Cause:

- the Buyer cannot terminate the Contract under Clause 10.4.1;
- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
- the Supplier is entitled to a reasonable amount of additional time needed to make the Delivery; and
- the Supplier cannot suspend the ongoing supply of Deliverables.

5.2 Clause 5.1 only applies if the Supplier:

- gives notice to the Buyer of the Buyer Cause within 10 Working Days of becoming aware;
- demonstrates that the Supplier Non-Performance only happened solely because of the Buyer Cause; and
- mitigated the impact of the Buyer Cause.

6. Record keeping and reporting

6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.

6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract:

- in relation to the Suppliers obligation to maintain the Goods and Services, for 10 years after the End Date;
- in relation to all other matters, for 7 years after the End Date; and
- in accordance with the GDPR.

6.3 The Supplier must allow any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit.

6.4 The Supplier must provide information to the Auditor and reasonable co-operation at their request.

6.5 If the Supplier is not providing any one or all of the Deliverables, or is unable to provide them, it must immediately:

- tell the Buyer and give reasons;
- propose corrective action; and
- provide a deadline for completing the corrective action.

7. Supplier Staff

7.1 The Supplier Staff involved in the performance of the Contract must:

- be appropriately trained and qualified;
- be vetted using Good Industry Practice and the Security Policy; and
- comply with all conduct requirements when on the Buyer's Premises.

7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.

7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8. Rights and protection

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform the Contract;
- the Contract is executed by its authorised representative;
- it is a legally valid and existing organisation incorporated in the place it was formed;
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform the Contract;
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
- it has all necessary rights in and to any licensed software, third party IPRs, Supplier background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract;

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- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and ● it is not impacted by an Insolvency Event.
- 8.2 The warranties and representations in Clauses 2.6 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 8.3 The Supplier indemnifies the Buyer against each of the following:
- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
 - non-payment by the Supplier of any tax or National Insurance.
- 8.4 All claims indemnified under this Contract must use Clause 26.
- 8.5 The Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.
- 8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

9. Intellectual Property Rights (IPRs)

9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a nonexclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:

- receive and use the Deliverables; and
- make use of the deliverables provided by a Replacement Supplier.

9.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations under the Contract during the Contract Period.

9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.

9.5 If there is an IPR Claim during or after the Contract Period, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

9.6 If an IPR Claim is made or anticipated the Supplier must notify the Buyer and at its own expense and the Buyer's sole option, either:

- obtain for the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
- replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables

10. Ending the Contract

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.2 The Buyer can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

10.3 Ending the Contract without a reason

10.3.1 The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier at least 90 days' notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

10.4 When the Buyer can end the Contract

10.4.1 If any of the following events happen, the Buyer has the right to immediately terminate the Contract by issuing a Termination Notice to the Supplier:

- there's a Supplier Insolvency Event;
- there's a Default that is not corrected in line with an accepted Rectification Plan;
- the Buyer rejects a Rectification Plan, or the Supplier does not provide it within 10 days of the request;

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- there's any material Default of the Contract;
- there's any material Default of any Joint Controller Agreement relating to the Contract;
- there's a Default of Clauses 2.6, 8, 9, 14, 15, 27, 32 or Schedule 19 (Cyber Essentials) (where applicable) relating to the Contract;
- there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- there's a Variation to the Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes);
- The Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
- the Supplier fails to comply with the Official Secrets Act 1911-1989 and section 182 of the Finance Act; and/or
- the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them

10.4.2 If there is a Default, the Buyer can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.4.3 When the Buyer receives a requested Rectification Plan it can either:

- reject the Rectification Plan or revised Rectification Plan, giving reasons; or
- accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties.

10.4.4 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:

- must give reasonable grounds for its decision; and
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days.

10.4.5 If any of the events in regulation 73 (1) (a) to (c) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clause 10.5.2 to 10.5.7 applies.

10.5 What happens if the Contract ends

Where the Buyer terminates the Contract under Clause 10.4.1 all of the following apply:

- 10.5.1 The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- 10.5.2 The Buyer's payment obligations under the terminated Contract stop immediately.
- 10.5.3 Accumulated rights of the Parties are not affected.
- 10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.
- 10.5.5 The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- 10.5.6 The Supplier must, at no cost to the Buyer, co-operate fully in the handover and reprocurement (including to a Replacement Supplier).
- 10.5.7 The following shall apply in relation to termination or expiry of the Contract:
 - in relation to the Suppliers obligation to maintain the Goods and Services, the following clauses and schedules shall survive the termination or expiry of the Contract for 10 years: Clause 3 (What needs to be delivered), Clause 6 (Record keeping and reporting), Clause 7 (Supplier Staff), Clause 8 (Rights and protection), Clause 9 (Intellectual Property Rights (IPRs)), Clause 10 (Ending the Contract), Clause 11 (How much the Parties can be held responsible for), Clause 13 (Insurance), Clause 14 (Data Protection), Clause 15 (What you must keep confidential), Clause 16 (When you can share information), Clause 17 (Invalid parts of the Contract), Clause 18 (No other terms apply), Clause 19 (Other people's rights in the Contract), , Clause 21 (Relationships created by the Contract), Clause 22 (Giving up Contract rights), Clause 23 (Transferring responsibilities), , Clause 26 (Dealing with claims), Clause 31 (Tax), Clause 32 (Conflict of interest), Clause 33 (Reporting a breach of the Contract), Clause 34 (Resolving disputes), Clause 35 (Which law applies), Schedule 2 (Specification), Schedule 3 (Charges), Schedule 6 (Transparency Reports), Schedule 7 (Staff Transfer), Schedule 10 (Service Levels), Schedule 24 (Financial Difficulties) and Schedule 30 (Exit Management) together with any Clauses and Schedules which are expressly or by implication intended to continue; and
 - in relation to all other matters, the following clauses shall survive termination or expiry of the Contract: 3.2.10 (Goods Clauses), 6 (Record Keeping and Reporting), 7.2 (Supplier Staff), 9 (Intellectual Property

Rights), 11 (Ending the Contract), 14 (Data Protection), 15 (What you must keep confidential), 16 (When you can share information), 17 (Invalid parts of the Contract), 18 (No other terms apply), 34 (Resolving disputes), 35 (Which law applies), together with any Clauses and Schedules which are expressly or by implication intended to continue.

10.6 When the Supplier can end the Contract

10.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within 30 days of the date of the Reminder Notice.

10.6.2 If a Supplier terminates the Contract under Clause 10.6.1:

- the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- the Buyer may pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and
- Clauses 10.5.4 to 10.5.7 apply

10.7 When Subcontracts can be ended

10.7.1 At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4; or
- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer.

10.8 Partially ending and suspending the Contract

10.8.1 Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of the Contract. If the Buyer suspends the Contract, it can provide the Deliverables itself or buy them from a third party.

10.8.2 The Buyer can only partially terminate or suspend the Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.8.3 The Parties must agree any necessary Variation required by Clause 10.8 using the Variation Procedure, but the Supplier may not either:

- reject the Variation; or
- increase the Charges, except where the right to partial termination is under Clause 10.3.

10.8.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.8.

11. How much the Parties can be held responsible for

11.1 Each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Award Form.

11.2 No Party is liable to the other for:

- any indirect Losses; or
- Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

11.3 In spite of Clause 11.1, neither Party limits or excludes any of the following:

- its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
- its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and/or
- any liability that cannot be excluded or limited by Law.

11.4 In spite of Clause 11.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5 (Supplier Staff), 8.3 (Rights and protection), 9.5 (Intellectual Property Rights), 12.2 (Obeying the law) or 14.8 (Data protection) or Schedule 7 (Staff Transfer) of the Contract.

11.5 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with the Contract, including any indemnities.

11.6 When calculating the Supplier's liability under Clause 11.1 the following items will not be taken into consideration:

- Deductions; and
- any items specified in Clause 11.4.

11.7 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

12. Obeying the law

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Schedule 26 (Corporate Social Responsibility).

12.2 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

13. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

14. Data protection

14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).

14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.

14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer; receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
- restore the Government Data itself or using a third party.

14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless the Buyer is at fault.

14.8 The Supplier:

- must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it; and
- indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

15. What you must keep confidential

15.1 Each Party must:

- keep all Confidential Information it receives confidential and secure;
- not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract;

Trace Detection Devices Maintenance and Servicing Agreement

- comply with the Official Secrets Act 1911-1989 and section 182 of the Finance Act 1982;
- immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- if the information was given to it by a third party without obligation of confidentiality;
- if the information was in the public domain at the time of the disclosure
- if the information was independently developed without access to the Disclosing Party's Confidential Information;
- to its auditors or for the purposes of regulatory requirements;
- on a confidential basis, to its professional advisers on a need-to-know basis; or
- to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.

15.4 The Buyer may disclose Confidential Information in any of the following cases:

- on a confidential basis to the employees, agents, consultants, sub-contractors and contractors of the Buyer;
- on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- where requested by Parliament; or ● under Clauses 4.7 and 16.

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information and any Information which is exempt from disclosure by Clause 16 is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.

16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

- publish the Transparency Information; • comply with any FOIA request; and/or
- comply with any EIR request.

16.3 The Buyer may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

17. Invalid parts of the Contract

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in the Contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond the Parties control

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:

- provides a Force Majeure Notice to the other Party; and
- uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under Clause 20.2:

- each party must cover its own Losses; and
- Clause 10.5.2 to 10.5.7 applies.

21. Relationships created by the Contract

The Contract does not create a partnership, joint venture, an employment relationship or a relationship of principal and agent between the Parties. The Supplier must represent themselves accordingly and ensure others do so.

22. Giving up Contract rights

A partial or full waiver or relaxation of the terms of the Contract by one Party is only valid if it is stated to be a waiver in writing to the other Party.

23. Transferring responsibilities

23.1 The Supplier cannot assign, novate or transfer the Contract without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

23.3 When the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation or transfer agreement in the form that the Buyer specifies.

23.4 The Supplier can terminate the Contract novated or transferred under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including (without limitation):

- their name;
- the scope of their appointment; and
- the duration of their appointment.

24. Changing the Contract and Change of Law

24.1 Either Party can request a Variation to the Contract which is only effective if agreed in writing and signed by both Parties

24.2 The Supplier must provide an Impact Assessment either:

- with the Variation Form, where the Supplier requests the Variation; or
- within the time limits included in a Variation Form requested by the Buyer

24.3 If the Variation to the Contract cannot be agreed or resolved by the Parties, the Buyer can either:

- agree that the Contract continues without the Variation;
- terminate the affected Contract, unless the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; or
- refer the Dispute to be resolved using Clause 34 (Resolving Disputes).

24.4 The Buyer is not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or the Contract and provide evidence:

- that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
- of how it has affected the Supplier's costs.

24.7 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

25. How to communicate about the Contract

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

25.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

25.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Dealing with claims

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- give the Indemnifier reasonable assistance with the claim if requested.

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
- the amount the Indemnifier paid the Beneficiary for the Claim.

27. Preventing fraud, bribery and corruption

27.1 The Supplier must not during any Contract Period:

- commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
- do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

27.2 The Supplier must during the Contract Period:

- create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- keep full records to show it has complied with its obligations under Clause 27 and give copies to the Buyer on request; and
- if required by the Buyer, within 20 Working Days of the Start Date of the Contract, and then annually, certify in writing to the Buyer, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures

27.3 The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- been investigated or prosecuted for an alleged Prohibited Act;
- been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
- received a request or demand for any undue financial or other advantage of any kind related to the Contract; or
- suspected that any person or Party directly or indirectly related to the Contract has committed or attempted to commit a Prohibited Act.

27.4 If the Supplier notifies the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

27.5 In any notice the Supplier gives under Clause 27.4 it must specify the:

- Prohibited Act;
- identity of the Party who it thinks has committed the Prohibited Act; and
- action it has decided to take.

28. Equality, diversity and human rights

28.1 The Supplier must follow all applicable equality and human rights Law when they perform their obligations under the Contract, including:

- protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- any other requirements and instructions which the Buyer reasonably imposes related to equality and human rights Law.

28.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

29. Health and safety

29.1 The Supplier must perform its obligations meeting the requirements of:

- all applicable Law regarding health and safety; and
- the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier

29.2 The Supplier must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of the Contract.

30. Environment

30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

31. Tax

31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 Where the Charges payable under the Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within 5 Working Days including:

- the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
- other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.

31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:

- comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
- indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements; and
- the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

32. Conflict of interest

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to the Buyer if a Conflict of Interest happens or is expected to happen.

32.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

33. Reporting a breach of the Contract

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of:

- the Law;
- Clause 12.1; and/or • Clauses 27 to 32.

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith report a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.

34. Resolving disputes

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Buyer refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England have the exclusive jurisdiction to:

- determine the Dispute;
- grant interim remedies; and/or
- grant any other provisional or protective relief.

34.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of the Contract during any Dispute.

35. Which law applies

35.1 This Contract and any issues arising out of, or connected to it, are governed by English law and shall be subject to the exclusive jurisdiction of the courts of England.

36. List of Schedules

1. Definitions
2. Specification
3. Charges
4. Tender
5. Commercially Sensitive Information
6. Transparency Reports
7. Staff Transfers
8. Implementation Plan
9. Not used
10. Service Levels
11. Continuous Improvement
12. Benchmarking
13. Contract Management
14. Business Continuity and Disaster Recovery
15. Not used
16. Security
17. Clustering
18. Supply Chain Visibility
19. Cyber Essentials Scheme
20. Processing Data
21. Variation Form
22. Insurance Requirements
23. Guarantee
24. Financial Difficulties
25. Rectification Plan
26. Corp Social Responsibility
27. Key Subcontractors
28. Not used
29. Key Supplier Staff
30. Exit Management
31. Not used
32. Not used
33. Not used
34. Not used
35. Not used
36. Secretary of State for Prisons
37. Asset Register

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| For and on behalf of the Supplier: | | For and on behalf of the Buyer: | |
| Signature: | | Signature: | |
| Name: | | Name: | |
| Role: | | Role: | Head of Commercial Management (HMPPS) |
| Date: | | Date: | |

Schedule 1 (Definitions)

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
- 1.3.1 the singular includes the plural and vice versa; 1.3.2 reference to a gender includes the other gender and the neuter; 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
 - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
 - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.
 - 1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and
 - 1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.
- 1.4 Where a standard, policy or document is referred to in this Contract by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Buyer and the Parties shall update this Contract with a reference to the replacement hyperlink
- 1.5 In the Contract, unless the context otherwise requires, the following words shall have the following meanings:

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| "Achieve" | in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly; |
| "Affected Party" | the party seeking to claim relief in respect of a Force Majeure Event; |

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| "Affiliates" | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time; |
| "Annex" | extra information which supports a Schedule; |
| "Approval" | the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly; |
| "Audit" | <p>the Buyer's right to:</p> <ul style="list-style-type: none"> a) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract); b) verify the costs of the Supplier (including the costs of all Subcontractors and any thirdparty suppliers) in connection with the provision of the Services; c) verify the Open Book Data; d) verify the Supplier's and each Subcontractor's compliance with the applicable Law; e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Schedule 26 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; g) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; h) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; i) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources. |

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| "Auditor" | <p>a) the Buyer's internal and external auditors;</p> <p>b) the Buyer's statutory or regulatory auditors;</p> <p>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>d) HM Treasury or the Cabinet Office;</p> <p>e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>f) successors or assigns of any of the above;</p> |
| "Award Form" | means the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Buyer and the Supplier, including Appendix I (Invoicing and Payment) |
| "Buyer Cause" | any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier; |
| "BACS" | the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom; |
| "Beneficiary" | a Party having (or claiming to have) the benefit of an indemnity under this Contract; |
| "Buyer Assets" | the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract; |
| "Buyer Authorised Representative" | the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form; |
| "Buyer Premises" | premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them); |
| "Central Government Body" | <p>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:</p> <p>a) Government Department;</p> <p>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>c) Non-Ministerial Department; or</p> <p>d) Executive Agency;</p> |
| "Change in Law" | any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date; |
| "Change of Control" | a change of control within the meaning of Section 450 of the Corporation Tax Act 2010; |
| "Charges" | the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions; |
| "Claim" | any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract; |
| "Commercially Sensitive Information" | the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss; |

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| "Comparable Supply" | the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables; |
| "Compliance Officer" | the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations; |
| "Confidential Information" | means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential; |
| "Conflict of Interest" | a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer; |
| "Contract" | has the meaning given to it in Clause 2.3 of the Core Terms. |
| "Contracts Finder" | the Government's publishing portal for public sector procurement opportunities and contract data; |
| "Contract Period" | the term of the Contract from the earlier of the: a) applicable Start Date; or b) the Effective Date until the applicable End Date; |
| "Contract Value" | the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier; |
| "Contract Year" | a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof; |
| "Control" | control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and "Controlled" shall be construed accordingly; |
| "Controller" | has the meaning given to it in the GDPR; |
| "Core Terms" | the Buyer's standard terms and conditions for common goods and services which comprise one part of the Contract the full title of which is Core Terms – Mid-tier version 1.0; |

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| "Costs" | <p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Buyer; b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables; but excluding: <ul style="list-style-type: none"> a) Overhead; b) financing or similar costs; c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise; d) taxation; e) fines and penalties; f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and g) non-cash items (including depreciation, amortisation, impairments and movements in provisions); |
| "Crown Body" | the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), |
| | including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; |
| "CRTPA" | the Contract Rights of Third Parties Act 1999; |
| "DPA" | the Data Protection Act 2018; |
| "Data Protection Impact Assessment" | an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data; |

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| "Data Protection Legislation" | (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy; |
| "Data Protection Officer" | has the meaning given to it in the GDPR; |
| "Data Subject" | has the meaning given to it in the GDPR; |
| "Data Subject Access Request" | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| "Deductions" | all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract; |
| "Default" | any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer; |
| "Delay Payments" | the amounts (if any) payable by the Supplier to the Buyer in respect of a delay: (a) in respect of a Milestone as specified in the Implementation Plan, if used; or (b) in the provision of Deliverables on a date or dates agreed. |
| "Deliverables" | Goods and/or Services that may be ordered under the Contract including the Documentation; |
| "Delivery" | <p>delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract, as confirmed and accepted by the Buyer:</p> <p>(a) where Schedule 8 is not used, by confirmation in writing by the Buyer to the Supplier, which (without limitation) may be done by letter, electronic communication or an appropriate Satisfaction Certificate; or</p> <p>(b) where Schedule 8 (Implementation Plan and Testing) is used, by issue by the Buyer of an appropriate Satisfaction Certificate.</p> <p>"Deliver" and "Delivered" shall be construed accordingly.</p> |
| "Disaster" | the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the "Disaster Period"); |
| "Disclosing Party" | the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential); |
| "Dispute" | any claim, dispute or difference arises out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts; |
| "Dispute Resolution Procedure" | the dispute resolution procedure set out in Clause 34 (Resolving disputes); |
| "Documentation" | descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or |

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| | <p>electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none"> a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables b) is required by the Supplier in order to provide the Deliverables; and/or c) has been or shall be generated for the purpose of providing the Deliverables; |
| "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; |
| "Due Diligence Information" | any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date; |
| "Effective Date" | the date on which the final Party has signed the Contract; |
| "EIRs" | the Environmental Information Regulations 2004; |
| "Employment Regulations" | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC; |
| "End Date" | <p>the earlier of:</p> <ul style="list-style-type: none"> a) the Expiry Date (as extended by any Extension Period exercised by the Buyer under Clause 10.2); or b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract; |
| "Environmental Policy" | to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer; |
| "Estimated Year 1 Charges" | the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form; |
| "Estimated Yearly Charges" | <p>means for the purposes of calculating each Party's annual liability under clause 11.2: i) in the first Contract Year, the Estimated Year 1 Charges; or</p> <ul style="list-style-type: none"> ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period; |
| "Equality and Human Rights Commission" | the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time; |
| "Existing IPR" | any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise); |
| "Expiry Date" | the date of the end of the Contract as stated in the Award Form; |

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| "Extension Period" | such period or periods beyond which the Initial Period may be extended up to a maximum of the number of years in total specified in the Award Form; |
| "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 relevant Government department in relation to such legislation; |
| "Force Majeure Event" | <p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <p>acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</p> <ul style="list-style-type: none"> a) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; b) acts of a Crown Body, local government or regulatory bodies; c) fire, flood or any disaster; or d) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds; |
| "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; |
| "GDPR" | the General Data Protection Regulation (Regulation (EU) 2016/679) |
| "General Anti-Abuse Rule" | <ul style="list-style-type: none"> a) the legislation in Part 5 of the Finance Act 2013 and; 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; |
| "Goods" | goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form; |
| "Good Industry Practice" | standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector; |
| "Government" | the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; |

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| "Government Data" | <p>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, including any of the Buyer's Confidential Information, and which:</p> <p>i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract;</p> |
| "Government Procurement Card" | the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ; |
| "Guarantor" | the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract; |
| "Halifax Abuse Principle" | the principle explained in the CJEU Case C-255/02 Halifax and others; |
| "HMRC" | Her Majesty's Revenue and Customs; |
| "ICT Policy" | the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure; |
| "Impact Assessment" | <p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; b) details of the cost of implementing the proposed Variation; c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; d) a timetable for the implementation, together with any proposals for the testing of the Variation; and e) such other information as the Buyer may reasonably request in (or in response to) the Variation request; |
| "Implementation Plan" | the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer; |
| "Incorporated Terms" | the contractual terms applicable to the Contract specified in the Award Form; |
| "Indemnifier" | a Party from whom an indemnity is sought under this Contract; |
| "Independent Control" | where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly; |
| "Indexation" | the adjustment of an amount or sum in accordance with the Award Form; |
| "Information" | has the meaning given under section 84 of the Freedom of Information Act 2000; |
| "Information Commissioner" | the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies; |
| "Initial Period" | the initial term of the Contract specified in the Award Form; |

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| "Insolvency Event" | <ul style="list-style-type: none"> a) in respect of a person: b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or |
| | <ul style="list-style-type: none"> e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or f) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or j) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction; |
| "Installation Works" | all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract; |
| "Intellectual Property Rights" or "IPR" | <ul style="list-style-type: none"> 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 or business names, goodwill, 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; |
| "Invoicing Address" | the address to which the Supplier shall Invoice the Buyer as specified in the Award Form; |
| "IPR Claim" | any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract; |
| "IR35" | the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ; |
| "Joint Controller Agreement" | the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (<i>Processing Data</i>); |
| "Joint Controllers" | where two or more Controllers jointly determine the purposes and means of Processing; |
| "Key Personnel" | the individuals (if any) identified as such in the Award Form; |
| "Key Sub-Contract" | each Sub-Contract with a Key Subcontractor; |

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| "Key Subcontractor" | <p>any Subcontractor:</p> <ul style="list-style-type: none"> a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, <p>and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;</p> |
| "Know-How" | all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding knowhow already in the other Party's possession before the applicable Start Date; |
| "Law" | any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European |
| | Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply; |
| "LED" | Law Enforcement Directive (Directive (EU) 2016/680) |
| "Losses" | all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly; |
| "Lots" | the number of lots specified in Schedule 2 (Specification), if applicable; |
| "Marketing Contact" | shall be the person identified in the Award Form; |
| "Milestone" | an event or task described in the Implementation Plan, if used; |
| "Milestone Date" | the target date set out against the relevant Milestone in the Implementation Plan, if used, by which the Milestone must be Achieved; |
| "Month" | a calendar month and "Monthly" shall be interpreted accordingly; |
| "National Insurance" | contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992; |
| "New IPR" | <ul style="list-style-type: none"> a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same; but shall not include the Supplier's Existing IPR; |

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| "Occasion of Tax Non – Compliance" | <p>where:</p> <ul style="list-style-type: none"> a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> 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 in any jurisdiction 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 in any jurisdiction; and/or b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which 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 Start Date or to a civil penalty for fraud or evasion; |
| "Open Book Data" | <p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables; b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables; ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade; |
| | <ul style="list-style-type: none"> iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and iv) Reimbursable Expenses, if allowed under the Award Form; c) Overheads; d) all interest, expenses and any other third-party financing costs incurred in relation to the provision of the Deliverables; e) the Supplier Profit achieved over the Contract Period and on an annual basis; f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier; g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and h) the actual Costs profile for each Service Period; |
| "Overhead" | <p>those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";</p> |
| "Parliament" | <p>takes its natural meaning as interpreted within by Law;</p> |

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| "Party" | the Buyer or the Supplier and "Parties" shall mean both of them where the context permits; |
| "Personal Data" | has the meaning given to it in the GDPR; |
| "Personal Data Breach" | has the meaning given to it in the GDPR; |
| "Prescribed Person" | a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowingthe-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribedpeople-and-bodies ; |
| "Progress Meeting" | a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative; |
| "Progress Meeting Frequency" | the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Award Form; |
| "Progress Report" | a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates; |
| "Progress Report Frequency" | the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Award Form; |
| "Prohibited Acts" | <ul style="list-style-type: none"> a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or c) committing any offence: <ul style="list-style-type: none"> i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or ii) under legislation or common law concerning fraudulent acts; or |
| | <ul style="list-style-type: none"> iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; 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; |
| "Protective Measures" | <p>technical and organisational measures which must take account of: a)</p> <p>the nature of the data to be protected</p> <p>b) harm that might result from Data Loss Event;</p> <p>c) state of technological development</p> <p>d) the cost of implementing any measures</p> <p>including but not limited to pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p> |
| "Recall" | a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance; |
| "Recipient Party" | the Party which receives or obtains directly or indirectly Confidential Information; |

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| "Rectification Plan" | the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan Template) which shall include: a) full details of the Default that has occurred, including a root cause analysis; b) the actual or anticipated effect of the Default; and c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable); |
| "Rectification Plan Process" | the process set out in Clause 10.4.2 to 10.4.4 (Rectification Plan Process); |
| "Regulations" | the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires); |
| "Reimbursable Expenses" | the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including: a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed; |
| "the Buyer's Confidential Information" | c) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR); d) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and information derived from any of the above; |
| "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 pursuant to section 9 of the Bribery Act 2010; |
| "Relevant Tax Authority" | HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established; |
| "Reminder Notice" | a notice sent in accordance with Clause 10.6 given by the Supplier to the Buyer providing notification that payment has not been received on time; |
| "Replacement Deliverables" | any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party; |
| "Replacement Subcontractor" | a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor); |
| "Replacement Supplier" | any third-party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer; |
| "Request For Information" | a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs; |
| "Required Insurances" | the insurances required by Schedule 22 (Insurance Requirements); |

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| "Satisfaction Certificate" | the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test; |
| "Schedules" | any attachment to the Contract which contains important information specific to each aspect of buying and selling; |
| "Security Management Plan" | the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable); |
| "Security Policy" | the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier; |
| "Serious Fraud Office" | the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time; |
| "Service Levels" | any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule); |
| "Service Period" | has the meaning given to it in the Award Form; |
| "Services" | services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form; |
| "Service Transfer" | any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor; |
| "Service Transfer Date" | the date of a Service Transfer; |
| "Sites" | any premises (including the Buyer Premises, the Supplier's premises or third-party premises) from, to or at which: <ul style="list-style-type: none"> a) the Deliverables are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided) |
| "SME" | an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises; |
| "Special Terms" | any additional Clauses set out in the Award Form which shall form part of the respective Contract; |
| "Specific Change in Law" | a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date; |
| "Specification" | the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form; |

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| "Standards" | <p>any:</p> <ul style="list-style-type: none"> a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Schedule 2 (Specification); c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time; |
| "Start Date" | the date specified on the Award Form; |
| "Storage Media" | the part of any device that is capable of storing and retrieving data; |
| "Sub-Contract" | <p>any contract or agreement (or proposed contract or agreement), other than a Contract, pursuant to which a third party:</p> <ul style="list-style-type: none"> a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them); |
| "Subcontractor" | any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person; |
| "Subprocessor" | any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract; |
| "Supplier" | the person, firm or company identified in the Award Form; |
| "Supplier Assets" | all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets; |
| "Supplier Authorised Representative" | the representative appointed by the Supplier named in the Award Form, or later defined in a Contract; |
| "Supplier's Confidential Information" | <ul style="list-style-type: none"> a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract; c) Information derived from any of (a) and (b) above; |
| "Supplier's Contract Manager" | the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment; |
| "Supplier Equipment" | the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract; |

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| "Supplier Non-Performance" | where the Supplier has failed to: a) Achieve a Milestone by its Milestone Date; b) provide the Goods and/or Services in accordance with the Service Levels; and/or c) comply with an obligation under the Contract; |
| "Supplier Profit" | in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period; |
| "Supplier Profit Margin" | in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage; |
| "Supplier Staff" | all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract; |
| "Supply Chain Information Report Template" | the document at Annex 1 of Schedule 18 Supply Chain Visibility; |
| "Supporting Documentation" | sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable; |
| "Tender Response" | the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender); |
| "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 the Contract on a specified date and setting out the grounds for termination; |
| "Test Issue" | any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract; |
| "Test Plan" | a plan: a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones; |
| "Tests and Testing" | any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and "Tested" shall be construed accordingly; |
| "Third Party IPR" | Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables; |
| "Transferring Supplier Employees" | those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date; |
| "Transparency Information" | the Transparency Reports and the content of the Contract, including any changes to this Contract 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 Buyer; and (ii) Commercially Sensitive Information; |
| "Transparency Reports" | the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports); |
| "Variation" | has the meaning given to it in Clause 24 (Changing the contract); |
| "Variation Form" | the form set out in Schedule 21 (Variation Form); |
| "Variation Procedure" | the procedure set out in Clause 24 (Changing the contract); |

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| "VAT" | value added tax in accordance with the provisions of the Value Added Tax Act 1994; |
| "VCSE" | a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives; |
| "Worker" | any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815tax-arrangements-of-appointees) applies in respect of the Deliverables; and |
| "Working Day" | any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form. |
| "Work Day" | 7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; |
| "Work Hours" | the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks; |

Schedule 2

Maintenance of Trace Detection Equipment & Related Training - Specification of Requirements

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1. Introduction
2. General Maintenance Requirements
3. Planned Maintenance Visits
4. Reactive Maintenance Visits
5. Drugs Library Updates and Maintenance
6. Training Requirements
7. Appendix A – Technical Details of Planned Maintenance and Repair Visits

1. Introduction

- 1.1 This Schedule sets out the Buyer's requirements.
- 1.2 The Buyer requires an agreement to fully maintain the existing Rapiscan 3E and 4DN models, which perform the detection of a range of controlled drugs concealed within a wide variety of personal effects.
- 1.3 For all Deliverables, the Supplier must help the Buyer comply with any specific applicable standards.
- 1.4 The Goods must be in full compliance with all relevant UK and EU Regulations.
- 1.5 The primary requirement is to detect a range of drugs controlled under the UK Misuse of Drugs Act 1971 with a high degree of accuracy whilst delivering minimal erroneous or 'false positive' results. The requirements are detailed herein.
- 1.6 For the avoidance of doubt the desirable requirements are listed at; 2.17.
All the remaining requirements in this schedule are all mandatory and must be met by the Supplier.

2. General Maintenance Requirements

- 2.1 **Maintenance Service - availability:**
The Supplier shall make available planned and reactive maintenance and repair services as detailed within this Schedule for a period of up to **10 years**.
- 2.2 **Operator Manuals:**
Where requested by the Buyer, the Supplier must provide soft and hard copies of the maintenance and operator manuals in English for each installed site, with the licence for the Buyer to reproduce without copyright costs. Maintenance and operator manuals can be made available to the Buyer in Welsh. Costs and lead times to be agreed by the parties in advance of any formal requests by the Buyer for operator manuals to be provided in Welsh.
- 2.3 **Labour and Materials:**
The Supplier must provide all the labour, materials and equipment necessary to carry out the planned and reactive maintenance services as contracted, including consumables and test pieces.
- 2.4 **Consumable Items:**
 - 2.4.1 Replacement consumable items and spares must be held in UK stock for a period of 10 years from purchase or refurbishment date of the Goods. Consumable items must be available for delivery within 36 hours of order receipt (excluding weekends and UK public holidays).

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- 2.4.2 A catalogue of consumable items (not spares) that are required for operational use must be provided. This must include as a minimum and as where required: descriptions; unit of measure; lead times; lifespan; quality standards and; pricing, with pricing details included within **Schedule 3 (Charges)**. The Buyer or the Supplier may propose amendments to the consumable items or accessories within the catalogue. Where this occurs, the Supplier must provide fully transparent pricing and any supporting information including, but not limited to, lead times, pricing and other manufacturing or quality data which the Buyer may reasonably require. Any amendment to the catalogue must be confirmed through a Contract Variation Form.
- 2.4.3 The Supplier must maintain a stock of all consumables, service components and frequently needed parts. The Buyer is not in a position to provide storage for such items. These must be readily available to all Supplier field service personnel.
- 2.5 Spare Parts:**
- 2.5.1 The Supplier must provide a comprehensive list of spare parts including UK stock holding (including location), price, with pricing details included within **Schedule 3 (Charges)** and lead times, both for engineers and user installation purposes.
- 2.5.2 Spares that commonly fail must be kept in engineer's vehicles to facilitate a first-time fix
- 2.6 New Original Spares & Consumables:**
All consumables and spares supplied must be new original equipment manufacturer (OEM) parts, rather than refurbished or cannibalised parts, unless agreed upfront in writing by the Buyer and must be of equal or better quality and not affect the safety of the operation nor invalidate any Goods warranties.
- 2.7 Safety Requirements:**
The Supplier must undertake all maintenance and repair work in accordance with the requirements of IRR17 and all other safety requirements.
- 2.8 Quality:**
The Supplier will be expected to have a commitment to quality and will be required to ensure and demonstrate that any downtime is kept to a minimum and that all maintenance and repair work is both necessary and cost-effective.
- 2.9 Operational Standards:**
All maintenance and repair work undertaken by the Supplier must be such that the Goods thereafter perform to the operational standard as determined by the manufacturer's original specification and the Buyer requirements.
- 2.10 Remedial Work:**
Any extra or remedial work arising from the Supplier not completing work to the required standard is to be undertaken by the Supplier at no additional cost to the Buyer.
- 2.11 Service Report & Expensive Repair Threshold:**
On completion of any work to any of the Goods, whether in the course of a planned or reactive maintenance visit, the Supplier's engineer must (before leaving the premises) complete a service or work report showing as a minimum the time of the engineer's arrival at and departure from the site and the details of any work done and / or which, in consultation with the Buyer, is agreed or proposed to be undertaken at a later date. Proof of satisfactory completion of the repair to be provided by the Buyer by way of appropriate sign-off and appropriately recorded – process details to be agreed. This service / work report will be completed electronically and will be e-mailed

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automatically to the Buyer (contact details to be agreed) and also be made available to the MoJ as reasonably required.

Any additional costs associated to work due to be carried out must also be provided to the Buyer for approval before the works take place. If required, depending on the service package selected by the Buyer in any particular yearly period, a financial threshold will be provided by the Buyer (Expensive Repair Threshold). Where repair costs are forecast to be above this level, further authority must be provided by the Buyer before the repair can proceed. Operational details to be agreed between the parties prior to the introduction of this process, should it become a requirement.

2.12 Telephone Service:

The Supplier must have fully trained and experienced personnel available for the provision of technical advice by telephone to all sites in order to avoid unnecessary reactive maintenance visits. Technical advice telephone service will be available via a call-back service. See below for details.

- Response to Telephone support – Same day (if original fault is booked before 3pm on a Working Day).
- If call received post 3pm, engineer will be booked at the time the call is received and a callback will be made early next morning (before 10.00 am). Engineer may be cancelled if not required after the call-back.
- Response time to site will be as per relevant service levels (see Schedule 10, Service Levels) and the time measurement of the response time will commence from the time the fault is first reported (and not from the time of any telephone service call back).

2.13 Monthly Contract Management Meetings:

The Supplier will be expected to attend at least one monthly contract management meeting with the Buyer to review Supplier performance and any outstanding issues raised by the Buyer or the Supplier.

2.14 Asset Register:

The Supplier must maintain an asset register of all existing Itemiser 3E and 4DN's for each site. The report should include as a minimum:

- The unit model (IT3E & 4DN models)
- Month/ year the equipment was purchased or last refurbished
- Date of the last drug library update
- Full Planned Maintenance visit schedule for the following 6 months (minimum)
- Date attended the Planned Maintenance visit
- Date of the last reactive maintenance visit and brief description of the work completed. This log must also include the date the fault was reported by the Buyer.
- Date of the last drug library update
- Drug Library Algorithm Version
- Library – Full Drugs listing [note: may be logged in separate file if required]
- Software Version

The latest Asset Register must be shared with the Buyer at least one week prior to the contract management meetings, or as otherwise requested by the Buyer. The Buyer, acting reasonably, may request changes to the Asset Register requirements from time to time and may also require ad-hoc reports or information to be provided by the Supplier. All such ad-hoc reports and information requests to be provided as soon as reasonably possible and in a timely manner.

2.15 Contract Account Manager:

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The Supplier must provide a nominated Contract Account Manager responsible for escalation for any issues or queries by the Buyer. A contact name and contact details must be provided by the Supplier for this requirement.

2.16 Licences

The Goods must operate without the cost of ongoing, periodic software licences.

2.17 System Networking

Where the Goods have networking functionality available, the Supplier will maintain the networking capability as part of all servicing, maintenance and repair services as required., for the purposes of:

- 1) Remote diagnostic and fixes
- 2) Firmware / software updates
- 3) Library updates

2.18 Radiation Emissions

For information, at point of initial supply, radiation emissions, controls and safety systems must be fully compliant with IRR17 and all other applicable legislation regulating the ownership and use of such Goods in the UK and EU. It then becomes the responsibility of the Buyer to arrange regular RPA inspections to be undertaken in line with required regulations. For clarity, the Buyer has a contract with a specialist supplier to undertake yearly wipe tests. (No need for Rapiscan pricing within Charges Schedule 3.)

The IT3E model does require IRR17 compliance. The 4DN model is a non-radiation process therefore not applicable.

2.19 Transportation of Goods containing a Radiation Source

If any transportation of Goods containing a radiation source is required, the Goods must be transported within all applicable regulations.

2.20 Goods Decommissioning

The Supplier must provide a decommissioning service for the safe removal and disposal of the Goods when the Buyer requests this service. Related charges are detailed within Schedule 3 (Charges).

2.21 Parts Availability: The availability of all manufacturer's parts for the Goods' must be guaranteed for a minimum period of ten (10) years) from date of original installation, in order that the Goods can be maintained and kept in full working order.

2.22 Parts Delivery:

Efficient and effective arrangements for securing the delivery to any prison location of any part required for the continued operation of the Goods must be maintained throughout the expected ten (10) year minimum lifespan of the Goods.

2.23 Additional Charges:

Where faults can be remedied or repairs effected but subject to an additional charge for whatever reason, the Buyer must approve any such expenditure before the work is started. Please see section 2.11 above.

2.24 Removal of Goods:

The Supplier must not remove any Goods (in whole or part) from the Buyer premises without the written consent of the Buyer and any Goods so removed will remain the Buyer's property and may not be disposed of without the Buyer's prior written approval.

2.25 Economic Viability:

The Supplier will be expected to be pro-active in identifying and reporting to the Buyer any Goods that cannot be economically maintained due to age or wear and tear.

2.26 Engineers Vetting Clearance:

Any Supplier staff or Sub-Contractors entering prison Sites will be required to obtain and maintain UK security clearance to carry out installation and maintenance Services for the duration of the Agreement. This shall be set at Enhanced Level 1 as standard. For High Security Premises Enhanced Level 2 is required in addition to a Counter Terrorism Check (CTC).

The Buyer will provide information to allow the Supplier to secure security clearance as required for all relevant Supplier staff. Details and timelines to be discussed and agreed between the Parties, both Parties acting reasonably.

2.27 Remedial or Repair Work:

All planned and reactive maintenance tasks must be completed during the initial planned or reactive maintenance visits. Any remedial work, repair or rectification of faults which is identified as necessary must, where possible, be completed during the relevant routine planned or reactive maintenance visits without the need to make a second or subsequent visit.

In the event that remedial or repair work cannot be completed during the initial visit or if it is agreed between the Supplier and the Buyer that any further work may be completed at a later date this must be completed as per Schedule 10, Service Levels, in order to minimise Goods' downtime.

The Supplier must also provide the Buyer with a full service / work report as detailed within Section 2.11 above.

2.28 Operational Condition

The work to be carried out by the Supplier on a planned or reactive maintenance visit must be such as is needed to maintain the Buyer' Goods in a fully operational condition at all times in accordance with the manufacturer's requirements.

3. Planned Maintenance Visits

3.1 Planned Maintenance Visits – Availability:

The Supplier agrees to offer Planned Maintenance Visits to the Buyer throughout the term of this agreement, to be carried out upon the Goods listed within Schedule 37, Asset Register.

3.2 Planned Maintenance Visits - Capability

The Supplier must be capable of delivering up to **FOUR (4)** planned maintenance visits per Goods per site per annum (See Appendix A Options 1 & 2), to be carried out upon the Goods listed within Schedule 37, Asset Register.

3.3 Multiple Goods on Site:

Where the Supplier has Goods already on site with a servicing schedule it is expected, to minimise cost and disruption that the Supplier will give the option for all Goods to be serviced/maintained during the same site visit.

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3.4 Scheduling of Planned Maintenance Visits:

- 3.4.1 The necessary planned maintenance visits are to be undertaken between the hours of 9.00 and 17.00 Monday – Friday [excluding Bank Holidays], though the Buyer may exceptionally require work to be completed outside of these hours for operational reasons, to be agreed in advance with the Supplier.
- 3.4.2 Supplier must plan and schedule all maintenance visits (planned and reactive) directly with the prisons in accordance with Schedule 36 of the contract. All planning schedules to be agreed with the Buyer in advance of any Planned Maintenance Visits taking place. This schedule must be available to the Buyer for review at any time.
- 3.4.3 At the commencement of the contract arrangements, the planned maintenance programme shall be agreed in advance of the commencement of the visits. These visits shall commence as soon as possible after contract start date. The commencement date of subsequent visits for each site will be fully agreed with the supplier at least six (6) months in advance on an ongoing basis.
- 3.4.4 The Supplier is required to confirm to each prison site in writing the contact details of the engineer(s) attending the site with no less than five (5) working days' notice of the intended visit. Confirmation of the date and time of the visit should also be stated. This communication should also include a list of any equipment the Supplier shall carry with them into the prison for the visit.

3.5 Technical Details of Planned Maintenance Visits:

Full technical details of the inspections and maintenance work to be carried out during a Planned Maintenance Visit are included within Appendix B, Technical Details of Planned Maintenance Visit.

3.6 Pricing:

Pricing details for all Planned Maintenance Visits options are included within Schedule 3, Charges.

3.7 Schedule 10, Service Levels:

Schedule 10, Service Levels contains further details of the operational aspects of the Planned Maintenance Visits.

4. Reactive Maintenance Visits

4.1 Reactive Maintenance Visits:

The Supplier agrees to provide Reactive Maintenance Visits to the Buyer throughout the term of this agreement, details contained herein, to be carried out upon the Goods listed within Schedule 37, Asset Register.

4.2 Pre-Qualification Phone Call

Following a reported fault by the Buyer, at no additional cost, a pre-qualification phone call must be made by the Supplier BEFORE a visit is scheduled to enable the following;

- Full assessment of the issue and whether a visit is required or not and clear justification given to the Buyer by the Supplier of a requirement to visit the site to repair the fault.
- The Supplier to attempt to repair the fault over the telephone, where possible as per requirement at 2.12 to avoid unnecessary cost to the Buyer.
- Support spare part planning of the visit to avoid unnecessary machine downtime/ need for the Supplier to make a subsequent visit to repair the fault.

4.3 Critical Failure Response

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Where the Goods operation is impacted or there are Health & Safety issues (Critical Failure), the Supplier shall undertake a pre-qualification phone call, per Clause 4.2 above, and if required, undertake a service visit to ensure the reported issue is resolved within agreed Service Levels as detailed within Schedule 10, Service Levels. Service visit repairs will be undertaken as per manufacturer's recommendations and in line with Appendix A (technical checklists) below. See also Schedule 3 (charges) for details of service packages available.

4.4 Non-Critical Failure Response

Where the Goods remains safe to operate and the performance is not affected (Non-Critical Failure), the Supplier shall undertake a pre-qualification phone call, per Clause 4.2 above, and if required, undertake a service visit to ensure the reported issue is resolved within agreed Service Levels as detailed within Schedule 10, Service Levels. Service visit repairs will be undertaken as per manufacturer's recommendations and in line with Appendix A (technical checklists) below. See also Schedule 3 (charges) for details of service packages available.

4.5 Pricing:

Pricing details for Reactive Maintenance callouts are included within Schedule 3, Charges.

5. Drugs Library Updates and Maintenance

5.1 Drugs Library Update – Provision of Service

The Supplier agrees to provide Drugs Library Updates to the Buyer throughout the term of this agreement, details contained herein, to be carried out upon the Goods listed within Schedule 37, Asset Register.

5.2 Drugs Library Updates

5.2.1 Development of New Drugs to be added to the Drugs Library (upon request by the Buyer)

Following written communication to the Supplier of a new drug required to be added to the Goods library, the Supplier must develop detection algorithms for new drugs and be ready to deploy an updated drugs library to Goods on site/ in prisons at the Buyer's request within 12 weeks, or as otherwise agreed by the Buyer and confirmed in writing. Such updates to be undertaken upon all Goods as listed within Schedule 37, Asset Register.

Steps in Process as Follows:

- Sample Collection
- Analysis
- Definition
- Vetting of Definition (inclusive of filtering to remove an potential items that may cause a false alarm)
 - Clean definition to be added to the Drug Library and the removal of expired versions
 - Buyer approval
 - Approved release of the drug library update to be loaded into units

5.2.2 Drugs Library Updates developed from wider industry sources

Any drugs algorithms developed by the Supplier for wider industries shall be made available to the Buyer with the option of incorporating such drug algorithms to the Buyer drug library updates from

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this source at no extra cost to the Buyer. These such drug algorithms will be made available to the Buyer to be updated as part of planned preventative maintenance visits.

5.3 Previously developed drug algorithms

The Supplier should make available any algorithm updates previously developed for the Buyer to any Goods as listed within Schedule 37, Asset Register, as necessary during Planned Maintenance visits at no additional cost to the Buyer.

5.4 Drug Activation and Deactivation

The Goods shall have the capability to activate and deactivate drugs contained in the existing detection algorithm by either the Supplier or the Buyer.

5.5 Updating Goods with an Updated Drug Library – Buyer Approval

The detection algorithm must only be changed following formal consultation with the approved Buyer contact points, which will be communicated with the Supplier in writing. Any changes must be applied to all Goods purchased, unless instructed differently by the Buyer.

5.6 Equipment Updates

In order to update existing equipment to the latest agreed version of the detection algorithms, drug library updates must be completed if required as part of planned preventative maintenance (PPM) visits, unless instructed differently by the Buyer on an ongoing basis. Such updates to be undertaken upon all Goods as listed within Schedule 37, Asset Register. Please see Schedule 3 (Charges) for related costs, where applicable.

5.7 Drug Library Updates – Level of Accuracy

A written test report relating to any particular Drug Library Update shall be provided by the Supplier when requested by the Buyer. This report shall confirm evidence of the development and testing undertaken by the Supplier during development to include evidence that the new drug has the necessary detection capability. If regular reports are required, both parties, acting reasonably, to agree content, frequency and timings.

5.8 Drug Samples

If the Supplier has a requirement for a sample for testing purposes it is the responsibility of the Supplier to obtain these.

5.9 Compliance with all Drug Handling Legislation

The Supplier must ensure its compliance with all UK legislation and any licensing requirements regarding the handling of drug samples during the contract.

5.10 Pricing and Service Levels:

Pricing details for Drugs Library updates are included within Schedule 3, Charges. Service Level details are included within Schedule 10 (Service Levels)

6. Training

6.1 Basic Training

Basic instructions are available by using the User Manuals as provided.

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Standard 1 x Day Operator training available for purchase at time of install however, will not be applicable to this contract as no new units will be purchased under this contract.

6.2 Language:

The Supplier must provide training and training packs in English relevant to the course delivered to enable ongoing training of operators. Training and training packs can be made available to the Buyer in Welsh. Costs and lead times to be agreed by the parties in advance of any formal requests by the Buyer for training to be provided in Welsh.

6.3 Available Personnel:

The Supplier must have the capacity and suitably trained personnel to cover all agreed training requirements, to be carried out upon the sites listed within Schedule 37, Asset Register, where requested.

6.4 Training course content:

6.4.1 Goods training course content must include the operation, calibration and effective use of the Goods. The Buyer reserves the right to modify training course content as appropriate and has the right of review and approval at mobilisation.

6.4.2 The Supplier must work with the Buyer to develop the training courses to incorporate the operational environment.

6.5 Train the Trainer:

The Supplier must be capable of delivering train the trainer courses to provide Buyer staff (super users) with administrator privileges and the capability to train other Goods users.

6.6 Available Courses:

The Supplier must be capable of delivering the following training courses;

1. Basic Instructions (as available by using the User Manuals).
2. On-Line Training.
3. One-Day Standard Operator courses, to be available on-site and via webex.
4. Refresher training courses.
5. Train the trainer courses.

6.7 Documentation:

All required documentation will be provided to all attending students as required. All students are granted unlimited On-Line training log-in access for a full year, giving access to all training materials and documentation.

Hard copy documentation can be provided if required at no additional cost. All courses have the ability for certificates to be printed out by the trained user, at any time.

6.8 Pricing and Further Details:

Pricing and further details for all Training services options are included within Schedule 3, Charges.

Schedule 3

Charges

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8. How Charges are Calculated 9. Ministry of Justice (MoJ) Bronze Packages 10. Reactive Maintenance Visits 11. Ministry of Justice (MoJ) Silver Packages 12. Ministry of Justice (MoJ) Gold Packages 13. Parts Charges 14. Consumables 15. Drugs Library Updates and Maintenance 16. Training Requirements 17. Goods Decommissioning

Pricing and Payment details are included within Core Terms, Section 4 (Pricing and Payments).

7. How Charges are Calculated

7.1 This Schedule sets out the Charges for the Goods and Services to be provided under this agreement relating to the Electronic Trace Detection Units (ETDs). All prices are exclusive of VAT.

7.2 All services provided are in reference to the services detailed within Schedule 2 (Specification) and Schedule 10 (Service Levels).

7.3 All services provided shall be delivered in line with Schedule 2 (Specification) and Schedule 10 (Service Levels).

7.4 Bespoke Service Packages are offered by the supplier on a menu basis for the Buyer to select as required on an annual basis. These bespoke packages are titled as follows with full charging details provided within this Schedule:

- MoJ Bronze
- MoJ Silver
- MoJ Gold

For clarity, these are bespoke MoJ packages only and should not be confused with the standard Rapiscan Bronze Silver and Gold packages as made available to the wider Rapiscan customer base.

7.5 Fixed Pricing:

Other than as specified within Sections 6 (Parts Charges) and 7 (Consumable Charges) below where indexation applies, and also Section 9.7 (Training) where the pricing will be reviewed after the first 12-month operational period (see 9.7 for details), all prices shall remain fixed for the term of this Agreement.

7.6 When the Charges are Linked to Inflation:

7.6.1 Any amounts or sums in this Agreement which are expressed to be “subject to Indexation” shall be adjusted in accordance with the provisions of this Paragraph 4 to reflect the effects of inflation.

7.6.2 All Charges shall be subject to CPIH indexation. CPIH is the Consumer Prices Index including owner occupiers’ Housing costs (UK) (ONS Series L522).

7.6.3 Where Indexation applies, the relevant adjustment shall be as follows:

7.6.3.1 The first indexation review date shall be the first day of the month of the third Contract Year and subsequent review dates shall be each anniversary of this date thereafter (each such date an “adjustment date”).

7.6.3.2 The applicable Indexation adjustment shall be measured by changes in the relevant published index for that Contract Year. The amount, sum or rate at a point in time will then be adjusted by application of the following formula: $AMI = (AMU \times IndexN/Index(N-1))$

Where:

AMI is the indexed amount, sum or rate for the relevant Contract Year;

AMU is the unindexed amount, sum or rate for the relevant Contract Year. This shall be the amount, sum or rate at the commencement of the relevant Contract Year (which shall be inclusive of all indexation uplifts up to and including Contract Year (N1));

IndexN is the value of the index published for the month three months prior to the date at which indexation is being applied; and

Index(N-1) for all indexation review dates other than the First Indexation Review Date, is the value of the index published for the month three months prior to the date of the commencement of the Contract Year (N-1). For the First Indexation Review Date this shall be the published index for November 2020.

1.6.4 Except as set out in this Paragraph 1.6, neither the Charges nor any other Costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-contractors of the performance of their obligations.

7.7 Other Events that allow the Supplier to change the Charges

The Charges can also be varied (and this Schedule 3 (Charges) will be updated accordingly) due to:

- 7.7.1 a Specific Change in Law in accordance with Core Terms, Clause 24;
- 7.7.2 a review in accordance with insurance requirements in Core Terms, Clause 13;
- 7.7.3 a request from the Supplier, which it can make at any time, to decrease the Charges; and
- 7.7.4 indexation, where Schedule 3 states that a particular Charge or any component is “subject to Indexation” in which event Paragraph 1.6 above shall apply.

8. “MoJ Bronze Packages”

8.1 “MoJ Bronze 2”

2 Planned Preventative Visits to be undertaken per annum.
(REDACTED)

8.2 “MoJ Bronze 4”

4 Planned Preventative Visits to be undertaken per annum.

(REDACTED)

9. Reactive Maintenance Visits

9.1 Reactive Maintenance Call-Out Charge (Critical Failures) - pay on use (Bronze Cover only):

- 9.1.1 Critical Failures means where the Goods operation is impacted or there are Health & Safety issues as detailed within Schedule 2, Section 4.3 (Critical Failure Response).
- 9.1.2 This charge is applicable to each individual chargeable Reactive Maintenance Visit for Critical Failures, where an engineer site visit has taken place and the reported fault has been resolved.
- 9.1.3 Charge to include all labour costs, including labour costs relating to any further visits required to rectify the reported fault.
- 9.1.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.
- 9.1.5 To include all consumables required to undertake the Planned Maintenance Visit.

9.1.6 The Reactive Maintenance Call-Out Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

9.1.7 **24 Response Time.** Standard working Week – excluding weekends and public holidays

(REDACTED)

9.2 Reactive Maintenance Call-Out Charge (Non-Critical Failures) - pay on use (Bronze Cover Only)

9.2.1 Non-Critical Failures means here the Goods remains safe to operate and the performance is not affected (Non-Critical Failure) as detailed within Schedule 2, Section 4.4 (Non-Critical Failure Response).

9.2.2 This charge is applicable to each individual chargeable Reactive Maintenance Visit for Non-Critical Failures, where an engineer site visit has taken place and the reported fault has been resolved.

9.2.3 Charge to include all labour costs, including labour costs relating to any further visits required to rectify the reported fault.

9.2.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.

9.2.5 To include all consumables required to undertake the Planned Maintenance Visit.

9.2.6 The Reactive Maintenance Call-Out Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

9.2.7 **48 Hour Response Time.** Standard working Week – excluding weekends and public holidays.

(REDACTED)

10. “MoJ Silver Packages”

10.1 “MoJ Silver 2 – 24 Hour Response Time”

10.1.1 **2 Planned Preventative Visits** to be undertaken per annum

10.1.2 Charge **to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

10.1.3 To include unlimited call outs.

10.1.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.

10.1.5 To include all consumables required to undertake the Planned Maintenance Visit.

10.1.6 This Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

10.1.7 **24 Hour Response Time.** Standard working Week – excluding weekends and public holidays

(REDACTED)

10.2 “MoJ Silver 4 – 24 Hour Response Time”

10.2.1 **4 Planned Preventative Visits** to be undertaken per annum

10.2.2 Charge **to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

10.2.3 To include unlimited call-outs.

10.2.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.

10.2.5 To include all consumables required to undertake the Planned Maintenance Visit.

10.2.6 This Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

10.2.7 **24 Hour Response Time**. Standard working Week – excluding weekends and public holidays

(REDACTED)

10.3 “MoJ Silver 2 – 48 Hour Response Time”

10.3.1 **2 Planned Preventative Visits** to be undertaken per annum

10.3.2 Charge **to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

10.3.3 To include unlimited call-outs.

10.3.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.

10.3.5 To include all consumables required to undertake the Planned Maintenance Visit.

10.3.6 This Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

10.3.7 **48 Hour Response Time**. Standard working Week – excluding weekends and public holidays

(REDACTED)

10.4 “MoJ Silver 4 – 48 Hour Response Time”

10.4.1 **4 Planned Preventative Visits** to be undertaken per annum

10.4.2 Charge **to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

10.4.3 To include unlimited call-outs.

10.4.4 To include all related travel costs and expenses, including mileage charges and accommodation charges.

10.4.5 To include all consumables required to undertake the Planned Maintenance Visit.

10.4.6 This Charge does not include the cost of Parts, which shall be charged separately, as per Section 6 of this Schedule 3 (Parts Charges), below.

10.4.7 **48 Hour Response Time.** Standard working Week – excluding weekends and public holidays

(REDACTED)

11. “MoJ Gold” Service Packages

11.1 “MoJ Gold 2” Service Package

11.1.1 **2 Planned Preventative Visits** to be undertaken per annum

11.1.2 **Charge to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

11.1.3 **Charge to include all parts costs.**

11.1.4 To include unlimited call-outs.

11.1.5 To include all related travel costs and expenses, including mileage charges and accommodation charges.

11.1.6 To include all consumables required to undertake the Planned Maintenance Visit.

11.1.7 **24 Response Time.** Standard working Week – excluding weekends and public holidays

(REDACTED)

11.2 “MoJ Gold 4” Service Package

11.2.1 **4 Planned Preventative Visits** to be undertaken per annum

11.2.2 **Charge to include all labour costs**, including labour costs relating to any further visits required to rectify the reported fault.

11.2.3 **Charge to include all parts costs.**

11.2.4 To include unlimited call-outs.

11.2.5 To include all related travel costs and expenses, including mileage charges and accommodation charges.

11.2.6 To include all consumables required to undertake the Planned Maintenance Visit.

11.2.7 **24 Response Time.** Standard working Week – excluding weekends and public holidays

12. Parts Charges

- 12.1 A full list of all parts required to ensure all planned and reactive maintenance requirements are met are listed as Appendix 1 to this Schedule 3, including pricing details.
- 12.2 No additional costs relating to parts supply shall be chargeable.
- 12.3 Part numbers are subject to change.
- 12.4 Parts prices shall be subject to Indexation as detailed within section 1.6 above.

13. Consumables Charges

- 13.1 A full list of all consumables required to ensure all planned and reactive maintenance requirements are met are listed as Appendix 2 to this Schedule 3, including pricing details (supplier to provide).
- 13.2 No additional costs relating to the supply of consumables shall be chargeable.
- 13.3 Consumable prices shall be subject to Indexation as detailed within section 1.6 above.

14. Drugs Library Updates and Maintenance

- 14.1 Charges relating to Drug Library Updates (new drug development) and also equipment update roll-outs (of updated drug libraries) are detailed within each relevant section above.
- 14.2 Operational details relating to Drug Library updates are included within Schedule 2 (Specification), Section 5 (Drug Library Updates and Maintenance)

15. Training

See also Schedule 2 (Specification), Section 6 (Training).

15.1 Basic Training

Basic instructions are available by using the User Manuals as provided.

Standard 1 x Day Operator training available for purchase at time of install however, will not be applicable to this contract as no new units will be purchased under this contract.

15.2 On-Line Training

On-Line training is available, to provide training certification upon successful completion.

Log-ins are available to purchase on a per annum basis as required for £100 per student. This price is available under this contract only, and per person but not limited to site or numbers.

The licenses for the online training are not transferable between students as it relates to the individuals training certification status/session (Rapiscan License cannot handle multi-users). If a person moves site, their log-in at another site can still be used but as above, the system cannot facilitate the transfer of log in to different users.

Unlimited On-Line training log-in access is available to registered students for a full year with unlimited access, giving access to all training materials and documentation.

(REDACTED)

15.3 Training Delivered by Rapiscan Personnel (One-Day Standard Operator Training Course)

Both the Webex and On-Site options have a maximum attendance of 10 students.

(REDACTED)

Students of either the Webex or On-Site One-Day Standard Operator Training Courses are granted unlimited On-Line training log-in access for a full year, giving access to all training materials and documentation.

15.4 Refresher Courses

Refresher training is available for all students, to include students originally certified on any of the following courses:

- On-Line Course. Ref 9.2 above.
- Webex (One-Day Standard Operator Training Course). Ref 9.3

above. • On-Site (One-Day Standard Operator Training Course). Ref 9.3 above. The refresher training provides students with an additional 12-month access to the On-Line training portal (Learning Management System – LMS). This allows a full on-line refresher course to be undertaken with appropriate re-certification. Access to the system is then available for the full 12-month following period, giving access to all training materials and documentation.

For the avoidance of doubt, the refresher training is identical regardless of the original training course undertaken by the student (either "On-line Course" or "One Day Standard Operator Training Course"), as detailed above.

(REDACTED)

15.5 Train- the -Trainer Courses

This is a 3-day course for up to 6 students per session. Fixed cost of £5,440 inclusive of travel, subsistence and any other incidental costs where applicable. This course can be delivered at a Rapiscan site or any Buyer site (providing necessary power points / projector and unit available to use). The location is at the choice of the Buyer.

The Buyer student, on successful completion of this course, may train other Buyer students, to provide training certification to these students upon their successful completion.

All relevant documentation to be provided to all attending students at no additional cost.

(REDACTED)

15.6 Documentation

As per sections 9.2, 9.3 and 9.4 above, all required documentation will be provided to all attending students as required. All students are granted unlimited On-Line training log-in access for a full year, giving access to all training materials and documentation.

Hard copy documentation can be provided if required at no additional cost.

All courses have the ability for certificates to be printed out by the trained user, at any time.

15.7 Price Review

The pricing structure for training courses will be reviewed in full after the first 12-month operational period. Details of any changes to pricing and any future price reviews to be agreed at that point, both parties acting reasonably.

16. Goods Decommissioning

The Supplier must provide a decommissioning service for the safe removal and disposal of the Goods when the Buyer requests this service as detailed within Schedule 2, Section 2.20.

(REDACTED)

Appendix 1 Parts Listing and Charges (as at date of commencement of this Agreement)

Model 4DN Parts Listing and Charges

(REDACTED)

Model IT3E Parts Listing and Charges

(REDACTED)

Appendix 2 Consumables Listing and Charges

Model 4DN Consumables Listing and Charges

(REDACTED)

Model IT3E Consumables Listing and Charges

(REDACTED)

Signing Page

(REDACTED)

REF: PRJ_3765 TRACE DETECTION – PART 2

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Schedule 4 (Tender)

The Supplier and the Authority have agreed commercial and operational terms under this Agreement as detailed within:

Schedule 2 (Specification)

Schedule 3 (Charges)

Schedule 10 (Service Levels)

Schedule 5 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

| No. | Date | Item(s) | Duration of Confidentiality |
|-----|----------|---|-----------------------------|
| 1 | 20.07.21 | All pricing, including Schedule 3 (Charges) | 1 year |

Schedule 6 (Transparency Reports)

1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-updateto-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.

1.2 Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.

1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.

1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

Annex A: List of Transparency Reports

| Title | Content | Format | Frequency |
|------------------------|------------------------------|---|-------------------------------|
| Performance | Equipment performance | In line with all equipment Technical specifications | Bi annually |
| Charges | As per invoices submitted | Invoice | As and when invoice is raised |
| Key Subcontractors | N/A | N/A | N/A |
| Technical | Checklist | Checklist | Per visit |
| Performance management | Quarterly meetings and KPI's | TBA | Quarterly |

Schedule 7 (Staff Transfer)

1. Definitions

In this Schedule, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

"Employee Liability"

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 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;

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e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-contractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;

f) claims whether in tort, contract or statute or otherwise;

any investigation 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;

"Former Supplier"

a supplier supplying the Deliverables to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Deliverables (or any part of the Deliverables) and shall include any Subcontractor of such supplier (or any Sub-contractor of any such Subcontractor);

"Partial Termination"

the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When the Buyer can end this contract) or 10.6 (When the Supplier can end the contract);

"Relevant Transfer"

a transfer of employment to which the Employment Regulations applies;

"Relevant Transfer Date"

in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D: Pensions, shall include the Start Date, where appropriate;

"Supplier's Final Personnel List"

a list provided by the Supplier of all Supplier Personnel whose will transfer under the Employment Regulations on the Service Transfer Date;

"Supplier's Provisional Supplier Personnel List"

a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

"Staffing Information" in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Laws), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement, gender and place of work;
- (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;

the identity of the employer or relevant contracting Party;

(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;

(e) their wages, salaries, bonuses and profit sharing arrangements as applicable;

(f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;

(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);

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(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

(i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and

(j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

"Term" the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;

"Transferring Buyer Employees" those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date;

"Transferring Former Supplier Employees" in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

3. Which parts of this Schedule apply

Only the following parts of this Schedule shall apply to this Contract:

[Delete items not applicable to the Contract]

- [Part A (Staff Transfer At Start Date – Outsourcing From the Buyer)] ○ [Part B (Staff Transfer At Start Date – Transfer From Former Supplier)] ○ [Part C (No Staff Transfer On Start Date)]
- [Part D (Pensions)]
 - [- Annex D1 (CSPS)]
 - [- Annex D2 (NHSPS)]
 - [- Annex D3 (LGPS)]
 - [- Annex D4 (Other Schemes)]
- Part E (Staff Transfer on Exit)

1. PART A: STAFF TRANSFER AT THE START DATE

2. OUTSOURCING FROM THE BUYER

1. What is a relevant transfer

1.1 The Buyer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-Contractor and each such Transferring Buyer Employee.

1.1.3 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.

2. Indemnities the Buyer must give

2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission by the indemnifying party in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.

2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of the Buyer who is not identified as a Transferring Buyer Employee claims, or it is determined in relation to any employees of the Buyer, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then -

2.3.1 the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;

2.3.2 the Buyer may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;

2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;

2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in this Paragraph 2.3.

2.4 The indemnity in Paragraph 2.3 shall not apply to any claim:

2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

2.4.2 (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure.

2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.

2.6 If the Supplier and/or any Sub-contractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Sub-contractor in respect of any Transferring Buyer Employee or

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any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date.

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and any other sums due under Part D: Pensions.

4. Information the Supplier must provide

The Supplier shall promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. Cabinet Office requirements

5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

5.2 The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.

5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

6. Pensions

6.1 The Supplier shall comply with:

- 6.1.1 all statutory pension obligations in respect of all Transferring Buyer Employees; and
- 6.1.2 the provisions in Part D: Pensions.

3. PART B: STAFF TRANSFER AT THE START DATE

4. TRANSFER FROM A FORMER SUPPLIER ON RE-PROCUREMENT

1. What is a relevant transfer

1.1 The Buyer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-contractor and each such Transferring Former Supplier Employee.

1.2 The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.

2. Indemnities given by the Former Supplier

2.1 Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission by the Former Supplier in

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respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.

2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:

2.3.1 the Supplier will within 5 Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing;

2.3.2 the Former Supplier may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;

2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;

2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

1. and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in Paragraph 2.3.

2.4 The indemnity in Paragraph 2.3 shall not apply to any claim:

2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Supplier and/or any Sub-contractor; or

2.4.2 that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure.

2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.

2.6 If the Supplier and/or any Sub-contractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

3. Indemnities the Supplier must give and its obligations

3.1 Subject to Paragraph 3.1, the Supplier shall indemnify the Buyer, and the Former Supplier against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Sub-contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date.

3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.

3.3 The Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due under Part D: Pensions.

4. Information the Supplier must give

The Supplier shall promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

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5. Cabinet Office requirements

5.1 The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

6. Limits on the Former Supplier's obligations

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer's must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. Pensions

7.1 The Supplier shall comply with:

7.1.1 all statutory pension obligations in respect of all Transferring Former Supplier Employees; and

7.1.2 the provisions in Part D: Pensions.

PART C: NO STAFF TRANSFER ON THE START DATE

1. What happens if there is a staff transfer

1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.

1.2 Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Sub-contractor pursuant to the Employment Regulations then:

1.2.1 the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;

1.2.2 the Buyer may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;

1.2.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;

1.2.4 if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4:

(a) the Buyer will indemnify the Supplier and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2; and

(b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2.

1.3 The indemnities in Paragraph 1.2 shall not apply to any claim:

1.3.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or Sub-contractor; or

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- 1.3.2 any claim that the termination of employment was unfair because the Supplier and/or any Sub-contractor neglected to follow a fair dismissal procedure
- 1.4 The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Start Date.
- 1.5 If the Supplier and/or the Sub-contractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Sub-contractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-contractor.
- 2. Limits on the Former Supplier's obligations**

Where in this Part C the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

5. PART D: PENSIONS

1. Definitions

In this Part D, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

"Actuary" a Fellow of the Institute and Faculty of Actuaries;

"Admission Agreement" means either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement (as defined in Annex D3: LGPS), as the context requires;

"Broadly Comparable" (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and

(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department, and **"Broad Comparability"** shall be construed accordingly;

"CSPA" the schemes as defined in Annex D1 to this Part D;

"Fair Deal Employees" those:

(a) Transferring Buyer Employees; and/or

(b) Transferring Former Supplier Employees; and/or

(c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C;

(d) where the Former Supplier becomes the Supplier those employees;

who at the Start Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer;

"Fair Deal Schemes" means the relevant Statutory Scheme or a Broadly Comparable pension scheme;

"Fund Actuary" means Fund Actuary as defined in Annex D3 to this Part D;

"LGPS" the schemes as defined in Annex D3 to this Part D;

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"NHSPS" the schemes as defined in Annex D2 to this Part D;

"New Fair Deal" the revised Fair Deal position set out in the HM Treasury guidance: *"Fair Deal for Staff Pensions: Staff Transfer from Central Government"* issued in October 2013 including:

(a) any amendments to that document immediately prior to the Relevant Transfer Date; and

(b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the CCS or Buyer; and

"Statutory Schemes" means the CSPA, NHSPS or LGPS.

2. Supplier obligations to participate in the pension schemes

2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.

2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

2.3 The Supplier undertakes:

2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

2.3.2 to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

3. Supplier obligation to provide information

3.1 The Supplier undertakes to the Buyer:

3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and

3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed).

4. Indemnities the Supplier must give

4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified NHS Pensions the Buyer and/or any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter and/or the LGPS Admission Agreement or relates to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Fair Deal Schemes.

4.2 The Supplier hereby indemnifies the NHS Pensions, the Buyer and/or any Replacement Supplier and/or Replacement Sub-contractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

4.2.1 relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or

4.2.2 arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.

4.3 The indemnities in this Part D and its Annexes:

4.3.1 shall survive termination of this Contract; and

4.3.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

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5. What happens if there is a dispute

5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute between the Buyer and the Supplier or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:

5.1.1 who will act as an expert and not as an arbitrator;

5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and

5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and the Supplier unless the independent Actuary shall otherwise direct.

6. Other people's rights

6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.

6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

7. What happens if there is a breach of this Part D

7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or

7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

8. Transferring New Fair Deal Employees

8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations) the Supplier shall and shall procure that any relevant Sub-Contractor shall:

8.1.1 consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and

8.1.2 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.

10. Broadly Comparable Pension Schemes

10.1 If either:

10.1.1 the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and or 4 of Annex D3: LGPS apply; and/or

10.1.2 the Buyer agrees, having considered the exceptional cases provided for in New Fair Deal, (such agreement not to be unreasonably withheld) that the Supplier (and/or its Subcontractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;

the Supplier must (and must, where relevant, procure that each of its Sub-contractors will) ensure that, with effect from the Relevant Transfer Date or if later cessation of participation in the Statutory Scheme until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

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10.2 Where the Supplier has set up a Broadly Comparable pension scheme or schemes pursuant to the provisions of Paragraph 10.1, the Supplier shall (and shall procure that any of its Sub-contractors shall):

10.2.1 supply to the Buyer details of its (or its Sub-contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than 28 days before the Relevant Transfer Date;

10.2.2 fully fund any such Broadly Comparable pension scheme in accordance with the funding requirements set by that Broadly Comparable pension scheme's Actuary or by the Government Actuary's Department for the period ending on the Service Transfer Date;

10.2.3 instruct any such Broadly Comparable pension scheme's Actuary to, and to provide all such co-operation and assistance in respect of any such Broadly Comparable pension scheme as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

10.2.4 provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-contractor's Broadly Comparable pension scheme is terminated;

10.2.5 allow and make all necessary arrangements to effect, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the relevant Statutory Scheme and as is relevant on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal. For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the appropriate Statutory Scheme to fund day for day service ("**Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier; and

10.2.6 indemnify the Buyer and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 above.

Annex D1:

Civil Service Pensions Schemes (CSPA)

1. Definitions

In this Annex D1: CSPA to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

| | |
|-----------------------------------|--|
| "CSPA Admission Agreement" | an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPA in respect of the Services; |
| "CSPA Eligible Employee" | any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPA Admission Agreement; |
| "CSPA" | the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; |

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[**Delete** after 30 September 2018: the Designated Stakeholder Pension Scheme which is scheduled to close to new members in September 2018] and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

2. Access to equivalent pension schemes after transfer

2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the CSPA that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.

2.2 The Supplier undertakes that should it cease to participate in the CSPA for whatever reason at a time when it has CSPA Eligible Employees, that it will, at no extra cost to the Buyer, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a CSPA Eligible Employee with access to a pension scheme which is Broadly Comparable to the CSPA on the date the CSPA Eligible Employees ceased to participate in the CSPA.

Annex D2: NHS Pension Schemes

1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Direction Letter" an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Sub-contractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Eligible Employees;

"NHSPS Eligible Employees" each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or

(b) their employment with a Former Supplier who provides access to the NHSPS pursuant to an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal and were permitted to re-join the NHSPS, having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

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For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee;

"NHS Body"

has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;

"NHS Pensions"

NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;

"NHSPS"

the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations;

"NHS Pension Scheme Arrears"

any failure on the part of the Supplier or its Sub-contractors (if any) to pay employer's contributions or deduct and pay across employee's contributions to the NHSPS or meet any other financial obligations

under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees;

"NHS Pension Scheme Regulations"

as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;

"NHS Premature"

rights to which any Fair Deal Employee (had they remained in the **Retirement Rights"**

employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002

(SI 2002/1311), the NHS (Injury Benefits) Regulations 1995

(SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;

"Pension Benefits"

any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme; and

"Retirement Benefits Scheme"

a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

2. Membership of the NHS Pension Scheme

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors to which the employment of any NHSPS Eligible Employee compulsorily transfers as a result of the award of this Contract, if not an NHS Body or other employer which participates automatically in the NHSPS, must by or as soon as reasonably practicable after the Relevant Transfer Date, each secure a Direction Letter to enable the NHSPS Eligible Employees to retain either continuous active membership of or eligibility for, the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract, and have a right to membership or eligibility of that scheme under the terms of the Direction Letter.

2.2 The Supplier must supply to the Buyer by or as soon as reasonably practicable after the Relevant Transfer Date a complete copy of each Direction Letter.

2.3 The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Eligible Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter.

2.4 The Supplier will (and will procure that its Sub-contractors (if any) will) comply with the terms of the Direction

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Letter, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health in respect of the NHSPS Eligible Employees for so long as it remains bound by the terms of any such Direction Letter.

2.5 Where any employee omitted from the Direction Letter supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Eligible Employee, the Supplier will (and will procure that its Sub-contractors (if any) will) treat that person as if they had been an NHSPS Eligible Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.

2.6 The Supplier will (and will procure that its Sub-contractors (if any) will) as soon as reasonably practicable and at its (or its Sub-contractor's) cost, obtain any guarantee, bond or indemnity that may from time to time be required by the Secretary of State for Health.

3. Access to NHS Pension Schemes after transfer

The Supplier will procure that with effect from the Relevant Transfer Date the NHSPS Eligible Employees shall be either eligible for or remain in continuous active membership of (as the case may be) the NHSPS for employment from (and including) the Relevant Transfer Date.

4. Continuation of early retirement rights after transfer

From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Sub-contractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Eligible Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

5. What the buyer do if the Supplier breaches its pension obligations

5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Sub-contractor) breaches the terms of its Direction Letter. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Sub-contractor) breaches the terms of its Direction Letter.

5.2 If the Buyer is entitled to terminate the Contract or the Supplier (or its Sub-contractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Buyer may in its sole discretion, and instead of exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Subcontractor, as appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Buyer. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Sub-contractors.

5.3 In addition to the Buyer's right to terminate the Contract, if the Buyer is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Buyer will be entitled to deduct all or part of those arrears from any amount due to be paid under this Contract or otherwise.

6. Compensation when pension scheme access can't be provided

6.1 If the Supplier (or its Sub-contractor, if relevant) is unable to provide the NHSPS Eligible Employees with either:

6.1.1 membership of the NHSPS (having used its best endeavours to secure a Direction Letter); or

6.1.2 access to a Broadly Comparable pension scheme,

the Buyer may in its sole discretion permit the Supplier (or any of its Sub-contractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Sub-contractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Eligible Employees. The Supplier must meet (or must procure that the relevant Sub-contractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.

6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract.

7. Indemnities that a Supplier must give

7.1 The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Eligible Employee that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.

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7.2 The Supplier must indemnify and keep indemnified the Buyer, NHS Pensions and any Replacement Supplier against all Losses arising out of the Supplier (or its Sub-contractor) allowing anyone who is not an NHSPS Eligible Employee to join or claim membership of the NHSPS at any time during the Contract Period.

8. Sub-Contractors

8.1 If the Supplier enters into a Sub-Contract for the delivery of all or part or any component of the Services which will involve the transfer of employment of any NHSPS Eligible Employee it will impose obligations on its Sub-contractor in identical terms as those imposed on the Supplier in relation to Pension Benefits and NHS Premature Retirement Rights by this Annex, including requiring that:

8.1.1 if the Supplier has secured a Direction Letter, the Sub-contractor also secures a Direction Letter in respect of the NHSPS Eligible Employees for their future service with the Subcontractor as a condition of being awarded the Sub-Contract and the Supplier shall be responsible for ensuring that the Buyer receives a complete copy of each such Subcontractor direction letter as soon as reasonably practicable; or

8.1.2 if, in accordance with Paragraph 4 of this Annex, the Supplier has offered the NHSPS Eligible Employees access to a pension scheme under which the benefits are Broadly Comparable to those provided under the NHSPS, the Sub-contractor either secures a Direction Letter in respect of the NHSPS Eligible Employees or (with the prior consent of the Buyer) provides NHSPS Eligible Employees with access to a scheme with Pension Benefits which are Broadly Comparable to those provided under the NHSPS whereupon the provisions of Paragraph 10 below (Bulk Transfer Obligations in relation to any Broadly Comparable Scheme) shall apply.

8.2 The Supplier shall procure that each Sub-contractor provides indemnities to the Buyer, NHS Pensions and/or any Replacement Supplier and/or Replacement Sub-contractor that are identical to the indemnities set out in Paragraph 7 of this Annex B. Where a Sub-contractor fails to satisfy any claim made under such one or more indemnities, the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

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Annex D3:

Local Government Pension Schemes (LGPS)

[Guidance: Note the LGPS unlike the CSPA & NHSPA is a funded scheme which has associated cost implications as follows:

There is not 1 LGPS but approx. 90 different Funds, each with their own separate Scheme Employer and Administering Authority, it is important to identify the correct one(s) and amend the definition of "Fund" accordingly.

It is important to check whether the Buyer can actually participate in the LGPS. Where a government department is taking on services which were formerly the responsibility of a Local Authority it may be necessary to obtain secretary of state approval for participation in the LGPS, this is because the services are being provided to Gov. Dept. and not to a Local Authority.

Unlike New Fair Deal the 2007 Best Value pension direction does not provide a right to bulk transfer past service. Whilst typically before the 2007 direction LA did provide such a right, it is a significant additional cost and therefore bulk transfer wording has been excluded. If required take legal advice due to the exceptionally high costs which can result from a requirement to provide bulk transfers.]

1. Definitions

1.1 In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

| | |
|-----------------------------------|--|
| "Administering Authority" | in relation to the Fund [insert name] , the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013; |
| "Fund Actuary" | the actuary to a Fund appointed by the Administering Authority of that Fund; |
| "Fund" | [insert name], a pension fund within the LGPS; |
| "LGPS" | the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme; |
| "LGPS Admission Agreement" | an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013; |
| "LGPS Admission Body" | an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013); |
| "LGPS Eligible Employees" | any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and |
| "LGPS Regulations" | the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS. |

2. Supplier must become a LGPS admission body

2.1 Where the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date, the Supplier

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shall become an LGPS Admission Body and shall on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date.

2.2 The LGPS Admission Agreement must ensure that all LGPS Eligible Employees covered by that Agreement who were active LGPS members immediately before the Relevant Transfer Date are admitted to the LGPS with effect on and from the Relevant Transfer Date. Any LGPS Eligible Employees who were eligible to join the LGPS but were not active LGPS members immediately before the Relevant Transfer Date must retain the ability to join the LGPS after the Relevant Transfer Date if they wish to do so.

2.3 The Supplier shall provide any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.

2.4 The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.

3. Right of set-off

The Buyer shall have a right to set off against any payments due to the Supplier under the Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Supplier (or from any relevant Sub-contractor) under an LGPS Admission Agreement and shall pay such amount to the relevant Fund.

4. Supplier ceases to be an LGPS Admission Body

If the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date and the Supplier either cannot or does not participate in the LGPS, the Supplier shall offer such LGPS Eligible Employee membership of a pension scheme Broadly Comparable to the LGPS.

5. Discretionary benefits

Where the Supplier is an LGPS Admission Body, the Supplier shall award benefits to the LGPS Eligible Employees under the LGPS in circumstances where the LGPS Eligible Employees would have received such benefits had they still been employed by their previous employer. Where such benefits are of a discretionary nature, they shall be awarded on the basis of the previous employer's written policy in relation to such benefits at the time of the Relevant Transfer Date.

Annex D4: Other Schemes

[Guidance: Placeholder for Pension Schemes other than LGPS, CSPA & NHSPA]

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Part E: Staff Transfer on Exit 1. Obligations before a Staff Transfer

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;

1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;

1.1.3 the date which is 12 Months before the end of the Term; and

1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Sub-contractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.

1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall, unless otherwise instructed by the Buyer (acting reasonably):

not replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Personnel (including any payments connected with the termination of employment);

1.5.1 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;

1.5.2 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;

1.5.3 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);

1.5.4 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;

1.5.5 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Sub-contractor;

1.5.6 give the Buyer and/or the Replacement Supplier and/or Replacement Sub-contractor reasonable access to Supplier Personnel and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Sub-contractor in respect of persons expected to be Transferring Supplier Employees;

1.5.7 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;

1.5.8 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the

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Supplier or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect;

1.5.9 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));

1.5.10 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;

1.5.11 fully fund any Broadly Comparable pension schemes set up by the Supplier;

1.5.12 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);

1.5.13 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and

1.5.14 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-contractor in the provision of the Services on the expiry or termination of this Contract.

1.6 On or around each anniversary of the Effective Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:

1.6.1 the numbers of employees engaged in providing the Services;

1.6.2 the percentage of time spent by each employee engaged in providing the Services;

1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and

1.6.4 a description of the nature of the work undertaken by each employee by location.

1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

1.7.1 the most recent month's copy pay slip data;

1.7.2 details of cumulative pay for tax and pension purposes;

1.7.3 details of cumulative tax paid;

1.7.4 tax code;

1.7.5 details of any voluntary deductions from pay; and

1.7.6 bank/building society account details for payroll purposes.

2. Staff Transfer when the contract ends

2.1 A change in the identity of the supplier of the Services (or part of the Services), howsoever arising, may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier agree that where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

2.2 The Supplier shall comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension

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contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.

2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date.

2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations then.

2.5.1 the Replacement Supplier and/or Replacement Sub-contractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;

2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Sub-contractor;

2.5.3 if such offer of employment is accepted, the Replacement Supplier and/or Replacement Sub-contractor shall immediately release the person from its employment;

2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, the Replacement Supplier and/or Replacement Sub-contractor may within 5 Working Days give notice to terminate the employment of such person;

1. and subject to the Replacement Supplier's and/or Replacement Sub-contractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5.

2.6 The indemnity in Paragraph 2.5 shall not apply to:

2.6.1 (a) any claim for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor, or

2.6.2 (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure.

2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.

2.8 If at any point the Replacement Supplier and/or Replacement Sub-contractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.

2.9 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment

Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.10 Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its Sub-contractors against any Employee Liabilities arising from or as a result of any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

2.11 The indemnity in Paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier

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and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Personnel List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 abo

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Schedule 8 (Implementation Plan)

No Implementation Plan required. Repair and Maintenance services to commence immediately upon purchase order being raised.

Schedule 10 (Service Levels)

2. Definitions

2.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

| | |
|--|--|
| "Critical Service" | means where a problem has arisen with the Goods resulting in the operational effectiveness being negatively impacted or where are Health & Safety issues have arisen; |
| "Critical Service Level Failure" | is a failure of the Critical Service Level detailed in Annex A; any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels; |
| "Non-Critical Failure:" | means where a problem has arisen with the Goods, however the Goods remains safe to operate and the performance is not affected; |
| "Service Charge" | is the charge payable by the Buyer to the Supplier for the service plans (Gold, Silver, Bronze etc) purchased within the designated period (annual, quarterly or monthly) – for the full estate . |
| "Service Credits" | shall be as set out within Part A of this Schedule; |
| "Service Credit Cap" | shall be as set out within Part A of this Schedule; |
| "Service Level Failure" | means a failure to meet the Service Level Performance Measure in respect of a Service Level; |
| "Service Level Performance Measure" | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and |
| "Service Level Threshold" | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule. |
| "Service Period" | means monthly, to be in line with the regular supplier review meetings. |
| "Unit Service Charge" | means the charge payable by the Buyer to the Supplier for the service plans (Gold, Silver, Bronze etc) |

purchased within the designated period (annual, quarterly or monthly) – **for one individual unit.**

3. What happens if you don't meet the Service Levels

- 3.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.**
- 3.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.**
- 3.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.**
- 3.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:**
 - 3.4.1 the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or**
 - 3.4.2 the Service Level Failure:**
 - (a) exceeds the relevant Service Level Threshold;**
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;**
 - (c) results in the corruption or loss of any Government Data; and/or**
 - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or**
 - 3.4.3 the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 of the Core Terms (Buyer Termination Rights).**
- 3.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:**

- 3.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
- 3.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
- 3.5.3 there is no change to the Service Credit Cap.

4. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 4.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 4.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("Compensation for Critical Service Level Failure"),
- 4.1 provided that the operation of this paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

Part A: Service Levels and Service Credits

1. Service Levels

If the level of performance of the Supplier:

- 1.1 is likely to or fails to meet any Service Level Performance Measure; or
- 1.2 is likely to cause or causes a Critical Service Failure to occur,
- 1.3 the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:
 1. require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
 2. instruct the Supplier to comply with the Rectification Plan Process;
 3. if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or
 4. if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

2. Service Credits

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall setoff the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

3. Repeat Failures

3.1 If the Supplier fails to achieve the Service Level Performance Measure for two (2) consecutive Service Periods, the second such failure shall be a "Repeat Failure". Any subsequent failure by the Supplier to achieve that same Service Performance Measure shall also be a Repeat Failure. If any Repeat Failure to meet the Service Performance Measure occurs, the value of the Service Credits owed to the Buyer shall increase in accordance with the following Service Multiplier table:

| | |
|---|----------------------------|
| Number of Repeat Failures to meet the Service Level Performance Measure | Service Credits Multiplier |
|---|----------------------------|

| | |
|---------------------|----|
| 0 (initial failure) | x1 |
| 1 | x2 |
| 2 | x3 |

3.2 In the event that the Supplier achieves the Service Level Performance Measure in the following Service Period, the Number of Repeat Failures (as shown above) will be will then be reset to zero.

3.3 In any Service Period, Service Credits will be capped at:

45% of the total amount payable in respect of the Ordered Goods for the Delivery of Devices Service Level Performance Criterion and/or

45% of the total annual amount payable in respect of the maintenance charge during that period for the Planned Maintenance and Reactive Maintenance Service Level Performance Criterion.

3.4 In the event that the Supplier fails to meet any Service Performance Measure for three (3) Service Periods in any Contract Year, then this shall be deemed a material breach and grounds for the termination of the Contract.

Annex A to Part A: Services Levels and Service Credits Table

1. Service Levels

Worked examples for all Service Credit calculations are provided for guidance in section 1.3 below.

| | Service Level Performance Criterion | Service Performance Measure | Service Level Threshold | Service Credit (£) for each Service Period |
|--|--|------------------------------------|--------------------------------|---|
| | | | | |

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| | | | | |
|---|--|--|---|--|
| A | <p>Supply of Goods – Lead Times. To include the supply of consumable items and spare parts.</p> | <p>Goods to be delivered within 3 Working Days.</p> <p>The time measurement will commence on the date the relevant Purchase Order is received by the Supplier.</p> <p>The time measurement will close when the Goods are delivered to their required location in a satisfactory condition.</p> <p>For clarity this Service Level relates to the request for consumables or spare parts ordered by the Buyer and is unrelated to any Service Levels for Planned Preventative or Reactive Maintenance Visits (see below).</p> | <p>95% of Order Fulfilment (based on the number of orders within the monthly timeframe)</p> <p>Perform the Service Level measured against the reported timeframe</p> | <p>Where the Service Level Threshold has not been met, 1% of the order value of the items failing to meet the Service Level Performance Measure (consumables or orderable spare parts, excluding freight charges).</p> <p>Where part of an order has been received, the Service Credit to be calculated on a pro-rata basis (ie against the value of the goods not delivered within the agreed timeframe).</p> <p>Service Credit gained for each working day that the Goods Lead Time is exceeded. Up to a maximum amount of 21% for the order value.</p> <p><i>For the avoidance of doubt, the service credit will apply to the value of the goods / order in question which have been delivered late (NOT the total value of all orders in the month).</i></p> |
| B | <p>Planned Preventative Maintenance</p> | <p>To be measured against the PPM Visit Booking Date as</p> | <p>95% of PPM visits on delivered time against</p> | <p>1% of the quarterly Unit Service Charge (for each individual unit)</p> |

Trace Detection Devices Maintenance and Servicing Agreement

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|---|---|---|---|--|
| | <p>(PPM) Service Schedule</p> | <p>detailed within the PPM Service Schedule.</p> <p>The PPM Service Schedule, Target PPM Visit Dates and PPM Visit Booking dates (per Schedule 2, Section 3 and as defined) to be agreed in advance with the Buyer, to be modified as required following agreed visit dates with individual prisons, which may alter due to prison access restrictions from time to time.</p> <p>The time period between each PPM visit shall at no time be longer than the manufacturer's recommendations. Recommended servicing intervals NOT to be exceeded at any time.</p> | <p>the PPM Visit Booking Date</p> <p>(dates booked with 1 prisons the PPM v to t_z agreed place), PPM as within within the timeframe Service Schedule measured monthly reporting</p> | <p>where the PPM visit is not undertaken within the Service Level Performance Measure).</p> <p>Service Credit gained for each working day that the planned maintenance visit takes place outside of the expected period. Up to a maximum amount of 21% for the Service Period.</p> <p><i>For the avoidance of doubt: the Service Credits are to be calculated against 25% of the annual Unit Service Charge for each individual Trace Detection unit where the PPM visit is not undertaken within the Service Level Performance Measure (not against the value of the total PPM visits arranged for the period). Individual failures, where not rectified will be included as required within future Service Period failure measurements.</i></p> |
| C | <p>Reactive Maintenance:</p> <p>Call Out Attendance Lead times</p> | <p>Agreed lead-times against Critical and Non-Critical failure (See C1 – C5 below).</p> | <p>(See C1 – C5 below).</p> | <p>(See C1 – C5 below).</p> |

Trace Detection Devices Maintenance and Servicing Agreement

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|-----|--|--|--|---|
| C.1 | Reactive Maintenance Critical Failure (where Goods operation is impacted or there are Health & Safety issues) | Further to a pre-qualification call as detailed in Schedule 2 (Specification) and where a site visit is deemed necessary the maximum time for attendance on site by a suitably qualified engineer is: | 95% of Reactive Maintenance (Critical Failure) visits attended within agreed timescale, as measured within each | 1% of the quarterly Unit Service Charge Service Credit gained for each working day that the Reactive Maintenance (Critical Failure) visit is attended outside of the expected period. Up to a maximum amount of |
| | Call Attendance Lead times | Out 1 Working -Day from the time the incident is first reported. For measurement purposes: For this category, repair booking calls received before 5.00 pm on a Working Day will result in an engineer visit by close of business on the next Working Day following the day of booking, in order to comply with this KPI. | monthly reporting timeframe. | 21% for the Service Period. |
| C.2 | Reactive Maintenance – Non- Critical Failure (where the Goods remains safe to operate and the performance is not affected) | Further to a pre-qualification call as detailed in Schedule 2 (Specification) and where a site visit is deemed necessary the maximum time for attendance on site by a suitably qualified engineer is: | 95% of Reactive Maintenance (Non-Critical Failure) visits attended within agreed timescale, as measured within each monthly reporting timeframe. | 1% of the quarterly Unit Service Charge Service Credit g for each working day that the (Non-Maintenance Critical Failure) v attended outside expected period. a maximum amo 21% for the Serviv Period. |
| | Call Attendance Lead times | Out For measurement purposes: For this category, repair booking calls received before 5.00 pm on a Working Day will result in an engineer visit by close of business on the second Working Day following the day of booking, in order to comply with this KPI. | | |

Trace Detection Devices Maintenance and Servicing Agreement

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| C.3 | Reactive Maintenance (Critical & NonCritical Failures)– Repeat Service Percentage of jobs classed as Repeat Service. | Percentage of jobs classed as Repeat Service, where the same fault is reported on the same equipment within 6 months of the previous Completed Job. | No more than 5% of jobs to be classed as Repeat Service, as measured within each monthly reporting timeframe. | 1% of the monthly Service Charge Service Credit gained for each percentage point over the target 5% Repeat Service threshold. Up to a maximum Service Credit amount of (of the monthly Service Charge) for the Service Period. Note: this will monthly charge 1% over the target Repeat Service |
| | | | | threshold (monthly cap of 21% as above). |
| C.4 | Reactive Maintenance (Critical & NonCritical Failures) - First Time Fix: | Completion of repairs on first visit (no subsequent visit required). | 90% of Reactive Maintenance visits to be completed successfully on the first visit, as measured within each monthly reporting timeframe. | 1% of the monthly Service Charge Service Credit gained for each percentage point under the target 90% First Time Fix threshold. Up to a maximum amount of 21% for the Service Period. Note: this will be a monthly charge per 1% under the target 90% First Time Fix. |
| C.5 | Reactive Maintenance (Critical & NonCritical Failures) – Time to Completed Job: | In any event, all repair jobs undertaken to be completed (classed as a Completed Job) within 5 Working Days following the day of booking. | 95% compliance, as measured within each monthly reporting timeframe. | 1% of the monthly Service Charge Service Credit gained for each percentage point under the target 95% Completed Job threshold. Up to maximum amount of 21% for the Service Period. |
| D1 | Time taken to complete the development of New Drug algorithms following | Target time taken to complete development work and make the new final algorithm available to the Buyer shall be no greater than 12 weeks (as | The Supplier must undertake reasonable endeavours to complete the requested development work | Service Charge to be applied as follows: Development work completed within: = Weeks 17-20: (Service |

Trace Detection Devices Maintenance and Servicing Agreement

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|----|---|--|---|---|
| | <p>written communication from the Buyer, through to the new algorithm being available for addition to the Drugs Library.</p> | <p>detailed within Section 5.2 of Schedule 2 (Specification).</p> <p>Service Credits shall become applicable after 16 weeks from the request made by the Buyer for development work to be undertaken.</p> <p>Time measurement will commence upon formal written request from the Buyer.</p> <p>Time measurement will conclude following written notice from the Supplier that the new drug algorithm is ready to be updated to Buyer equipment following completion of all relevant procedures.</p> | <p>within the 12week target.</p> <p>Service Credits shall become applicable after 16 weeks from the request made by the Buyer for development work to be undertaken.</p> | <p>Credit Month 1) at WEEKLY charge 0.1% of annual Service Charge.</p> <p><u>Weeks 21-24:</u> (Service= Credit Month 2) at WEEKLY charge 0.1% of annual Service Charge.</p> <p>Weeks 25-28: (Service= Credit Month 3) Weekly charge at 0.1% of annual Service Charge.</p> <p>Service Credit months 4 onwards) = Weekl charge at 0.1% of</p> |
| | | | | <p>annual Service Charge HOWEVER: Service Level Cap of £5,000 for monthly period would be implemented.</p> <p>Service Credit Cap of £5,000, being the maximum monthly cap for any monthly reporting period.</p> |
| D2 | <p>Drug Library Roll-Out Update (updates to equipment) relating to Site Visits (out-with PPM visits)</p> | <p>When drug library roll-out are being conducted out-with PPM visits (after a special request by the Buyer for a new drug to be added): Rollout to be completed within 12-weeks.</p> | <p>95% of Drug Library Update Visits (outside PPM visits) delivered on time against agreed timescales.</p> | <p>1% of the monthly Service Charge Service Credit gained for each percentage point under the target 95% roll-out compliance threshold. Up to a maximum amount of 21% for the Service Period.</p> |

1.1 For the avoidance of doubt:

- a) Reactive maintenance KPIs (C1-C3) shall be considered to have been met in the event that no callouts or incidents were raised during the reporting period.
- b) Where a site rejects a scheduled or proposed visit for either a PPM visit, Reactive visit or Drug Library Update visit without due or valid cause this shall not count towards the KPI measurement. The Supplier shall however use reasonable endeavours to re-schedule

such visits as soon as possible and to report these re-scheduled visits within the agreed Monthly Reporting process.

- c) In line with details as laid out within all technical documentation and manuals, the purpose of all maintenance undertaken is to ensure trouble-free operation of the equipment, safety and retention of the technical characteristics of the equipment for the specified lifetime.

The Supplier confirms that the PPM KPI timelines above, whereby the PPM service visit will be completed within 4 weeks before or 4 weeks following the Target PPM Visit Date (dates as agreed within the PPM Service Schedule), is compliant with the recommended scheduled maintenance intervals. A time window for the PPM visit to be undertaken is required to ensure reasonable operational flexibility in the scheduling of PPM visits.

1.2 Definitions / Clarification Items

Planned Preventative Maintenance (PPM) Visit Booking Date

The date agreed with the prison for the actual PPM visit to take place (**PPM Visit Booking Date**) as detailed within the PPM Service Schedule.

Planned Preventative Maintenance (PPM) Service Schedule: Planned Preventative Maintenance of the equipment is to be undertaken every 6 or 3 months (2 or 4 times per annum, dependent upon the contract arrangements in place from time to time), as detailed within Schedule 2.

A PPM Service Schedule will be prepared by the Supplier to include details of each individual ETD Unit and agreed with the Authority, to be used for PPM visit planning, booking and reporting purposes.

The PPM Service Schedule will detail the Target PPM Visit Date (the 3 or 6-month anniversary of the previous PPM visit) and also the date agreed with the prison for the actual PPM visit to take place (**PPM Visit Booking Date**). To allow reasonable operational flexibility, the PPM service visit (PPM Visit Booking Date) may be booked within 4 weeks before or 4 weeks following the Target PPM Visit Date.

Target PPM Visit Date:

A planned Preventative Maintenance (PPM) Service Schedule will be prepared by the supplier for each individual ETD unit (detailed above). The PPM Service Schedule will list the **Target PPM Visit Dates**, being either the 3- or 6-month anniversaries of the previous PPM visits (dependent upon the contract in place from time to time which may be for either 2 or 4 PPM visits per annum). Each PPM visit will follow the technical requirements as appropriate and as detailed within the Service Checklist, as detailed within Schedule 2, Appendix B.

Completed Job:

When the repair fault has been rectified by the attending engineer and an Engineer Job Report has been completed, process details within Schedule 2 (Specification).

Repeat Service:

Percentage of jobs classed as Repeat Service, where the same fault is reported on the same equipment within 6 months of the previous Completed Job.

Working Day:

Monday – Friday (9.00 am – 5.00 pm), excluding weekends and UK Bank Holidays.

1.3 The Calculation of Service Credits – Worked Examples

1.3.1 Service Level A

Please read in conjunction with Part 1 of this Appendix A (Service Level A) – Page 6

Service Level: Supply of Goods – Lead Times. To include the supply of consumable items and spare parts.

Assumption made that the Service Threshold is not met within the monthly reporting timeframe:
Threshold = 95% of orders delivered within the Service Level Performance Measure (3 working days) (all figures ex VAT)

Example 1:

Order 1 (full order not delivered)

Order Value £100.00

Order delivered on 10th working day after order placed = 7 days late.

Service Credit = [$£100 \times 1\% = £1$] $\times 7$ days = **£7.00**

Example 2:

Order 2 (full order not delivered)

Order Value £100.00

Order delivered on 28th working day after order placed = 25 days late (21-day cap applies). Service

Credit = [$£100 \times 1\% = £1$] $\times 21$ days = **£21.00**

Example 3:

Order 3 (only part of order not delivered)

Total Order Value £1,000. Value of goods not delivered within target = £300.

Late portion (£300 value) delivered on 15th working day after order placed = 12 days late Service

Credit = [$£300 \times 1\% = £3$] $\times 12$ days = **£36.00**

Note: any late deliveries that are not delivered by the month end to be also included within the following month's service credit calculations, and any subsequent months thereafter. The calculation of the number of day's late in following months to always be taken from the original target delivery date.

Service Level

1.3.2 B

Please read in conjunction with Part 1 of this Appendix A (Service Level B) – Page 7

Service Level: Planned Preventative Maintenance (PPM) Service Schedule

Assumption made that the Service Threshold is not met within the monthly reporting timeframe: **Threshold = 95% of PPM visits delivered on time** against agreed PPM Service Schedule (agreed Target PPM Visit Dates contained therein).

Example 1:

Assumptions / Notes:

- 94% of visits delivered on time. This is below the 95% threshold therefore service credits will be calculated for each service visit attended out-with the date on the agreed PPM Service Schedule.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Only one service visit delivered late – assume 5 days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the PPM visit is not undertaken within the Service Level Performance Measure).
- EG: $1\% \times (£3,555/4) = \textbf{£8.89}$ daily up to 21% cap (**£186.69**) for the Service Period (1 month) for each unit where the PPM visit is late.

Calculation:

5 days late
= 5 x 1% charge
= 5 x (£3,555/4)
= 5 x £8.89
= **£44.45 Service Charge for this one late visit.**

Note: this calculation to be undertaken for each late visit within a reporting period. Individual failures where not rectified by the end of any reporting period will be included as required within future Service Period failure measurements.

1.3.3 C.1

Please read in conjunction with Part 1 of this Appendix A (Service Level C.1 Pages 7 & 8.

Service Level: Reactive Maintenance: Critical Failure

Assumption made that the Service Threshold is not met within the monthly reporting timeframe: **Threshold = 95% of Reactive Maintenance (Critical Failure) visits delivered on time** against agreed timescale.

Service Level

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Example 1:

Assumptions / Notes:

- 94% of visits delivered on time. This is below the 95% threshold therefore service credits will be calculated for each service visit attended out-with the date on the agreed PPM Service Schedule.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Only one repair visit delivered late – assume 25 days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the repair visit is not undertaken within the Service Level Performance Measure).
- EG: $1\% \times (£3,555/4) = \textbf{£8.89}$ daily up to 21% cap (**£186.69**) for the Service Period (1 month) for each unit where the repair visit is late.

Calculation:

25 days late

Cap is 21 days, therefore 21 days maximum charge

= $21 \times 1\%$ charge

= $21 \times (£3,555/4)$

= $21 \times \textbf{£8.89}$

= **£186.69 Service Charge for this one late visit.**

Note: this calculation to be undertaken for each late visit within a reporting period. Individual failures where not rectified by the end of any reporting period will be included as required within future Service Period failure measurements.

1.3.4 C.2

Please read in conjunction with Part 1 of this Appendix A (Service Level C.2 Page 8.

Service Level: Reactive Maintenance: Non-Critical Failure

Service Level

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Assumption made that the Service Threshold is not met within the monthly reporting timeframe: **Threshold = 95% of Reactive Maintenance (Critical Failure) visits delivered on time** against agreed timescale.

Example 1:

Assumptions / Notes:

- 94% of visits delivered on time. This is below the 95% threshold therefore service credits will be calculated for each service visit attended out-with the date on the agreed PPM Service Schedule.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Only one repair visit delivered late – assume 18 days late.
- Service Credit charge is 1% of the quarterly Unit Service Charge (for each individual unit where the repair visit is not undertaken within the Service Level Performance Measure).
- EG: $1\% \times (£3,555/4) = \textbf{£8.89}$ daily up to 21% cap (**£186.69**) for the Service Period (1 month) for each unit where the repair visit is late.

Calculation:

18 days late

= $18 \times 1\%$ charge

= $18 \times (£3,555/4)$

= $18 \times \textbf{£8.89}$

= **£160.02 Service Charge for this one late visit.**

Note: this calculation to be undertaken for each late visit within a reporting period. Individual failures where not rectified by the end of any reporting period will be included as required within future Service Period failure measurements.

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1.3.5 Service Level C.3

Please read in conjunction with Part 1 of this Appendix A (Service Level C.3 Pages 8 & 9.

Service Level: Reactive Maintenance: (Critical & Non-Critical Failures): Repeat Service Threshold = No more than 5% of jobs to be classed as Repeat Service, as measured within each monthly reporting timeframe.

Example 1:

Assumptions / Notes:

- This would NOT be unit based, as Repeat Service is global measure for the full estate.
- Service Credit charge is 1% of the monthly Service Charge. Service Credit charged for each percentage point over the target 5% Repeat Service threshold.
- Service Credit cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).

- Service Credit Examples:

5% Repeat Service = NO CHARGE

6% Repeat Service = Service Credit charge of (1% x monthly Service Charge)

7% Repeat Service = Service Credit charge of (2% x monthly Service Charge) Etc... up to

21% Service Credit Charge cap for the Service Period (1 month).

- Repeat Service will be calculated freshly each month.

WORKED EXAMPLE:

- Assume 8% of jobs classed as Repeat Service. This is 3 percentage points above the 5% threshold therefore the service credit charge will be 3% of the monthly Service Charge.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Monthly Service charge calculation (assuming 96 units on Gold Cover at £3,555 pa) 96 units x £3,555 annual charge = £341,280 annual service charge **Monthly service charge = £341,280/12 = £28,440.**

Example Calculation:

8% Repeat Service = 3 percentage points over the 5% threshold

Service Credit Charge = 3% x Monthly Service Charge

= 3% x £28,440

= £853.20 Service Credit Charge for this month for this example

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1.3.6 Service Level C.4

Please read in conjunction with Part 1 of this Appendix A (Service Level C.4 Page 9.

Service Level: Reactive Maintenance: (Critical & Non-Critical Failures): First Time Fix

Threshold = 90% of Reactive Maintenance visits to be completed successfully on the first visit, as measured within each monthly reporting timeframe.

Example 1:

Assumptions / Notes:

- This would NOT be unit based, as First Time Fix is global measure for the full estate.
- Service Credit charge is 1% of the monthly Service Charge. Service Credit charged for each percentage point under the target 90% First Time Fix threshold.
- Service Credit cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).

- First Time Fix (FTF) Examples:

90% FTF = NO CHARGE

89% FTF = Service Credit charge of (1% x monthly Service Charge)

88% FTF = Service Credit charge of (2% x monthly Service Charge) Etc... up to

21% Service Credit Charge cap for the Service Period (1 month).

- Repeat Service will be calculated freshly each month.

WORKED EXAMPLE:

- Assume 88% of jobs classed as First Time Fix. This is 2 percentage points below the 90% threshold therefore the service credit charge will be 2% of the monthly Service Charge.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Monthly Service charge calculation (assuming 96 units on Gold Cover at £3,555 pa) 96 units x £3,555 annual charge = £341,280 annual service charge **Monthly service charge = £341,280/12 = £28,440.**

Example Calculation:

88% First Time Fix = 2 percentage points below the 90% threshold

Service Credit Charge = 2% x Monthly Service Charge

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$$= 2\% \times £28,440$$

= £568.80 Service Credit Charge for this month for this example

1.3.7 Service Level C.5

Please read in conjunction with Part 1 of this Appendix A (Service Level C.5 Page 9.

Service Level: Reactive Maintenance: (Critical & Non-Critical Failures): Time to Completed Job

Threshold = 95% of Reactive Maintenance visits to be completed successfully within 5 working days, as measured within each monthly reporting timeframe.

Example 1:

Assumptions / Notes:

- This would NOT be unit based, as Time to Completed Job is global measure for the full estate.
- Service Credit charge is 1% of the monthly Service Charge. Service Credit charged for each percentage point under the target 95% Time to Completed Job threshold.
- Service Credit cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).
- Time to Completed Job Examples:

95% FTF = NO CHARGE

94% FTF = Service Credit charge of (1% x monthly Service Charge)

93% FTF = Service Credit charge of (2% x monthly Service Charge) Etc... up to

21% Service Credit Charge cap for the Service Period (1 month).

- Time to Completed Job will be calculated freshly each month.

WORKED EXAMPLE:

- Assume 92% of jobs completed within 5 working days. This is 3 percentage points below the 95% threshold therefore the service credit charge will be 3% of the monthly Service Charge.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Monthly Service charge calculation (assuming 96 units on Gold Cover at £3,555 pa) 96 units x £3,555 annual charge = £341,280 annual service charge **Monthly service charge = £341,280/12 = £28,440.**

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Example Calculation:

| | |
|--|---|
| 92% of jobs completed within 5 days | = 3 percentage points below the 95% threshold |
| Service Credit Charge | = 3% x Monthly Service Charge |
| | = 3% x £28,440 |
| = £853.20 Service Credit Charge for this month for this example | |

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1.3.8 Service Level D.1

Please read in conjunction with Part 1 of this Appendix A (Service Level D.1 Pages 9 & 10.

Service Level: Time taken to complete the development of New Drug algorithms following written communication from the Buyer, through to the new algorithm being available for addition to the Drugs Library.

Performance

Measure:

Time taken to complete development work and make the new final algorithm available to the Buyer shall be no greater than **12 weeks** (as detailed within Section 5.2 of Schedule 2 (Specification), however Service Credits shall become applicable after **16 weeks** from the request made by the Buyer for development work to be undertaken (4 week buffer period).

Threshold:

The Supplier must undertake reasonable endeavours to complete the requested development work within the 12-week target. Service Credits shall become applicable after **16 weeks** from the request made by the Buyer for development work to be undertaken.

Service

Credits:

Service Credit Charges to be applied as follows:

- **Delivery date within weeks 17 – 20 (Service Credit Month 1):**

If the development work is completed during Weeks 17-20 (following the date of the original request to commence), the Service Credits would be as follows:

Service Credit (late month 1) = WEEKLY charge at 0.1% of annual Service Charge (up to 4 weeks late).

- **Delivery date within weeks 21 – 24 (Service Credit Month 2):**

If the development work is completed during Weeks 21-24 (following the date of the original request to commence), the Service Credits would be as follows:

Service Credit (late month 2) = WEEKLY charge at 0.1% of annual Service Charge (up to 8 weeks late).

- **Delivery date within weeks 25 – 28 (Service Credit Month 3):**

If the development work is completed during Weeks 25-28 (following the date of the original request to commence), the Service Credits would be as follows:

Service Credit (late month 3) = WEEKLY charge at 0.1% of annual Service Charge (up to 12 weeks late).

- **Delivery after week 28 (Service Credit month 4 onwards):**

If the development work is completed after Weeks 28 (following the date of the original request to commence), the Service Credits would be as follows:

Service Credit (late month 4 onwards) = DAILY charge at 0.2% of annual Service Charge.

- **Service Credit Cap: at £5,000 for any single monthly reporting period**

Assumptions / Notes:

- Annual Service charge calculation (assuming 96 units on Gold Cover at £3,555 pa) 96 units x £3,555 annual charge = **£341,280 annual service charge.**

WORKED EXAMPLES:

- **Delivery Date Assumed at the end of Week 20 (4 weeks late).**

The Service Credit Charge would be 4 weeks at 0.1% of annual Service Charge.

$$= 4 \times (0.1\% \times £341,280)$$

$$= 4 \times £341.28$$

= £1,365.12 Service Credit Charge for the monthly reporting period.

- **Delivery Date Assumed at the end of Week 24 (8 weeks late).**

The Service Credit Charge would be 8 weeks at 0.1% of annual Service Charge.

$$= 8 \times (0.1\% \times £341,280)$$

$$= 8 \times £341.28$$

= 2,730.24 Service Credit Charge for the monthly reporting period.

- **Delivery Date Assumed at the end of Week 28 (12 weeks late).**

The Service Credit Charge would be 12 weeks at 0.1% of annual Service Charge.

$$= 12 \times (0.1\% \times £341,280)$$

$$= 12 \times £341.28$$

= £4,095.36 Service Credit Charge for the monthly reporting period.

- **Delivery Date Assumed at the end of Week 32 (16 weeks late).**

The Service Credit Charge would be 16 weeks at 0.1% of annual Service Charge.

$$= 16 \times (0.1\% \times £341,280)$$

$$= 16 \times £341.28$$

$$= £5,460.48 \text{ (being higher than the £5k monthly cap)}$$

= Service Credit Charge of £5,000, being the maximum monthly cap for the monthly reporting period.

- **Delivery Date post Week 32**

= Service Credit Charge of £5,000, being the maximum monthly cap for the monthly reporting period.

1.3.9 Service Level D.2

Please read in conjunction with Part 1 of this Appendix A (Service Level D.2) – Page 10.

Service Level:

Drug Library Roll-Out Update (drug library updates loaded onto equipment) relating to Site Visits (when requested out-with PPM visits).

Performance Measure:

When a drug library roll-out is being conducted out-with PPM visits (after a special request by the Buyer for a new drug to be added): **Roll-out to be completed within 12-weeks.**

Threshold:

95% of Drug Library Update Visits (outside PPM visits) delivered on time against agreed timescales (within 12 weeks).

Service Credit Charges to be applied as follows:

1% of the **monthly Service Charge** Service Credit gained for each percentage point under the target 95% roll-out compliance threshold. Up to a maximum amount of 21% for the Service Period.

Example 1:

Assumptions / Notes:

- This would NOT be unit based, as Time to Completed Job is global measure for the full estate.
- Service Credit charge is 1% of the monthly Service Charge. Service Credit charged for each percentage point under the **target 95% of Drug Library Updates to be completed within 12 weeks** threshold.
- Service Credit cap of 21%: Maximum Service Credit Charge of 21% (of the monthly Service Charge) for the Service Period (1 month).
- Drug Library Update (DLU) Examples (% delivered within 12-weeks): 95% DLU = NO CHARGE

94% DLU= Service Credit charge of (1% x monthly Service Charge)

93% DLU = Service Credit charge of (2% x monthly Service Charge) Etc... up to 21%

Service Credit Charge cap for the Service Period (1 month).

- This performance measure will be calculated freshly each month.

WORKED EXAMPLE:

- Assume 93% of Drug Library Upgrades completed within 12 weeks. This is 2 percentage points below the 95% threshold therefore the service credit charge will be 2% of the monthly Service Charge.
- Assumed the product purchased is the £3,555 Gold charge per unit.
- Monthly Service charge calculation (assuming 96 units on Gold Cover at £3,555 pa) 96 units x £3,555 annual charge = £341,280 annual service charge **Monthly service charge = £341,280/12 = £28,440.**

Example Calculation:

| | |
|--------------------------------|---|
| 93% of updates within 12 weeks | = 2 percentage points below the 95% threshold |
| Service Credit Charge | = 2% x Monthly Service Charge |
| | = 2% x £28,440 |

= £568.80 Service Credit Charge for this month for this example.

1.3.10 Social Values KPI and Monitoring

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MoJ will monitor the supplier's performance in delivering the contract services to ensure that environmental impacts are reduced, and how they monitor and measure the following:

- Minimising Environmental effects – through measuring use of sustainable energy (as a %) and roll out use of electric vehicles (as a %) – quarterly reporting with target reductions
- Reduction in Carbon emissions – year on year reporting with target improvement aligned to Government Carbon Net Zero 2050 plan
- Elimination of single use plastics – measure performance against (the suppliers) target zero single use plastics for this contract
- Environmental plan – establish plan to improve energy efficiency

This will be measured and reviewed as part of monthly reporting and review meetings. No service credits shall apply to this Social Value KPI.

Part B: Performance Monitoring

1. Performance Monitoring and Performance Review

1.1 The Supplier shall provide the Buyer with performance monitoring reports ("Performance Monitoring Reports") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

1.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;

1.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;

1.1.3 details of any Critical Service Level Failures;

1.1.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;

1.1.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and

1.1.6 such other details as the Buyer may reasonably require from time to time.

1.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:

1.2.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;

1.2.2 be attended by the Supplier's Representative and the Buyer's Representative; and

1.2.3 be recorded, where key discussion points will be noted by the Buyer and these will be circulated by the Buyer to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

1.3 The meeting notes (key discussion points) of the preceding Quarterly Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.

1.4 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

1.5 Where the Supplier fails to provide the required Performance Monitoring Reports, the Service Levels will be deemed not to have been met and the Buyer shall be entitled to apply Service Credits for each Service Level until such time as the Performance Monitoring Report is provided, upon which the actual achieved Service Credits will be calculated.

2. Satisfaction Surveys

2.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Schedule 11 (Continuous Improvement)

3. SUPPLIER'S OBLIGATIONS

3.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.

3.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.

3.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:

3.3.1 identifying the emergence of relevant new and evolving technologies;

3.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);

3.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and

3.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.

3.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Start Date.

3.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working

Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

3.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.

3.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer.

3.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 3.5:

3.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and

3.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.

3.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 3.3.

3.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.

3.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.

3.12 At any time during the Contract Period of the Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

1.13 Rapiscan Continuous Improvement Plan

Rapiscan will regularly engage with the Buyer on our performance and have internal KPI's and Targets that contribute to the continual improvement of our Service offering.

These will include:

- Ensuring all units are updated with any new/released software available • Producing a 'Quick Check' document to be referenced before logging a fault.
- Once a decision is made on all data required to be kept by Rapiscan, this will be submitted to our IT to produce / look at ways this can be better managed.
- If we find that sites would benefit from additional training (some form of supervisor course) then this will be suggested to the MOJ to potentially reduce unit downtime.

Schedule 12 (Benchmarking)

1. Definitions

1.1 In this Schedule, the following expressions shall have the following meanings:

| | |
|----------------------------|--|
| "Benchmark Review" | a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value; |
| "Benchmarked Deliverables" | any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule; |
| "Comparable Rates" | the Charges for Comparable Deliverables; |
| "Comparable Deliverables" | deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark; |
| "Comparison Group" | a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations; |
| "Equivalent Data" | data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group; |
| "Good Value" | that the Benchmarked Rates are within the Upper Quartile; and |
| "Upper Quartile" | in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables. |

2. When you should use this Schedule 2.1 The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.

2.2 This Schedule sets out to ensure the Contract represents value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraph 3 of this Schedule.

2.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

3. Benchmarking

3.1 How benchmarking works 3.1.1 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.

3.2.2 The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Start Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.

3.2.3 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.

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3.2.4 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing. **3.1.5** Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.

3.1.6 The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.

3.3 Benchmarking Process **3.2.1** The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:

- (a) a proposed cost and timetable for the Benchmark Review;
- (b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
- (c) a description of how the benchmarker will scope and identify the Comparison Group.

3.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.

3.2.3 The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan. **3.2.4** Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.

3.3.5 Once it has received the Approval of the draft plan, the benchmarker shall:

(a) finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's professional judgment using:

- (i) market intelligence;
- (ii) the benchmarker's own data and experience;
- (iii) relevant published information; and
- (iv) pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;

- (b) by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
- (c) using the Equivalent Data, calculate the Upper Quartile;
- (d) determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.

3.2.6 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The

Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.

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3.2.7 In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:

- (a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
- (b) exchange rates;
- (c) any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

3.3 Benchmarking Report

3.3.1 For the purposes of this Schedule **"Benchmarking Report"** shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;

3.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:

- (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
- (b) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
- (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.

3.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 24 (Changing the contract).

4. Benchmarking - Other Supplier Relationships with the Buyer

Should the Supplier enter into further contractual relationships with the Buyer, where similar services are being offered, and where these services are being offered at a lower price, then the Supplier shall offer the relevant Services under this contract at the lower prices on offer under such other contracts for the term of this Contract. Both parties to act reasonably in the determination of the Services on offer being deemed to be similar in respect of this Schedule 12, Clause 4.

Schedule 13 (Contract Management)

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Operational Board" the board established in accordance with paragraph 4.1 of this Schedule;

"Project Manager" the manager appointed in accordance with paragraph 2.1 of this Schedule;

2. Project Management

No Project Management Required

3. Role of the Supplier Project Manager

No Supplier Project manager required.

4. Role of The Operational Board

No formal Operational Board required. Regular operational / contract management meetings to be held as detailed within Schedule 2 (Specification).

5. Contract Risk Management

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.

- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:

5.2.1 the identification and management of risks; 5.2.2 the identification and management of issues; and

5.2.3 monitoring and controlling project plans.

- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.

The Supplier will maintain a risk register of the risks relating to the Contract which the Buyer and the Supplier have identified.

Schedule 14 (Business Continuity and Disaster Recovery)

1. Definitions

Trace Detection Devices Maintenance and Servicing Agreement

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"BCDR Plan" has the meaning given to it in Paragraph 2.1 of this Schedule;

"Business Continuity Plan" has the meaning given to it in Paragraph 2.2.2 of this Schedule;

"Disaster Recovery Deliverables" the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;

"Disaster Recovery Plan" has the meaning given to it in Paragraph 2.2.3 of this Schedule;

"Disaster Recovery System" the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;

"Related Supplier" any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;

"Review Report" has the meaning given to it in Paragraph 6.3 of this Schedule; and

"Supplier's Proposals" has the meaning given to it in Paragraph 6.3 of this Schedule;

2. BCDR Plan

2.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and 2.1.2 the recovery of the Deliverables in the event of a Disaster

2.2 The BCDR Plan shall be divided into three sections:

2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

2.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and

2.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. General Principles of the BCDR Plan (Section 1)

3.1 Section 1 of the BCDR Plan shall:

3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;

3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;

3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;

3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;

3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;

3.1.6 contain a risk analysis, including:

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- (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
- (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
- (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
- (d) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.
- 4. Business Continuity (Section 2)**
 - 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
 - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
 - 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.
- 5. Disaster Recovery (Section 3)**

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- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
 - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
 - 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
 - 5.2.13 testing and management arrangements.
6. **Review and changing the BCDR Plan**
- 6.1 The Supplier shall review the BCDR Plan:
- 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
 - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the

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Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

8. Invoking the BCDR Plan

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

9. Circumstances beyond your control

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

10. THE RAPISCAN DISASTER RECOVERY AND BUSINESS CONTINUITY PLAN

10.1 Rapiscan Disaster Recovery

Rapiscan has its own manufacturing facilities in US, UK, India and Malaysia. In case of emergency one of these facilities will take on any additional requirement.

10.2 Rapiscan Continuity Plan

The Rapiscan Business Continuity Plan is attached as Appendix 1 to this Schedule 14.



Business Continuity Plan

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Document approvals

(REDACTED)

Document revision record

(REDACTED)

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6. AIM OF THE PLAN

The purpose of this plan is to prepare the Rapiscan Salfords site in the event of extended service outages caused by factors beyond our control and to restore services to the widest extent possible in a minimum time frame.

7. OBJECTIVES OF THE PLAN

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- Understand the critical functions and activities of the organisation.
- Analyse and respond to the risks to the organisation.
- Provide a detailed, prioritised, and timetabled response to an emergency.
- Identify the key roles, responsibilities, and contacts to respond to an emergency.

8. CRITICAL FUNCTION LIST

Listed below are the considered critical functions of the business, in order of priority.

1. Production (Shop Floor)
2. Engineering
3. Commissioning
4. IT Connection / Office Space / Working from Home

9. COMMAND AND CONTROL

The decision to use this plan will be taken by the following, who will also be responsible for taking the “difficult” decisions for the organisation overall:

(REDACTED)

10. CRITICAL FUNCTION ANALYSIS AND RECOVERY PROCESSES

(REDACTED)

11. QUALITY ASSURANCE RADIATION SAFETY COMPLIANCE CHECKLIST

This table should be used as a checklist during the emergency.

| Task | Completed (date, time, by) |
|--|-------------------------------|
| Actions within 24 hours: | |
| Start of log of actions and expenses undertaken (see section 8 Action and Expenses Log) | |
| Liaise with emergency services (see section 6E Contact List – Emergency Services) | |

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| | |
|--|--|
| Identify and quantify any damage to the organisation, including staff, premises, equipment, data, records, etc | |
| Identify which critical functions have been disrupted (use section 3 Critical Function Checklist) | |
| Convene those responsible for recovering identified critical functions, and decide upon the actions to be taken, and in what time-frames (use section 4 Critical Function Analysis and Recovery Process) | |
| Provide information to: Staff Suppliers and customers Insurance company Daily actions during the recovery process: Convene those responsible for recovery to understand progress made, obstacles encountered, and decide continuing recovery process | |
| Provide information to: Staff Suppliers and customers Insurance company Provide public information to maintain the reputation of the organisation and keep relevant authorities informed Following the recovery process: Arrange a debrief of all staff and identify any additional staff welfare needs (e.g. counselling) or rewards | |

| | |
|---|--|
| Use information gained from the debrief to review and update this business continuity management plan | |
|---|--|

12. CONTACT LISTS

Historically, this section would contain all of the required contact details of the relevant employees etc, due to the current working conditions, as a result of the COVID pandemic, all key employees are either working remotely or via Teams and as such, are all contactable remotely via the Teams application.

Key suppliers

Emergency and utility numbers

(REDACTED)

13. EMERGENCY PACK CONTENTS

As part of the recovery plan for the organisation, key documents, records and equipment are held offsite at Unit 8, Orchard Business Park, RH1 5EL in an emergency pack. This pack may be retrieved in an emergency to aid in the recovery process.

The contents of the emergency pack comprise the following:

Documents:

- A copy of this plan, including key contact details
- Insurance policy

Records:

- Computer backup tapes and / or disks
- Financial records

Equipment:

- Spare keys
- Torch and batteries

14. ACTIONS AND EXPENSES LOG

This form should be used to record decisions, actions and expenses incurred in the recovery process. This will provide information for the post-recovery debriefing and help to provide evidence of costs incurred for any claim under an insurance policy.

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| Date / Time | Decision / Action taken | By whom | Costs incurred |
|-------------|-------------------------|---------|----------------|
| | | | |
| | | | |
| | | | |
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Schedule 16 (Security) Short Form Security Requirements

4. Definitions

4.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

| | |
|-----------------------------------|--|
| "Breach of Security" | the occurrence of: <ul style="list-style-type: none">a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/orb) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract, in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2; |
| "Security Management Plan" | the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time. |

5. Complying with security requirements and updates to them

5.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

5.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.

5.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. 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 be subject to the Variation Procedure.

5.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

6. Security Standards

6.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.

6.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:

6.2.1 is in accordance with the Law and this Contract;

6.2.2 as a minimum demonstrates Good Industry Practice;

6.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and

6.2.4 where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.

6.3 The references to standards, guidance and policies contained or set out in Paragraph 6.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.

6.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

7. Security Management Plan

7.1 Introduction

7.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

7.2 Content of the Security Management Plan

7.2.1 The Security Management Plan shall:

- (a) comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- (b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with

access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;

- (d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

7.3 Development of the Security Management Plan

- 7.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 7.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 7.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 7.3.1, or any subsequent revision to it in accordance with Paragraph 7.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its

resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

7.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 7.3.2. However a refusal by the Buyer to Approve the Security

Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 7.2 shall be deemed to be reasonable.

7.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 7.3.2 or of any change to the Security Management Plan in accordance with Paragraph 7.4 shall not relieve the Supplier of its obligations under this Schedule.

7.4 Amendment of the Security Management Plan

7.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

- (a) emerging changes in Good Industry Practice;
- (b) any change or proposed change to the Deliverables and/or associated processes;
- (c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
- (d) any new perceived or changed security threats; and
- (e) any reasonable change in requirements requested by the Buyer.

7.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:

- (a) suggested improvements to the effectiveness of the Security Management Plan;
- (b) updates to the risk assessments; and
- (c) suggested improvements in measuring the effectiveness of controls.

7.4.3 Subject to Paragraph 7.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 7.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.

7.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

8. Security breach

8.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8.1, the Supplier shall:

8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
- (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
- (c) prevent an equivalent breach in the future exploiting the same cause failure; and
- (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.

8.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Schedule 17 (Clustering)

No clustering applies.

Schedule 18 (Supply Chain Visibility)

1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Contracts Finder" The Government's publishing portal for public sector procurement opportunities;

"SME" an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;

"Supply Chain Information Report" the document at Annex 1 of this Schedule 18; and **Template"**

2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;

2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;

2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;

2.1.4 provide reports on the information at Paragraph 2.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and

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

2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.

2.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.

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2.4 Notwithstanding Paragraph 2.1, the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

3. Visibility of Supply Chain Spend

3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the "SME Management Information Reports") to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:

- (a) the total contract revenue received directly on the Contract;
- (b) the total value of sub-contracted revenues under the Contract (including revenues for nonSMEs/non-VCSEs); and
- (c) the total value of sub-contracted revenues to SMEs and VCSEs.

3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.

3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

Annex 1

Supply Chain Information Report template

(REDACTED)

Signing Page

(REDACTED)

REF: PRJ_3765 TRACE DETECTION – PART 3

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Schedule 19 (Cyber Essentials Scheme)

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Cyber Essentials Scheme"

the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: <https://www.gov.uk/government/publications/cyber-essentialsscheme-overview>

"Cyber Essentials Basic Certificate"

the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;

"Cyber Essentials Certificate"

Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework Award Form

"Cyber Essential Scheme Data"

sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and

"Cyber Essentials Plus Certificate"

the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. What Certification do you need

2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under any Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.

2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of the Contract the Supplier shall deliver to the Buyer

Trace Detection Devices Maintenance and Servicing Agreement

evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.

2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start date of the Contract but before the end of the Contact Period, the Supplier shall deliver to the Buyer evidence of:

2.3.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and

2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.

2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for material Default.

2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 2.1 of this Schedule.

2.6 This Schedule shall survive termination or expiry of this Contract.

2.7 Supplier Cyber Essential Certificate attached as **Schedule 19 Appendix 1** (separate file within batch).

Cyber Essentials Plus Assessment Report

| | | | |
|---|----------------------------------|---|----------------------|
| A | Assessment of: | B | Rapiscan Systems Ltd |
| C | Assessed by (Certification Body) | D | Bulletproof |
| E | Assessed by (Assessor name) | F | Bradleigh Bishop |
| G | Assessed by (Lead Assessor name) | H | Chay Donohoe |
| I | Date of assessment visit | J | 2021-02-11 |
| K | Date of report: | L | 2021-02-19 |

Cyber Essentials Plus certification can only be issued by a licensed Certification Body.

You can confirm the authenticity of this report by contacting IASME Consortium +44

(REDACTED)



About this report

Cyber Essentials Plus is the audited version of the Cyber Essentials information security standard. Cyber Essentials requires organisations to have a number of technical and procedural controls in place to improve their information security in order to mitigate common internet-borne cyber attacks. Cyber Essentials Plus is a series of tests that provide a further level of assurance that these technical controls have been successfully implemented within an organisation.

This report is a record of the Cyber Essentials Plus audit of Rapiscan Systems Ltd against the Cyber Essentials standard that has been carried out by Bradleigh Bishop of the Certifying Body Bulletproof.

Cyber Essentials provides assurance that a number of key information security controls are in place within an organisation. For further assurance, the IASME information security standard provides a broader set of controls that enable good information security governance across an organisation.

1.1 Summary of findings

The complete scope of Rapiscan Systems Ltd (UK) was tested under the Cyber Essentials Plus Scheme. During the testing, Bulletproof did find a number of non-conformities which would be defined as a fail. After a number of days, Rapiscan Systems Ltd had remediated most of the vulnerabilities found. Bulletproof completed additional testing to ensure the remediation actions had removed the nonconformities identified. Overall, Bulletproof feel that Rapiscan Systems Ltd immediate response to the above findings shows a positive attitude with respect to the security of their systems. It is recommended that Rapiscan Systems Ltd remediate the medium vulnerabilities (below 7 CVSSv3 scores) as per best practice.

The assessor has concluded that Rapiscan Systems Ltd has passed the required tests and should be awarded the Cyber Essentials Plus certification.

If a test has not been passed successfully, the assessor has provided feedback within the relevant section.

1.2 Evidence of activities

In carrying out the audit, the assessor will have carried out a number of technical tests and have seen documentary evidence. This evidence forms the basis for the assessor's recommendations and where appropriate has been included in this report.

2.Scope

Internal Scope:

Crawley:

10.114.0.0/24 (All VLANS)

Hayes:

10.117.0.0/24 (Network Connectivity)

Salfords:

10.111.3.0/24 (Network Management)

10.111.220.0/24 (Printers)

10.111.110.0/24 (Servers)

10.111.255.0/24 (Transit Subnet)

10.9.111.0/24 (VoIP)

10.111.253.0/24 (VPN)

10.111.30.0/24 (WIFI)

Stoke:

10.112.3.0/24 (Network Management)

10.112.220.0/24 (Printers)

10.112.110.0/24 (Servers)

10.112.255.0/24 (Transit Subnet)

10.9.112.0/24 (VoIP)

10.112.30.0/24 (WIFI)

External Scope:

62.172.160.51

81.133.11.108

213.121.137.251

213.123.216.66

217.38.33.43

Certain items will be out of scope for the Cyber Essentials Plus assessment. Notable exceptions are listed below:

N/A

3. External Testing

3.1 Test 1 – Remote vulnerability assessment

This test was awarded **PASS** by the assessor.

The test did not identify any vulnerabilities that were scored 7 or higher on CVSS v3 during the testing of the external IP addresses.

4. Internal testing

A suitable sample set of devices was selected as follows:

Based on the devices disclosed during the Cyber Essentials Basic questionnaire. Bulletproof tested 5 Windows 10 versions 1809, 5 Windows 10 versions 1909, 5 Windows 10 versions 2004, 5 Windows 10 versions 20H2, 2 Windows 7, 6 iOS and 6 Android devices.

NOTE: Windows 7 devices tested were receiving extended updates.

A number of sample devices were tested in line with IASME guidance. (90% of the common builds were sampled)

4.1 Test 2 – Review of device patching

This test was awarded **PASS** by the assessor.

No vulnerabilities were identified for the tested devices that were scored 7 or higher on CVSS v3 and that met the parameters listed in the Cyber Essentials Plus guidance.

4.2 Test 3 – Review of malware protection

This test was awarded **PASS** by the assessor.

It was identified that Rapiscan Systems Ltd is using the following methods of malware protection in their organisation:

-
- M - Anti-malware software
- N - Limiting installation of applications to an approved set

A - Anti-malware software

Anti-malware software is correctly installed and configured on all devices that rely on this method

B - Limiting installation of applications to an approved set

This method of anti-malware protection is correctly configured on all devices that rely on it.

4.3 Test 4 – Review of protection against malware sent by email

This test was awarded **PASS** by the assessor.

The standard set of test files was sent to each End User Device in the sample set via email.

All of the malware test files were successfully blocked by the End User Devices.

All of the non-malware test files prompted a suitable warning or opportunity to cancel before opening for all End User Devices.

4.4. Test 5 – Review of protection against malware delivered through website.

This test was awarded **PASS** by the assessor.

The standard set of test files was attempted to be accessed via a website on all End User Devices within the sample set.

All of the malware test files were successfully blocked by the End User Devices.

All of the non-malware test files prompted a suitable warning or opportunity to cancel before opening for all End User Devices.

Schedule 20 (Processing Data)

Status of the Controller

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

2. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
3. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
4. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- (a) a systematic description of the envisaged Processing and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
5. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Personal Data Breach;
- (iii) state of technological development; and
- (iv) cost of implementing any measures; (c) ensure that :
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);

- (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;

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

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

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

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

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

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

- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
6. Subject to paragraph 7 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or (f) becomes aware of a Personal Data Breach.
7. The Processor's obligation to notify under paragraph 6 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
8. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
9. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;

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

(c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.

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

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

12. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:

(a) notify the Controller in writing of the intended Subprocessor and Processing;

(b) obtain the written consent of the Controller;

(c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and

(d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.

13. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.

14. The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

Independent Controllers of Personal Data

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

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

19. Where a Party has provided Personal Data to the other Party in accordance with paragraph 7 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

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

21. The Parties shall only provide Personal Data to each other:

- (a) to the extent necessary to perform their respective obligations under the Contract;
- (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and
- (c) where it has recorded it in Annex 1 (*Processing Personal Data*).

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

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

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

- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:

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

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

25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:

(a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;

(b) implement any measures necessary to restore the security of any compromised Personal Data;

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

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

26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).

27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).

28. Notwithstanding the general application of paragraphs 2 to 15 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 16 to 27 of this Schedule 20.

Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

1.1 (REDACTED)

1.3 Any further instructions shall be incorporated into this Annex.

| Description | Details |
|---|--|
| Identity of Controller for each Category of Personal Data | <p>The Parties are Independent Controllers of Personal Data</p> <p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> • <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i> • <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under the Contract) for which the Buyer is the Controller,</i> |
| Duration of the Processing | <p><i>For the duration of the procurement of goods and the maintenance provision.</i></p> |
| Nature and purposes of the Processing | <p><i>Engagement between Buyer and Supplier in relation to the management and operation of the contract.</i></p> |

Trace Detection Devices Maintenance and Servicing Agreement

| | |
|--|---|
| Type of Personal Data | <i>Name</i> <i>Work E-mail address</i> <i>Work Telephone numbers</i> |
| | <i>Supplier personnel information needed for site visits: Date of Birth</i> |
| Categories of Data Subject | <i>Staff</i> <i>Sub-contractors</i> |
| <p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p> | <i>Personal Data forming a record shall be retained in accordance with clause 6.2 of the Core Terms and subsequently destroyed in accordance with government policy on secure disposal.</i> |

Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 of the Core Terms (Changing the Contract)

| Contract Details | | |
|--|--|--------------------------|
| This variation is between: | [Buyer] ("the Buyer") And [insert name of Supplier] ("the Supplier") | |
| Contract name: | [insert name of contract to be changed] ("the Contract") | |
| Contract reference number: | [insert contract reference number] | |
| Details of Proposed Variation | | |
| Variation initiated by: | [delete] as applicable: Buyer/Supplier] | |
| Variation number: | [insert variation number] | |
| Date variation is raised: | [insert date] | |
| Proposed variation | | |
| Reason for the variation: | [insert reason] | |
| An Impact Assessment shall be provided within: | [insert number] days | |
| Impact of Variation | | |
| Likely impact of the proposed variation: | [Supplier to insert] assessment of impact] | |
| Outcome of Variation | | |
| Contract variation: | This Contract detailed above is varied as follows: • [Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause] | |
| Financial variation: | Original Contract Value: | £ [insert amount] |
| | Additional cost due to variation: | £ [insert amount] |
| | New Contract value: | £ amount [insert] |

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

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

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

Schedule 22 (Insurance Requirements)

1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than

the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

1.2 The Insurances shall be:

- 1.2.1 maintained in accordance with Good Industry Practice;

- 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
- 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
- 1.2.4 maintained for at least six (6) years after the End Date.

1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

2. How to manage the insurance

2.1 Without limiting the other provisions of this Contract, the Supplier shall:

- 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
- 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
- 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4. Evidence of insurance you must provide

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

5. Making sure you are insured to the required amount

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Buyer and

provide details of its proposed solution for maintaining the minimum limit of indemnity.

6. Cancelled Insurance

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

7. Insurance claims

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX: REQUIRED INSURANCES

1. The Supplier shall hold the following insurance cover from the Start Date in accordance with this Schedule:

1.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000);

1.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than ten million pounds (£10,000,000); and

1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] ten million pounds (£10,000,000).

Schedule 23 (Guarantee)

No requirement for Guarantee

Schedule 24 (Financial Difficulties)

1 DEFINITIONS

In this Schedule, the following definitions shall apply:

| | |
|--|---|
| “Accounting Reference Date” | means in each year, the date to which the entity prepares its annual audited financial statements; |
| “Applicable Financial Indicators” | means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule; |
| “Appropriate Accepted Mitigation” | <p>means a documented mitigation, as agreed between the Parties, to a Financial Distress Event, as follows:</p> <p>(a) as at the Effective Date as expressly set out in Annex 2; and</p> <p>(b) during the Term of the Agreement, as set out in Paragraph 3.2 of this Schedule.</p> <p>All new or amended Appropriate Accepted Mitigations will be recorded in format and location agreed between the Parties (for example in a dedicated and access-controlled area of the Virtual Library).</p> |
| “Confirmation” | means written confirmation from the Supplier in accordance with Paragraph 7 of this Schedule; |
| “Credit Rating Level” | means a credit rating level as specified in Annex 1 of this Schedule; |
| “Credit Rating Threshold” | means the minimum Credit Rating Level for each entity in the FDE Group as set out in Annex 3 of this Schedule; |
| “Financial Distress Event” or “FDE” | means the occurrence of one or more events as listed in Paragraph 0 of this Schedule; |
| “Financial Distress Event Group” | (FDE Group) means the Supplier, Key Sub-contractors, and the [Monitored Suppliers]; |
| “Financial Indicators” | in respect of the Supplier and Key Sub-contractors, means each of the financial indicators set out at Paragraph 5.1 of this Schedule; and in respect of each Monitored Supplier, means those Applicable Financial Indicators; |
| “Financial Target Thresholds” | means the target thresholds for each of the Financial Indicators set out at Paragraph 5.1 of this Schedule; |

- “Monitored Suppliers”** means those entities specified at Paragraph 5.2 of this Schedule;
- “Rating Agencies”** means the rating agencies listed in Annex 1 of this Schedule or such other rating agencies as the Buyer may decide to use;

2 WHAT HAPPENS WHEN YOUR CREDIT RATING CHANGES

2.1 The Supplier warrants and represents to the Buyer for the benefit of the Buyer that as at the Effective Date:

(a) the long-term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Annex 3 of this Schedule; and

(b) the financial position or, as appropriate, the financial performance of each of the Supplier, and Key Sub-contractors satisfies the Financial Target Thresholds, or that the relevant Appropriate Accepted Mitigations are in place.

2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group, which results in the level of risk being assessed as high or greater than average (and in any event within 5 Working Days of the occurrence of the downgrade). The categorisation of credit ratings by risk level is defined in Annex 1.

2.3 The Supplier shall:

(a) regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies;

(b) monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least quarterly, and update the Financial Indicators when public information becomes available, and in any event, no less than once a year within 270 days after the Accounting Reference Date;

(c) provide regular updates to the Buyer on the credit ratings and Financial Indicators for each entity in the FDE Group; and

(d) promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within 5 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event);

(e) provided always that Paragraphs 2.3(a) to (d) shall be subject to Supplier's compliance with market regulations and local law including the law of England and Wales.

2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraph 3.1(a), the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if:

(a) any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or

(b)a Rating Agency that is specified as holding a Credit Rating for an entity as set out at Annex 3 of this Schedule ceases to hold or is unable to provide a Credit

Rating for that entity, and the Supplier fails to provide an acceptable explanation to the Authority.

2.5 *Each report submitted by the Supplier pursuant to Paragraph 2.3(b) shall:*

(a) be a single report with separate sections for each of the FDE Group entities;

(b) contain a sufficient level of information to reasonably allow the Buyer to verify the calculations that have been made in respect of the Financial Indicators;

(c) include key financial, explanatory narrative, and other supporting information (including any accounts data that has been relied on) as separate annexes;

(d) be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and

(e) include a history commencing from a maximum of 12 calendar months prior to the Effective date of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance.

3 FINANCIAL DISTRESS EVENTS AND APPROPRIATE ACCEPTED MITIGATIONS

3.1 *The following shall be Financial Distress Events, unless an Appropriate Accepted Mitigation is in place:*

(a) the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;

(b) an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;

(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;

(d) an FDE Group entity committing a material breach of covenant to its lenders;

(e) a Key Sub-contractor notifying the Buyer that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;

(f) any of the following:

(i) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;

(ii) non-payment by an FDE Group entity of any financial indebtedness;

(iii) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;

(iv) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or

(v) the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Contract;

(g) any one of the Financial Indicators set out at Paragraph 5 for any of the FDE Group entities failing to meet the required Financial Target Threshold; or

(h) if a previously Appropriate Accepted Mitigation is no longer available for a particular FDE or is no longer sufficient to constitute an Appropriate Accepted Mitigation.

3.2 On the occurrence of an FDE pursuant to Paragraph (g) to 3.1(h):

(a) the Supplier shall:

(i) notify the Buyer in accordance with Paragraph 2.3(d) above; and

(ii) provide to the Buyer in writing within 10 Working Days or as otherwise agreed between the Parties of the date on which the Supplier first becomes aware of the FDE or of the date on which the Buyer has brought the FDE to the Supplier's attention, its proposed mitigation; and

(b) the Parties shall then discuss the proposed mitigation in good faith and the Buyer shall, as soon as practicable, either:

(i) agree that the proposed mitigation constitutes an Appropriate Accepted Mitigation; or

(ii) exercise its rights under Paragraph 4 of this Schedule.

3.3 Failure by the Buyer to exercise its rights under Paragraph 4 of this Schedule shall constitute acceptance of the Appropriate Accepted Mitigation, unless such failure was due to an act or omission of the Supplier.

3.4 For the purposes of this Paragraph 3 Appropriate Accepted Mitigations include:

(a) For the Supplier:

(i) Note: to be agreed prior to Contract Award.

(b) Key Sub-contractors:

(i) Note: to be agreed prior to Contract Award.

(c) For all entities within the FDE Group:

(i) a mitigation that reduces the level of risk of the FDE to a level acceptable to the Buyer. This may include access to sufficient unused credit facilities or other risk mitigations, as listed in the Outsourcing Playbook 'Assessing and Monitoring the Economic and Financial Standing of Suppliers' Guidance note available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816634/20190710-Assessing_and_monitoring_the_economic_and_financial_standing_of_suppliers.pdf.

3.5 All new or amended Appropriate Accepted Mitigations will be recorded in format and location agreed between the Parties (for example in a dedicated and access controlled area of the Virtual Library)

4 WHAT HAPPENS IF THERE IS A FINANCIAL DISTRESS EVENT

4.1 Immediately upon notification by the Supplier of a Financial Distress Event in accordance with Paragraph 2.3(d) (or if the Buyer becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Supplier) and subject to Paragraph 3, the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.

4.2 In the event of the first instance within a rolling 3-month period, of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3(e), the Buyer shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 10 Working Days to:

(a) rectify such late or non-payment; or

(b) demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.

4.3 The Supplier shall (and shall procure that any Monitored Supplier, and any relevant Key Sub-contractor shall):

(a) at the reasonable request of the Buyer, meet the Buyer as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and

(b) where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:

(i) submit to the Buyer for its approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Buyer may permit and notify to the Supplier in writing). This draft should be consistent with the BCDR Plan and Business Continuity Plan required under Schedule 14 (Business Continuity and Disaster Recovery); and

(ii) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Supplier, any Monitored Supplier, and Key Sub-contractors as the Buyer may reasonably require

in order to understand the risk to the Services, which may include without limitation forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the

Financial Distress Event and other information that might be price sensitive.

4.4 The Buyer shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Buyer does not approve the draft Financial Distress Remediation Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Buyer within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Buyer or referred to the Dispute Resolution Procedure under Paragraph 4.5.

4.5 If the Buyer considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the Dispute Resolution Procedure.

4.6 Following approval of the Financial Distress Remediation Plan by the Buyer, the Supplier shall:

(a) *on a regular basis (which shall not be less than fortnightly):*

(i) review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Buyer, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Contract; and

(ii) provide a written report to the Buyer setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;

(b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6(a), submit an updated Financial Distress Remediation Plan to the Buyer for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

(c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan).

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.

4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 4.3(b)(ii) is available when required and on request from the Buyer and within reasonable timescales. Such measures may include:

(a) obtaining in advance written authority from Key Sub-contractors and Monitored Suppliers authorising the disclosure of the information to the Buyer and/or entering into confidentiality agreements which permit disclosure;

(b) agreeing in advance with the Buyer, Key Sub-contractors and Monitored Suppliers a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Buyer;

(c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Buyer (which may include (without limitation) making information available to nominated Buyer personnel through confidential arrangements, subject to their consent); and

(d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymization and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5 WHAT ARE FINANCIAL INDICATORS

5.1 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:

| Financial Indicator | Calculation ¹ | Financial Target Threshold: | Monitoring and Reporting Frequency (if different from the default position set out in Paragraph 2.3(b)) |
|--|---|-----------------------------|--|
| 1 The higher of (a) the Operating Margin for the most recent 12-month period and (b) the average Operating Margin for the last two 12-month periods | <i>Operating Margin = Operating Profit / Revenue</i> | > 0% | Tested and reported at least quarterly in arrears based on the latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date. |
| 2 Net Debt to EBITDA Ratio | <i>Net Debt to EBITDA ratio = Net Debt / EBITDA</i> | < 3.5 times | Tested and reported at least quarterly in arrears based on latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant accounting reference date |
| 3 Net Debt + Net Pension Deficit to EBITDA ratio | <i>Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA</i> | < 5 times | Tested and reported quarterly in arrears based on latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date. |
| 4 Net Interest Paid Cover | <i>Net Interest Payable Cover = Earnings Before Interest and Tax / Net Interest Paid</i> | > 3 times | Tested and reported at least quarterly in arrears based on latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date. |

| | | | |
|---------------------------|---|---|---|
| 5 Current Ratio | Current Ratio = Current Assets / Current Liabilities | > 1 times | Tested and reported quarterly in arrears based on latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon figures at the relevant accounting reference date. |
| 6 Net Asset value | <i>Net Asset Value = Net Assets</i> | > £0 | Tested and reported at least quarterly in arrears based on latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon figures at the relevant accounting reference date. |
| 7 Group Exposure Ratio | <i>Group Exposure Ratio = Current Assets – Group Assets – Current Liabilities</i> | > £0 If greater a PCG may be required | Tested and reported at least quarterly in arrears based on the latest available information. Calculation as a minimum should be updated within 270 days of each accounting reference date based upon figures at the relevant accounting reference date. |

Key: ¹ – See Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

5.2 Monitored Suppliers

5.2.1 Monitored Suppliers shall be designated at contract signature.

5.2.2 A Monitored Supplier could include any Sub-contractor that is not a key subcontractor, which in the opinion of the Buyer, performs (or would perform if appointed) a role:

- (a) in the provision of all or any part of the Services such that the discontinued provision of such a role would be detrimental to the ability of the Supplier to deliver the Services to its established performance standards; and/or
- (b) in the provision of all or any part of the Services such that the discontinued provision of such a role may affect the Supplier's financial stability; and/or
- (c) which would be problematic for the Supplier to find a replacement Subcontractor within a reasonable time.

| Monitored Supplier | Applicable Financial Indicators (these are the Financial Indicators from the table in Paragraph 5.1 which are to apply to the Monitored Suppliers) |
|--------------------|---|
| N/A | N/A |

6 WHEN CAN THE BUYER TERMINATE FOR DISTRESS

6.1 The Buyer shall be entitled to terminate this Contract under Clause 10.4 (*When the Buyer Can End the Contract*) if:

(a) the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 2.3(c);

(b) the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or

(c) the Supplier fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.6(c).

7 CONFIRMATION

7.1 The Supplier shall within 120 days after each Accounting Reference Date or within 15 months of the previous confirmation (whichever is the earlier) provide a Confirmation to the Buyer in the form set out at Annex 5 of this Schedule, confirming that to the best of the Supplier's knowledge and belief, it is not aware of and has no knowledge:

(a) that a Financial Distress Event has occurred since the later of the Effective Date or the previous Confirmation or is subsisting; or

(b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.

7.2 The Supplier shall ensure that in its preparation of the Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Staff and other persons as is reasonably necessary to understand and confirm the position.

7.3 In respect of the first Confirmation to be provided under this Contract, the Supplier shall provide the Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 7.1 of this Schedule.

7.4 Where the Supplier is unable to provide a Confirmation in accordance with Paragraphs 7.1 to 7.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Confirmation, a statement setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

ANNEX 1: Rating Agencies and their Standard Rating System

This Annex sets out the standard rating scales for each of the Rating Agencies selected. The Buyer reserves the right to use other rating scales from other Rating Agencies that are not listed in this Annex.

| Rating Agency | Credit Rating Level | Risk level |
|----------------------|---|---------------------------|
| Standard and Poor's | Credit Rating Level 1 = [AAA] [AA+] [AA] [AA-] [A+] [A] [A-] | Low |
| | Credit Rating Level 2 = [BBB+] [BBB] [BBB-] [BB+] [BB] [BB-] [B+] [B] [B-] | Greater Than Average Risk |
| | Credit Rating Level 3 = [CCC] [CC] [C] [D] [NR] | High Risk |
| Moody's | Credit Rating Level 1 = [Aaa] [Aa] [A] | Low |
| | Credit Rating Level 2 = [Baa] [Ba] [B] | Greater Than Average Risk |
| | Credit Rating Level 3 = [CCC] [CC] [C] | High Risk |
| Dun and Bradstreet | Credit Rating Level 1 = 51 or above | Low |
| Dun and Bradstreet | Credit Rating Level 2 = 11 to 50 | Greater Than Average Risk |
| Dun and Bradstreet | Credit Rating Level 3 = 10 or below | High Risk |
| Experian | Credit Rating Level 1 = 51 or above | Low |
| | Credit Rating Level 2 = 26 to 50 | Greater Than Average Risk |
| | Credit Rating Level 3 = 25 or below | High Risk |
| Companywatch | Credit Rating Level 1 = 36 and above | Low |
| | Credit Rating Level 2 = 26 to 35 | Greater Than Average Risk |
| | Credit Rating Level 3 = 25 or below | High Risk |

ANNEX 2: Appropriate Accepted Mitigations

1. As at the Effective Date, the Parties agree that the Appropriate Accepted Mitigation:
 - i. For the Supplier is: none noted.
 - ii. For the Key sub-contractor is: none noted.

ANNEX 3: Credit Ratings And Credit Rating Thresholds

[Guidance Note: ~The Key Sub-contractors listed in Schedule 4.3 (Notified Key Sub-contractors) should be included in this table]

| Entity | Credit Rating (long term) <i>(insert credit rating issued for the entity at the Effective Date)</i> | Credit Rating Threshold <i>(insert the actual rating (e.g. AA-) or the Credit Rating Level (e.g. Credit Rating Level 3))</i> |
|--------------------------------------|---|--|
| <i>Supplier</i> | [Rating Agency 1] – [insert rating for Rating Agency 1] | [Rating Agency 1] – [insert threshold for Rating Agency 1] |
| | [Rating Agency 2] – [insert rating for Rating Agency 2] | [Rating Agency 2] – [insert threshold for Rating Agency 2] |
| | [etc.] | [etc.] |
| <i>[Guarantor]</i> | [Rating Agency 1] – [insert rating for Rating Agency 1] | [Rating Agency 1] – [insert threshold for Rating Agency 1] |
| | [Rating Agency 2] – [insert rating for Rating Agency 2] | [Rating Agency 2] – [insert threshold for Rating Agency 2] |
| | [etc.] | [etc.] |
| <i>[Key Sub-contractor 1]</i> | [etc.] | [etc.] |
| <i>[Key Sub-contractor 2]</i> | [etc.] | [etc.] |
| <i>[etc...]</i> | [etc.] | [etc.] |
| <i>[Monitored Supplier 1]</i> | [etc.] | [etc.] |
| <i>[Monitored Supplier 2]</i> | [etc.] | [etc.] |
| <i>[etc...]</i> | [etc.] | [etc.] |

ANNEX 4: Calculation Methodology for Financial Indicators

The Supplier shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

General methodology

1. **Terminology:** The terms referred to in this Annex are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
2. **Groups:** Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
3. **Foreign currency conversion:** Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant date for which the Financial Indicator is being calculated.
4. **Treatment of non-underlying items:** Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

Specific Methodology

| Financial Indicator | Specific Methodology |
|---|--|
| 1 <u>Operating Margin</u> | <p>The elements used to calculate the Operating Margin should be shown on the face of the Income Statement (or Statement of Financial Activities) in a standard set of financial statements.</p> <p>Operating Profit is to exclude exceptional items, such as restructuring costs or impairments, and to include any share of Subsidiaries' Operating Profit.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.</p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p> |
| 2 <u>Net Debt to EBITDA Ratio</u> | <p><i>["Net Debt" = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents]</i></p> <p><i>"EBITDA" = Operating profit + Depreciation charge + Amortisation charge</i></p> |

| Financial Indicator | Specific Methodology |
|---------------------|---|
| | <p><i>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement (or Statement of Financial Activities) and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</i></p> <p><i>Net Debt: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.</i></p> <p><i>Deferred consideration payable should be included in Net Debt despite typically being noninterest bearing.</i></p> <p><i>Cash and cash equivalents should include shortterm financial investments shown in current assets.</i></p> <p><i>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</i></p> <p><i>EBITDA: Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) and, for the purposes of calculating this Financial Indicator. The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).</i></p> |

| Financial Indicator | Specific Methodology |
|---|---|
| | <p><i>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</i></p> |
| <p>3</p> <p>[Net Debt + Net Pension Deficit to EBITDA ratio]</p> | <p><i>“Net Debt”</i> = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p><i>“Net Pension Deficit”</i> = Retirement Benefit Obligations – Retirement Benefit Assets</p> <p><i>“EBITDA”</i> = Operating profit + Depreciation charge + Amortisation charge.</p> <p>The majority of the elements used to calculate the Net Debt + Net Pension Deficit to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement (or Statement of Financial Activities) and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <ul style="list-style-type: none"> • <u>Net Debt</u>: The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest-bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but <i>not</i> nondesignated hedges). Borrowings should also include balances owed to other group members. <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p> <p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <ul style="list-style-type: none"> • <u>Net Pension Deficit</u>: Retirement Benefit Obligations and Retirement Benefit Assets may be shown on the face of the Balance Sheet or in the notes to the financial |

| Financial Indicator | Specific Methodology |
|---|---|
| | <p>statements. They may also be described as pension benefits / obligations, postemployment obligations or other similar terms.</p> <p>Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met.</p> <ul style="list-style-type: none"> • EBITDA: Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) and, for the purposes of calculating this Financial Indicator. <p>The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts.</p> <p>Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless 'Net Debt + Net Pension Deficit' is also negative, in which case the relevant Financial Target Threshold should be regarded as having been met).</p> <p><u>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</u></p> |
| <p>4</p> <p>Net Interest Payable Cover</p> | <p><i>"Earnings Before Interest and Tax" = Operating profit</i></p> <p><i>"Net Interest Paid" = Interest paid – Interest received</i> Operating profit should be shown on the face of the Income Statement (or Statement of Financial Activities) in a standard set of financial statements.</p> <p>For Charities Operating Profit would be Net Income or Expenditure after Charitable Activities / Income</p> <p>Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e. the entity has net interest received), the relevant Financial</p> |

| Financial Indicator | Specific Methodology |
|--------------------------------------|---|
| | Target Threshold should be treated as having been met. |
| 5 Current Ratio | All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements. |
| 6 Net Asset value | <p>Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).</p> <p>For a Charities Net Assets would be Total Charity Funds</p> |
| 7 Group Exposure Ratio | <p><i>"Group Assets" = Current and Non-Current Balances owed by Group Undertakings</i></p> <p><u>Group Exposure:</u> Balances owed by (i.e. receivable from) Group Undertakings are shown within Non-Current assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><u>Current Assets & Current Liabilities:</u> Both Current assets and Current Liabilities are shown on the face of the Balance Sheet</p> |

(REDACTED)

Schedule 25 (Rectification Plan)

| Request for [Revised] Rectification Plan | | | |
|---|--|------------------|--|
| Details of the Default: | [Guidance: Explain the Default, with clear schedule and clause references as appropriate] | | |
| Deadline for receiving the [Revised] Rectification Plan: | [add] date (minimum 10 days from request)] | | |
| Signed by Buyer : | | | |
| Supplier [Revised] Rectification Plan | | | |
| Cause of the Default | [add] cause] | | |
| Anticipated impact assessment: | [add] impact] | | |
| Actual effect of Default: | [add] effect] | | |
| Steps to be taken to rectification: | Steps | Timescale | |
| | 1. | [date] | |
| | 2. | [date] | |
| | 3. | [date] | |
| | 4. | [date] | |
| | [...] | [date] | |
| Timescale for complete Rectification of Default | [X] Working Days | | |

| | | | |
|--|--|------------------|--|
| | | | |
| Steps taken to prevent recurrence of Default | Steps | Timescale | |
| | 1. | [date] | |
| | 2. | [date] | |
| | 3. | [date] | |
| | 4. | [date] | |
| | [...] | [date] | |
| Signed by the Supplier: | | | |
| Review of Rectification Plan Buyer | | | |
| Outcome of review | [Plan Accepted] [Plan Rejected] [Revised Plan Requested] | | |
| Reasons for rejection (if applicable) | [add reasons] | | |
| Signed by Buyer | | | |

Schedule 26 (Corporate Social Responsibility)

- 1. What we expect from our Suppliers** 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.
- (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)
- 1.2 The Buyer expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, the Buyer expects its suppliers and subcontractors to comply with the standards set out in this Schedule.

2. Equality and Accessibility 2.1 In addition to legal obligations, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:

2.1.1 eliminate discrimination, harassment or victimisation of any kind; and

2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3. Modern Slavery, Child Labour and Inhumane Treatment

"**Modern Slavery Helpline**" means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Supplier:
- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
 - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
 - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
 - 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.
 - 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offenses anywhere around the world.
 - 3.1.6 shall have and maintain throughout the term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
 - 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
 - 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
 - 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
 - 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
 - 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

4. Income Security

- 4.1 The Supplier shall:
- 4.1.1 ensure that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
 - 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
 - 4.1.3 provide all workers with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
 - 4.1.4 not make deductions from wages:
 - (a) as a disciplinary measure
 - (b) except where permitted by law; or
 - (c) without expressed permission of the worker concerned;
 - 4.1.5 record all disciplinary measures taken against Supplier Staff; and
 - 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

- 5.1 The Supplier shall:
- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
 - 5.1.2 that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
 - 5.1.3 ensure that use of overtime used responsibly, taking into account:
 - (a) the extent;
 - (b) frequency; and
 - (c) hours worked;by individuals and by the Supplier Staff as a whole;
- 5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
- 5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
- 5.3.1 this is allowed by national law;
 - 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
 - appropriate safeguards are taken to protect the workers' health and safety; and
 - 5.3.3 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability 6.1 The supplier shall meet the applicable Government Buying

Standards applicable to Deliverables which can be found online at:

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

Schedule 27 (Key Subcontractors)

1. Restrictions on certain subcontractors

1.1 The Supplier is entitled to sub-contract its obligations under the Contract to the Key Subcontractors set out in the Award Form.

1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:

1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;

- 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
 - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
 - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Distress)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
 - 1.4.1 a copy of the proposed Key Sub-Contract; and
 - 1.4.2 any further information reasonably requested by the Buyer.
- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
 - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the Contract;
 - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
 - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
 - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key SubContract to the Buyer;
 - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Contract in respect of:
 - (a) the data protection requirements set out in Clause 14 (Data protection);
 - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
 - (c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;

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

(e) the conduct of audits set out in Clause 6 (Record keeping and reporting);

1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 10.4 (When the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and

1.5.7 a provision restricting the ability of the Key Subcontractor to subcontract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer.

Schedule 29 (Key Supplier Staff)

1.1 The Annex 1 to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").

1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.

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

1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:

- 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
- 1.4.2 the person concerned resigns, retires or dies or is on maternity or longterm sick leave; or
- 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.

1.5 The Supplier shall:

- 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
- 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
- 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1- Key Roles

Schedule 30 (Exit Management)

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Exclusive Assets"

Supplier Assets used exclusively by the Supplier in the provision of the Deliverables;

"Exit Information"

has the meaning given to it in Paragraph 3.1 of this Schedule;

"Exit Manager"

the person appointed by each Party to manage their respective obligations under this Schedule;

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| "Net Book Value" | the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice); |
| "Non-Exclusive Assets" | those Supplier Assets used by the Supplier in connection with the Deliverables but which are also used by the Supplier for other purposes; |
| "Registers" | the register and configuration database referred to in Paragraph 2.2 of this Schedule; |
| "Replacement Goods" | any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party; |
| "Replacement Services" | any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party; |
| "Termination Assistance" | the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice; |
| "Termination Assistance Notice" | has the meaning given to it in Paragraph 5.1 of this Schedule; |
| "Termination Assistance Period" | the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule; |
| "Transferable Assets" | Exclusive Assets which are capable of legal transfer to the Buyer; |
| "Transferable Contracts" | Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| "Transferring Assets" | has the meaning given to it in Paragraph 8.2.1 of this Schedule; |
| "Transferring Contracts" | has the meaning given to it in Paragraph 8.2.3 of this Schedule. |

2. Supplier must always be prepared for contract exit

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and

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2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables ("**Registers**").

2.3 The Supplier shall:

2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and

2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

3. Assisting re-competition for Deliverables

3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;

4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;

4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;

4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;

4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;

4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;

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- 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every [six (6) months] throughout the Contract Period; and
 - (b) no later than [twenty (20) Working Days] after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than [ten (10) Working Days] after the date of the Termination Assistance Notice;
 - (d) as soon as reasonably possible following, and in any event no later than [twenty (20) Working Days] following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

- 5.1.1 the nature of the Termination Assistance required; and
- 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.

5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.

5.3 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

6.1 Throughout the Termination Assistance Period the Supplier shall:

- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
- 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier

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including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;

6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;

6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;

6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;

6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.

6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

7.2.1 vacate any Buyer Premises;

7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

(a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and

(b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

8. Assets, Sub-contracts and Software

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or

8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**"); 8.2.2 which, if any, of:

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- (a) the Exclusive Assets that are not Transferable Assets; and (b)
- the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.

8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.

8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.

8.7 The Buyer shall:

- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.

8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

9. No charges

9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

10. Dividing the bills

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
- 10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

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10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Schedule 36 for The Secretary of State for Prisons [Only]

This Schedule is solely for use by the Ministry of Justice in conjunction with the Secretary of State for the Home Department (Home Office) Contract for Supply and Maintenance of Detection Technology Equipment.

Part 1: Mandatory Security Conditions

Part 2: Suppliers and Third-Party Software

Part 3: Information Assurance and Security

Part 4: Prisons

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| 1 | Access to Prisons |
| 2 | Security |
| 3 | Offences and Authorisation |
| 4 | Health and Safety Rules for Suppliers Working on Prison Premises |
| 5 | List of Prohibited and Controlled Items |
| 6 | Unauthorised Articles Notice and List |
| 7 | Delivery Driver Handbook |

PART 1 MANDATORY SECURITY CONDITIONS

Introduction

- 1.1 The term "Prison" shall mean this Establishment.
- 1.2 Security precautions arise from the need for the Prison to continue to function during the Supplier works of the Contract and from the paramount need to maintain proper prison security during the execution of the Supplier works. The Supplier staff (a '**Supplier and its Sub Contractors**') shall allow in his rates for the necessary flexibility in working hours and conditions commensurate with these needs.
- 1.3 Security requirements arise from the need for the Authority (meaning '**Ministry of Justice**') to control risk at all times and to prevent a breach or compromise of the security as a direct result of the execution of the Supplier works. The Supplier staff shall allow appropriately for complying with such conditions in meeting the requirements.
- 1.4 The Conditions set out below apply to the Supplier works and shall be strictly observed by the Supplier staff, his employees, and all others under the Suppliers direction from start to completion of the Supplier works.
- 1.5 All plant, tools and vehicles, scaffolding, temporary accommodation, etc. mentioned elsewhere in the documents shall comply with these Security Conditions.
- 1.6 Nothing contained in these Security Conditions shall relieve the Supplier staff of obligations to comply with the Health & Safety at Work Acts, Local Authority Requirements and other similar obligations imposed under the Contract.

Security of Documents

- 1.7 All documents used in the implementation of this Contract for the Authority constitute a security risk. Documents issued to Supplier staff remain at all times the property of Her Majesty's Prison Service and on completion of the Contract shall either be returned to the Authority in accordance with the Contract or be certified by the Supplier staff as having been destroyed in a secure manner.
- 1.8 The Authority operates a procedure, under the management of the Document Security Officer, to control and monitor the issue, use and return of documentation issued to others. The Document Security Officer is the focal point for inquiries from Supplier staffs on all matters related to this subject. Inquiries shall be directed through the on site representative or Buyers Contract Manager.
- 1.9 These security requirements have been incorporated in order to prevent information detrimental to the security of the Authority coming into the possession of unauthorised persons and at the same time establish an audit trail of document movement as well as a consciousness. Details of the Authority's Document Issue and Return Procedure in operation and the Forms used will be made available to the Supplier staff by the on site representative immediately following acceptance of the tender by the Authority.
- 1.10 The Supplier staff shall be responsible at all times for the security of all documents in the keeping of the Supplier staff whether issued by the Authority or copied or produced by the Supplier staff or Contractors.
- 1.11 In this context the term "documents" shall mean any and every drawing (including CAD disc), plan, schedule, specification, standard, presentation brochure, model, photograph and bill of quantities.
- 1.12 A named person, appointed by the Supplier staff to act as the Supplier staff's Security Manager, shall be provided at the Site for the whole of the duration of the Contract and shall be responsible for security at the Site.
- 1.13 The person shall be accountable for the control of all documents relating to the Contract and in particular record the whereabouts of each individual document. The person shall set up a management system of security, control and monitoring of documents and the Supplier staff shall demonstrate to the Authority/PM the operation of the system. When the Authority/PM is satisfied that the system is satisfactory it shall confirm its approval in writing.
- 1.14 The Supplier staff shall notify all personnel handling documents of the requirements imposed by the Authority and of the procedures for maintaining security. The Supplier staff shall notify to all others having an interest in the Contract of the particular requirements imposed regarding document security.

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- 1.15 The Supplier staff shall include in all contracts with Supplier staffs, suppliers, etc. similar but no less strict conditions of document security and shall be responsible for their compliance.
- 1.16 The movement of documents defined above shall be either by hand or by recorded delivery and a detailed log shall be kept identifying document, number, person receiving, reason and confirmation of receipt.
- 1.17 The Security Manager shall be responsible for the issue of documents to site operatives including any Supplier staffs (whether nominated, approved, appointed or otherwise) to all others including suppliers and specialists and to representatives of the Authority.
- 1.18 The Supplier staff shall be responsible for ensuring that documents issued to others are returned.
- 1.19 Documents shall be returned to the Authority in accordance with the procedures made available to the Supplier staff by the on site representative or Buyers Contract Manager.
- 1.20 The Security Manager shall arrange for the secure destruction and recording of any documents which are no longer required, have been superseded or are extra to the Supplier staff requirements.
- 1.21 The Supplier staff shall provide, both at the Prison and at the Suppliers offices, secure lockable computers, cabinets and cupboards used for storing documents and these shall be kept locked at all times when not in use and secured at all times when unoccupied.
- 1.22 The Supplier staff shall report immediately to the Authority's Document Security Officer by the most expedient method the loss of any document stating details of the loss and what the Supplier staff is doing to secure its recovery. The name and details of the Document Security Officer will be made available to the Supplier staff by the on site representative as above.
- 1.23 At the completion of the Supplier works the Supplier staff shall obtain from all others having an interest in the Contract the return of all documents issued to and created by the other parties and shall remind them of the contractual obligations required by these Security Conditions.
- 1.24 The Supplier staff shall continue to safeguard and secure documents after completion of the Supplier works until such time as the Contract has finally completed and the Supplier staff has received all monies due from the Authority. At that stage the Supplier staff shall agree with the Authority in writing what documents shall be returned, destroyed, kept, etc. and if kept shall continue to keep them secure as required above.

Site Personnel and Trafficking, etc.

- 1.25 The Supplier staff shall not communicate with the prisoners or inmates (except certain selected prisoners who are privileged to work daily without supervision outside the prison for private companies and receive the standard wages, etc. for their work) or anyone who traffics with the prisoners or inmates.
- 1.26 The Supplier staff shall employ as convenient to hire such labour as may be required but he shall first request the Governor's approval to bring them into the Prison. In particular the Supplier staff shall: -
 - a) give the Governor or on site representative in writing the full name, address, date and place of birth and height of all persons to be employed at the Site not later than 10 working days before those concerned first visit the Site, and the registration numbers of all cars likely to be brought within the vicinity of the Prison. This information shall be given accurately as delays can occur in verifying inaccurate information;
 - b) assist the Governor or on site representative in making any inquiries which they may deem desirable regarding any person employed;
 - c) forthwith cease to employ at the Prison any person whose continued employment would, in the Governor's or on site representative opinion, involve a security risk;
 - d) bring to the attention of every person employed upon or visiting the Site the Warning Notice applicable to all visitors to the Authority's and aid the Head of Supplier works Services to obtain the signatures of all persons representing the Supplier staff to certify that they have read the Notice. The Warning Notice is exhibited at the entrance to the Prison and copies shall be

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provided to the Supplier staff upon application to the Governor; a copy shall also be exhibited permanently in a prominent position on the Site;

- e) not allow any person under the age of 18 to enter the Prison precincts;
- f) ensure that all unworn clothing shall be kept secured to the approval of the Head of Supplier works Services and no clothing shall be left unattended at any time; and
- g) not allow intoxicants nor drugs to be brought into or onto the Prison premises.

Access to and Egress from the Site

1.27 Access to and egress from the Site shall be restricted to the entrance designated by the on site representative. The following requirements and restrictions shall be observed:

- a) the Supplier staff shall provide a "tally board" (for workmen's numbered discs) which shall be sited at the entrance for use by Prison Security. The tally board shall give the names of all Supplier staff employed on the Site by the Supplier staff and by all Supplier staffs and shall be arranged so that each name is exposed to view when the appropriate "tally" is removed. The tally shall be worn in a prominent position by the operatives at all times when on the Site;
- b) the Supplier staff shall provide all his operatives with an approved identity card in a clear protective plastic cover, which shall contain the employee's name, address, height and his photograph of passport size. Each individual employee will present their identity card each day to the Gate Officer, who shall exchange it for the appropriate numbered disc referred to above. The process will be reversed at the end of each working period / day;
- c) all persons shall report to the Gatekeeper upon entering and leaving the prison and shall be liable to be searched at the Governor's discretion. As far as practicable workmen shall enter and leave the prison in one party;
- d) bicycles shall not be taken inside the prison and no storage accommodation shall be provided;
- e) cars shall not be taken inside the Prison and no car parking facilities shall be provided;
- f) vehicles shall be allowed to enter the prison at the convenience of the Gate Officer, but on entering or leaving shall halt and shall be subject to inspection by Prison Officers between the inner and outer gates;
- g) no personnel or vehicles shall proceed from the prison entrance to the Site (via the route referred to elsewhere in the Contract) or vice versa without being accompanied by and under the supervision of a Prison Officer and shall not wander from the direct route; and
- h) all vehicles inside the Prison precincts shall comply with the Prison traffic regulations and in particular where practicable no vehicle shall stop within 6.10m of the outer boundary wall. No vehicles shall move within the Prison precincts during prisoner's exercise and movement periods which are to be advised prior to project start.

Movement to and from the Supplier works at the Prison

- 1.28 All personnel visiting, leaving or working on the Site shall be under the surveillance of one or more Prison Officer who shall remain and be at hand whilst any person remains on the Site.
- 1.29 All workmen employed on the Site by the Supplier staff and by all sub-Supplier staffs shall wear their tallies in a prominent position at all times whilst inside the Prison precincts.
- 1.30 Except where unavoidable, personnel who have arrived on the Site shall remain on the Site until the end of the period's / day's work.

The Supplier staff's Working Hours

- 1.31 All Supplier staff shall be escorted en bloc from the designated entrance of the Prison to the designated area and the Supplier staff shall ensure that all employees and all others under the Supplier staff's direction shall:

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- a) report at the designated entrance to the Prison at 8:30am to be escorted to the area designated as the Supplier staff's Site to start the morning's work at 9am;
- b) assemble in the designated area such that the Supplier staff cease the morning's work at 11:30am to be escorted back to the designated entrance of the Prison;
- c) report at the designated entrance to the Prison at 12:00pm to be escorted to the designated area as the Supplier staffs to start the afternoon's work at 1pm; and
- d) assemble in the area designated as the Supplier staffs to cease the day's work at 5:00pm to be escorted back to the designated entrance of the Prison.

Note: If employees are not at the designated entrance at these times they shall not be allowed on the Prison site and if employees do not assemble when required they shall forfeit the opportunity.

- 1.32 Should special conditions arise which make it desirable for the Supplier staff to remain on the Site after 6pm on weekdays and at any time on Saturdays and Sundays the Governor may be able to make special arrangements. Adequate notice in writing shall be given to the Governor for this purpose and his permission obtained but no guarantee can be given that the Governor will be able to give permission and should the Governor do so the Supplier staff shall have no claim against the Authority in respect of any overtime or other expenditure resulting therefrom.

Plant, Tools and Materials on the Site

- 1.33 All plant, tools and materials shall be accounted for during the course of the Contract and for this purpose the Supplier staff shall provide the Governor in an approved form with detailed particulars of all items as they are brought on to the Site and again as they are removed so that day to day information is available for the purpose of checking that nothing is missing.
- 1.34 Plant and tools shall not be brought on to the Site an undue time before they are needed for use and they shall be removed as soon as they are no longer required.
- 1.35 Rubbish shall not be allowed to accumulate.
- 1.36 No temporary telephone, electric lighting or power system shall be installed which involves the use of cables unless they are removed at the end of each day's work. Where such installations are of necessity to be semi-permanent they must be installed in an approved and secure manner.

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- 1.37 Hand operated power tools and trailing leads shall not be left unattended at any time.

Security Checks

- 1.38 Regular security checks shall be carried out by the Establishment's Security Officer on behalf of the Governor to prevent during the Contract **any** secretion of weapons, tools or other items.
- 1.39 Security checks shall be carried out without the benefit of prior notice and the Supplier staff shall be expected to co-operate fully with the requirements of the Security Officer and the team during the operations. It is expected that approximately checks will be carried out before the date for completion during the Supplier staff's working hours.
- 1.40 Every endeavour shall be made to minimise the disruption to the progress of the Contract whilst carrying out the security checks.
- 1.41 Security checks shall also be carried out outside the Supplier staff's Working hours and the Supplier staff shall be notified after the event.
- 1.42 The Supplier staff shall be notified by the Authority of any abnormalities resulting from the Security checks and shall co-operate fully in the further requirements or investigations of the Authority.
- 1.43 The Supplier staff shall in pursuance of the same objective stated above and under the control of the Supplier staff's Security Manager carry out on a regular basis security checks paying particular attention to areas of the Supplier works such as cavities, ducts, etc. and potential spaces immediately prior to their closure or sealing up.
- 1.44 In the event of an item being found the Supplier staff shall not interfere with the find but shall immediately secure the area and notify the Governor who shall investigate and determine what action shall be taken. The Supplier staff shall be notified by the Governor on the action resulting from the find and the Supplier staff shall co-operate in every way with the Governor's requirements.
- 1.45 The Supplier staff shall maintain a record of the security checks which shall be available for inspection by the Establishment's Security Officer and shall record such information as date, time, location, results, etc.
- 1.46 Immediately prior to the date on which the Supplier works are completed the Establishment's Security Officer shall with the co-operation of the Supplier staff carry out a final security check and the satisfactory conclusion of this shall determine the Issue of the certificate by the PM.

Special Facilities and Protection

- 1.47 Special facilities and protection (including temporary barriers and lighting) shall be provided by the Supplier staff to enable persons and vehicles to use the existing buildings without interruption during the course of the contract. In particular, adequate and proper safeguards shall be provided by the Supplier staff to ensure, (in relation to the Supplier works, plant, scaffolding, materials and temporary buildings) the safety of the Night Patrol Officers of the Prison staff.

Electrical Interference and Citizen Band Radios

- 1.48 No item of electrical equipment is to be used in the construction of the Supplier works unless it is fitted with a suppressor which ensures that there is no interference with Prison electrical equipment.
- 1.49 Short wave radio or other electronic equipment shall not be used without the approval of the Governor which may be withheld or withdrawn if interference with prison electronic equipment occurs or recurs.
- 1.50 No Citizen Band radio shall be permitted to be brought onto or into the prison premises or used within the vicinity of the Prison by the Supplier staff or his workmen.

Notify the Governor of the Supplier works beyond Security Hoardings, etc.

- 1.51 The Supplier staff shall notify the Governor whenever he requires to carry out the Supplier works to the existing building beyond the security hoardings, etc.

PART 2 - SUPPLIER AND THIRD PARTY SOFTWARE

Supplier Software comprises the following:

| Software | Supplier (if Affiliate of the Supplier) | Purpose | No. of Licences | Restrictions | No. of copies | Other | To be deposited in escrow? |
|----------|---|---------|-----------------|--------------|---------------|-------|----------------------------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

2.2 Third Party Software comprises the following:

| Third Party Software | Supplier | Purpose | No. of Licences | Restrictions | No. of copies | Other | To be deposited in escrow? |
|----------------------|----------|---------|-----------------|--------------|---------------|-------|----------------------------|
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PART 3 – INFORMATION ASSURANCE & SECURITY

1. GENERAL

- 1.1 This Part sets out the obligations of the Parties in relation to information assurance and security, including those which the Supplier must comply with in supplying the Goods under the Contract.
- 1.2 The Parties acknowledge that the purpose of the Information Security Management System (ISMS) and Security Plan is to ensure a robust organisational approach to information assurance and security under which the specific requirements of the Contract will be met.
- 1.3 The Parties shall each appoint and/or identify a board level individual or equivalent who has overall responsibility for information assurance and security, including personnel security and information risk.
- 1.4 The Supplier shall act in accordance with Good Industry Practice in the day to day operation of any system which is used for the storage of Information Assets and/or the storage, processing or management of Authority Data and/or that could directly or indirectly affect Information Assets and/or Authority Data.
- 1.5 The Supplier shall ensure that an information security policy is in place in respect of the operation of its organisation and systems, which shall reflect relevant control objectives for the Supplier System, including those specified in the ISO27002 control set or equivalent, unless otherwise agreed by the Authority. The Supplier shall, upon request, provide a copy of this policy to the Authority as soon as reasonably practicable. The Supplier shall maintain and keep such policy updated and provide clear evidence of this as part of its Security Plan.
- 1.6 The Supplier acknowledges that a compromise of Information Assets and/or Authority Data represents an unacceptable risk to the Authority requiring immediate communication and co-operation between the Parties. The Supplier shall provide clear evidence of regular communication with the Authority in relation to information risk as part of its Security Plan.

2. INFORMATION SECURITY MANAGEMENT SYSTEM

- 2.1 The Supplier shall, within 30 Working Days of the Commencement Date, submit to the Authority a proposed ISMS which:

- a) has been tested; and
- b) complies with the requirements of paragraphs 2.2 and 2.3.

2.2 The Supplier shall at all times ensure that the level of security, include cyber security, provided by the ISMS is sufficient to protect the confidentiality, integrity and availability of Information Assets and Authority Data used in the supply of the Goods and to provide robust risk management.

2.3 The Supplier shall implement, operate and maintain an ISMS which shall:

- a) protect all aspects of and processes of Information Assets and Authority Data, including where these are held on the ICT Environment (to the extent that this is under the control of the Supplier);
- b) be aligned to and compliant with the relevant standards in ISO/IEC 27001: 2013 or equivalent and the Certification Requirements in accordance with paragraph 5 unless otherwise Approved;
- c) provide a level of security which ensures that the ISMS and the Supplier System:
 - i) meet the requirements in the Contract; ii) are in accordance with applicable Law;
 - iii) demonstrate Good Industry Practice, including the Government's 10 Steps to Cyber Security, currently available at the link below:

<https://www.ncsc.gov.uk/collection/10-steps-to-cyber-security>; iv) comply with the Security Policy Framework 2018 currently available at the link below and any other relevant Government security standards;

<https://www.gov.uk/government/publications/security-policy-framework/hmg-securitypolicy-framework>;

v) comply with the Baseline Security Requirements;

vi) comply with the Authority's policies, including, where applicable, the Authority's Information Assurance Policy in PSI 24/2014 which is referred to at the link below;

<https://www.justice.gov.uk/downloads/offenders/psipso/psi-2014/psi-25-2014-it-securitypolicy.pdf>

- d) address any issues of incompatibility with the Supplier's organisational security policies;
 - e) address any specific security threats of immediate relevance to Information Assets and/or Authority Data;
 - f) document:
 - i) the security incident management processes, including reporting, recording and management of information risk incidents, including those relating to the ICT Environment (to the extent that this is within the control of the Supplier) and the loss of Personal Data, and the procedures for reducing and raising awareness of information risk;
 - ii) incident response plans, including the role of nominated security incident response companies; and
- iii) the vulnerability management policy, including processes for identification of system vulnerabilities and assessment of the potential effect on the Goods of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing and application of security patches and the reporting and audit mechanism detailing the efficacy of the patching policy;
- g) include procedures for the secure destruction of Information Assets and Authority Data and any hardware or devices on which such information or data is stored; and
 - h) be certified by (or by a person with the direct delegated authority of) the Supplier's representative appointed and/or identified in accordance with paragraph 1.3.

2.4 If the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies notified to the Supplier from time to time, the Supplier shall immediately notify the Authority of such inconsistency and the Authority shall, as soon as practicable, notify the Supplier of the provision that takes precedence.

2.5 The Supplier shall, upon request from the Authority or any accreditor appointed by the Authority, provide sufficient design documentation detailing the security architecture of its ISMS to support the Authority's and/or accreditor's assurance that it is appropriate, secure and complies with the Authority's requirements.

2.6 The Authority shall review the proposed ISMS submitted pursuant to paragraph 2.1 and shall, within 10 Business Days of its receipt notify the Supplier as to whether it has been approved.

2.7 If the ISMS is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Schedule 6.

2.8 If the ISMS is not Approved, the Supplier shall amend it within 10 Business Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Authority shall, within a further 10 Working Days notify the Supplier whether the amended ISMS has been approved. The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 30 Working Days from the date of its first submission to the Authority. If the Authority does not approve the ISMS following its resubmission, the matter shall be resolved in accordance with clause 11 (Dispute Resolution).

2.9 Approval of the ISMS or any change to it shall not relieve the Supplier of its obligations under this Part 3.

2.10 The Supplier shall provide to the Authority, upon request, any or all ISMS documents.

3 SECURITY PLAN

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3.1 The Supplier shall, within 30 Working Days of the Commencement Date, submit to the Authority for approval a Security Plan which complies with paragraph 3.2.

3.2 The Supplier shall effectively implement the Security Plan which shall:

- a) comply with the Baseline Security Requirements;
- b) identify the organisational roles for those responsible for ensuring the Supplier's compliance with this Schedule 6;
- c) detail the process for managing any security risks from those with access to Information Assets and/or Authority Data, including where these are held in the ICT Environment;
- d) set out the security measures and procedures to be implemented by the Supplier, which are sufficient to ensure compliance with the provisions of this Part 3;
- e) Set out plans for transition from the information security arrangements in place at the Commencement Date to those incorporated in the ISMS;
- f) Set out the scope of the Authority System that is under the control of the Supplier;
- g) Be structured in accordance with ISO/IEC 27001: 2013 or equivalent unless otherwise Approved;
- h) be written in plain language which is readily comprehensible to all Supplier staff and to Authority personnel engaged in supplying the Goods and reference only those documents which are in the possession of the Parties or whose location is otherwise specified in this Part 3; and
- i) comply with the Security Policy Framework and any other relevant Government security standards.

3.3 The Authority shall review the Security Plan submitted pursuant to paragraph 3.1 and notify the Supplier, within 10 Business Days of receipt, whether it has been approved.

3.4 If the Security Plan is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Part 3.

3.5 If the Security Plan is not Approved, the Supplier shall amend it within 10 Working Days of a notice of nonapproval from the Authority and re-submit it to the Authority for approval. The Authority shall notify the Supplier within a further 10 Business Days whether it has been approved.

3.6 The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and, in any event, no longer than 30 Working Days from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter shall be resolved in accordance with clause 34 of the Core Terms (Resolving Disputes).

3.7 Approval by the Authority of the Security Plan pursuant to paragraph 3.3 or of any change to the Security Plan shall not relieve the Supplier of its obligations under this Part 3.

4. REVISION OF THE ISMS AND SECURITY PLAN

4.1 The ISMS and Security Plan shall be reviewed in full and tested by the Supplier at least annually throughout the Term (or more often where there is a significant change to the Supplier System or associated processes or where an actual or potential Breach of Security or weakness is identified) to consider and take account of:

- a) any issues in implementing the Security Policy Framework and/or managing information risk;
- b) emerging changes in Good Industry Practice;
- c) any proposed or actual change to the ICT Environment and/or associated processes;
- d) any new perceived, potential or actual security risks or vulnerabilities;
- e) any ISO27001: 2013 audit report or equivalent produced in connection with the Certification requirements which indicates concerns; and
- f) any reasonable change in security requirements requested by the Authority.

4.2 The Supplier shall give the Authority the results of such reviews as soon as reasonably practicable after their completion, which shall include without limitation:

- a) suggested improvements to the effectiveness of the ISMS, including controls;
- b) updates to risk assessments;
- c) proposed modifications to respond to events that may affect the ISMS, including the security incident management processes, incident response plans and general procedures; and
- d) controls that affect information security.

4.3 Following the review in accordance with paragraphs 4.1 and 4.2 or at the Authority's request, the Supplier shall give the Authority at no additional cost a draft updated ISMS and/or Security Plan which includes any changes the Supplier proposes to make to the ISMS or Security Plan. The updated ISMS and/or Security Plan shall, unless otherwise agreed by the Authority, be subject to clause Schedule 21 Variation and shall not be implemented until Approved.

4.4 If the Authority requires any updated ISMS and/or Security Plan to be implemented within shorter timescales than those set out in Schedule 21 Variation, the Parties shall thereafter follow clause Schedule 21 Variation for the purposes of formalising and documenting the relevant change for the purposes of the Contract.

5. CERTIFICATION REQUIREMENTS

5.1 The Supplier shall ensure that any systems, including the ICT Environment, on which Information Assets and Authority Data are stored and/or processed are certified as compliant with:

- a) ISO/IEC 27001:2013 or equivalent by a UKAS approved certification body or are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved; and
- b) the Government's Cyber Essentials Scheme at the BASIC level unless otherwise agreed with the Authority and shall provide the Authority with evidence:
- c) of certification before the Supplier accessed the ICT Environment and receives, stores, processes or manages any Authority Data; and
- d) that such certification remains valid and is kept up to date while the Supplier (as applicable) continues to access the ICT Environment and receives, stores, processes or manages any Authority Data during the Term.

5.2 The Supplier shall ensure that it:

- a) carries out any secure destruction of Information Assets and/or Authority Data at Supplier sites which are included within the scope of an existing certificate of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved;
- b) is certified as compliant with the CESG Assured Service (CAS) Service Requirement Sanitisation Standard or equivalent unless otherwise Approved; and
- c) the Supplier shall provide the Authority with evidence of its compliance with the requirements set out in this paragraph 5.2 before the Supplier may carry out the secure destruction of any Information Assets and/or Authority Data.

5.3 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier ceases to comply with the certification requirements in paragraph 5.1 and, on request from the Authority, shall:

- a) Immediately cease access to and use of Information Assets and/or Authority Data; and
 - b) Promptly return, destroy and/or erase any Authority Data in accordance with the Baseline Security Requirements.
- Failure to comply with this obligation is a material Default.

6. SECURITY TESTING

6.1 The Supplier shall, at its own cost, carry out relevant Security Tests from the Commencement Date and throughout the Term, which shall include:

- a) a monthly vulnerability scan and assessment of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held;

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- b) an annual IT Health Check by an independent CHECK qualified company of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held and any additional IT Health Checks required by the Authority and/or any accreditor; and
- c) an assessment as soon as reasonably practicable following receipt by the Supplier of a critical vulnerability alert from a provider of any software or other component of the Supplier System and/or any other system under the control of the Supplier on which Information Assets and/or Authority Data are held; and

Such other tests as are required:

- a) by any Vulnerability Correction Plans;
- b) by ISO/IEC 27001:2013 certification requirements or equivalent Approved;
- c) after any significant architectural changes to the ICT Environment;
- d) after a change to the ISMS (including security incident management processes and incident response plans) or the Security Plan; and
- e) following a Breach of Security.

6.2 In relation to each IT Health Check, the Supplier shall:

- a) agree with the Authority the aim and scope of the IT Health Check;
- b) promptly, following receipt of each IT Health Check report, give the Authority a copy of the IT Health Check report;
- c) if the IT Health Check report identifies any vulnerabilities:
- d) prepare a Vulnerability Correction Plan for Approval which sets out in respect of each such vulnerability:
- e) how the vulnerability will be remedied;
- f) the date by which the vulnerability will be remedied;
- f) the tests which the Supplier shall perform or procure to be performed (which may, at the Authority's discretion, include a further IT Health Check) to confirm that the vulnerability has been remedied;
- h) comply with the Vulnerability Correction Plan; and
- i) conduct such further Security Tests as are required by the Vulnerability Correction Plan.

6.3 Security Tests shall be designed and implemented by the Supplier so as to minimise any adverse effect on the Goods and the date, timing, content and conduct of Security Tests shall be agreed in advance with the Authority.

6.4 The Authority may send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Authority with the results of Security Tests (in a form to be Approved) as soon as practicable and in any event within 5 Working Days after completion of each Security Test.

6.5 Without prejudice to any other right of audit or access granted to the Authority pursuant to the Contract, the Authority and/or its authorised representatives, including any accreditor, may at any time to carry out Security Tests (including penetration tests) as it may deem necessary as part of any accreditation process and/or to verify the Supplier's compliance with the ISMS and the Security Plan:

- a) upon giving reasonable notice to the Supplier where reasonably practicable to do so;

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- b) without giving notice to the Supplier where, in the Authority's view, the provision of such notice may undermine the Security Tests to be carried out; and
- c) where applicable, the Authority shall be granted access to the Supplier's premises for the purpose of undertaking the relevant Security Tests.

6.6 If the Authority carries out Security Tests in accordance with paragraphs 5.1 or 5.2, the Authority shall (unless there is any reason to withhold such information) notify the Supplier of the results of the Security Tests as soon as possible and in any event within 5 Working Days after completion of each Security Test.

6.7 If any Security Test carried out pursuant to paragraphs 6.1 or 6.4 reveals any:

- a) vulnerabilities during any accreditation process, the Supplier shall track and resolve them effectively; and
- b) actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Authority of any proposed changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or to the ISMS and/or to the Security Plan (and the implementation thereof) which the Supplier intends to make in order to correct such failure or weakness. Subject to Approval, the Supplier shall implement such changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or the ISMS and/or the Security Plan and repeat the relevant Security Tests in accordance with an Approved timetable or, otherwise, as soon as reasonably practicable.

6.8 If the Authority unreasonably withholds its approval to the implementation of any changes to the ICT Environment and/or to the ISMS and/or to the Security Plan proposed by the Supplier in accordance with paragraph 6.7, the Supplier is not in breach of the Contract to the extent that it can be shown that such breach:

- a) has arisen as a direct result of the Authority unreasonably withholding Approval to the implementation of such proposed changes; and
- b) would have been avoided had the Authority Approved the implementation of such proposed changes.

6.9 If a change to the ISMS or Security Plan is to address any non-compliance with ISO/IEC 27001:2013 requirements or equivalent, the Baseline Security Requirements or any obligations in the Contract, the Supplier shall implement such change at its own cost and expense.

6.10 If any repeat Security Test carried out pursuant to paragraph 6.7 reveals an actual or potential breach of security or weakness exploiting the same root cause failure, such circumstance shall constitute a material Default.

6.11 On each anniversary of the Commencement Date, the Supplier shall provide to the Authority a letter from the individual appointed or identified in accordance with paragraph 1.3 confirming that having made due and careful enquiry to the Supplier:

- a) has in the previous year carried out all Security Tests in accordance with this Part 3 and has complied with all procedures in relation to security matters required under the Contract; and
- b) is confident that its security and risk mitigation procedures in relation to Information Assets and Authority Data remain effective.

7. SECURITY AUDITS AND COMPLIANCE

7.1 The Authority and its authorised representatives may carry out security audits as it reasonably considers necessary in order to ensure that the ISMS is compliant with the principles and practices of ISO 27001: 2013 or equivalent (unless otherwise Approved), the requirements of this Schedule 6 and the Baseline Security Requirements.

- 7.2 If ISO/IEC 27001: 2013 certification or equivalent is provided, the ISMS shall be audited independently in accordance with ISO/IEC 27001: 2013 or equivalent. The Authority and its authorised representatives shall, where applicable, be granted access to the Supplier Sites and Sub-Supplier staff premises for this purpose.
- 7.3 If, on the basis of evidence resulting from such audits, it is the Authority's reasonable opinion that ISMS is not compliant with any applicable principles and practices of ISO/IEC 27001: 2013 or equivalent, the requirements of this Part 3 and/or the Baseline Security Requirements is not being achieved by the Supplier, the Authority shall notify the Supplier of this and provide a reasonable period of time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) for the Supplier to implement any necessary remedy. If the Supplier does not ensure that the ISMS is compliant within this period of time, the Authority may obtain an independent audit of the ISMS to assess compliance (in whole or in part).
- 7.4 If, as a result of any such independent audit as described in paragraph 7.3 the Supplier is found to be noncompliant with any applicable principles and practices of ISO/IEC 27001:2013 or equivalent, the requirements of this Schedule 6 and/or the Baseline Security Requirements the Supplier shall, at its own cost, undertake those actions that are required in order to ensure that the ISMS is complaint and shall reimburse the Authority in full in respect of the costs obtaining such an audit.

8. SECURITY RISKS AND BREACHES

- 8.1 The Supplier shall use its reasonable endeavours to prevent any Breach of Security for any reason, including as a result of malicious, accidental or inadvertent behaviour.
- 8.2 If either Party becomes aware of a Breach of Security or an attempted Breach of Security it shall act in accordance with the agreed security incident management processes and incident response plans as set out in the ISMS.
- 8.3 Without prejudice to the security incident management processes and incident response plans set out in the ISMS and any requirements to report incidents in accordance with PSI 24/2014 if applicable, upon becoming aware of any Breach of Security or attempted Breach of Security, the Supplier shall:
- a) immediately notify the Authority and take all reasonable steps (which shall include any action or changes reasonably required by the Authority) that are necessary to:
 - b) minimise the extent of actual or potential harm caused by any Breach of Security;
 - c) remedy any Breach of Security to the extent that is possible and protect the integrity of the ICT Environment (to the extent that this is within its control) and ISMS against any such Breach of Security or attempted Breach of Security;
 - d) mitigate against a Breach of Security or attempted Breach of Security;
 - e) prevent a further Breach of Security or attempted Breach of Security in the future resulting from the same root cause failure;
 - f) provide to the Authority and/or the Computer Emergency Response Team for UK Government ("GovCertUK") or equivalent any data that is requested relating to the Breach of Security or attempted Breach of Security within 2 Working Days of such request; and
 - g) as soon as reasonably practicable and, in any event, within 2 Working Days following the Breach of Security or attempted Breach of Security, provide to the Authority full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis if required by the Authority and the Supplier recognises that the Authority may report significant actual or potential losses of Personal Data to the Information Commissioner or equivalent and to the Cabinet Office.
- 8.4 If any action is taken by the Supplier in response to a Breach of Security or attempted Breach of Security which occurred as a result of non-compliance of the ISMS with any ISO/IEC 27001: 2013 requirements or equivalent (as applicable), the Baseline Security Requirements and/or the requirements of this Part 3, any

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such action and change to the ISMS and/or Security Plan as a result shall be implemented at the Supplier's cost.

IT Environment

8.5 The Supplier shall ensure that the Supplier System:

- a) functions in accordance with Good Industry Practice for protecting external connections to the internet;
- b) functions in accordance with Good Industry Practice for protection from Malicious code;
- c) provides controls to securely manage (store and propagate) all cryptographic keys to prevent malicious entities and services gaining access to them, in line with the Authority's Cryptographic Policy as made available to the Supplier from time to time;
- d) is patched (and all of its components are patched) in line with Good Industry Practice, any Authority patching policy currently in effect and notified to the Supplier and any Supplier patch policy that is agreed with the Authority; and
- e) uses the latest versions of anti-virus definitions, firmware and software available from industry accepted anti-virus software vendors.

8.6 Notwithstanding paragraph 8.5, if a Breach of Security is detected in the ICT Environment, the Parties shall co-operate to reduce the effect of the Breach of Security and, if the Breach of Security causes loss of operational efficiency or loss or corruption of Information Assets and/or Authority Data, assist each other to mitigate any losses and to recover and restore such Information Assets and Authority Data.

8.7 All costs arising out of the actions taken by the Parties in compliance with paragraphs 8.2, 8.3 and 8.6 shall be borne by:

- a) the Supplier if the Breach of Security originates from the defeat of the Supplier's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Supplier or its Sub-Supplier staff; or
- b) the Authority if the Breach of Security originates from the defeat of the Authority's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Authority

and each Party shall bear its own costs in all other cases.

9. VULNERABILITIES AND CORRECTIVE ACTION

9.1 The Parties acknowledge that from time to time vulnerabilities in the ICT Environment and ISMS will be discovered which, unless mitigated, will present an unacceptable risk to Information Assets and/or Authority Data.

9.2 The severity of any vulnerabilities shall be categorised by the Supplier as '*Critical*', '*Important*' and '*Other*' according to the agreed method in the ISMS and using any appropriate vulnerability scoring systems.

9.3 The Supplier shall procure the application of security patches to vulnerabilities categorised as '*Critical*' within 7 days of public release, vulnerabilities categorised as '*Important*' within 30 days of public release and vulnerabilities categorised as '*Other*' within 60 days of public release, except where:

- a) the Supplier can demonstrate that a vulnerability is not exploitable within the context of the Goods being supplied, including where it resides in a software component which is not being used, provided that, where those vulnerabilities become exploitable, they are remedied by the Supplier within the timescales in paragraph 9.3;
- b) the application of a security patch in respect of a vulnerability categorised as '*Critical*' or '*Important*' adversely affects the Supplier's ability to deliver the Goods, in which case the Supplier shall be granted an extension to the timescales in paragraph 9.3 of 5 days, provided that the Supplier continues to follow any security patch test plan agreed with the Authority; or

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- c) the Authority agrees a different timescale after consultation with the Supplier in accordance with the processes defined in the ISMS.

9.4 The ISMS and the Security Plan shall include provision for the Supplier to upgrade software throughout the Term within 6 months of the release of the latest version unless:

- a) upgrading such software reduces the level of mitigation for known threats, vulnerabilities or exploitation techniques, provided always that such software is upgraded by the Supplier within 12 months of release of the latest version; or
- b) otherwise agreed with the Authority in writing.

9.5 The Supplier shall:

- a) implement a mechanism for receiving, analysing and acting upon threat information provided by GovCertUK, or any other competent Central Government Body;
- b) ensure that the ICT Environment (to the extent that this is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
- b) ensure that it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment (to the extent that this is within the control of the Supplier) by actively monitoring the threat landscape during the Term;
- c) pro-actively scan the ICT Environment (to the extent that this is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS;
- d) from the Commencement Date and within 5 Working Days of the end of each subsequent month during the Term provide a report to the Authority detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that this is within the control of the Supplier) and any elapsed time between the public release date of patches and either the time of application or, for outstanding vulnerabilities, the time of issue of such report;
- e) propose interim mitigation measures in respect of any vulnerabilities in the ICT Environment (to the extent this is within the control of the Supplier) known to be exploitable where a security patch is not immediately available;
- f) remove or disable any extraneous interfaces, services or capabilities that are no longer needed for the provision of the Goods (in order to reduce the attack surface of the ICT Environment to the extent this is within the control of the Supplier); and
- g) inform the Authority when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the IT Environment (to the extent this is within the control of the Supplier) and provide initial indications of possible mitigations

If the Supplier is unlikely to be able to mitigate any vulnerability within the timescales in paragraph 9.3, the Supplier shall notify the Authority immediately.

Any failure by the Supplier to comply with paragraph 9.3 shall constitute a material Default.

10. SUB-CONTRACTS

10.1 The Supplier shall ensure that all Sub-Contracts with Sub-Supplier staffs who have access to Information Assets and/or Authority Data contain equivalent provisions in relation to information assurance and security that are no less onerous than those imposed on the Supplier under the Contract.

ANNEX 1 – BASELINE SECURITY REQUIREMENTS

1 Security Classifications and Controls

- 1.1 The Supplier shall, unless otherwise Approved in accordance with paragraph 3.6.2 of this Annex 1, only have access to and handle Information Assets and Authority Data that are classified under the Government Security Classifications Scheme as OFFICIAL.
- 1.2 There may be a specific requirement for the Supplier in some instances on a limited 'need to know basis' to have access to and handle Information Assets and Authority Data that are classified as 'OFFICIALSENSITIVE.'
- 1.3 The Supplier shall apply the minimum security controls required for OFFICIAL information and OFFICIALSENSITIVE information as described in Cabinet Office guidance, currently at:
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715778/May-2018_Government-Security-Classifications-2.pdf
- 1.4 The Supplier shall be able to demonstrate to the Authority and any accreditor that it has taken into account the "Technical Controls Summary" for OFFICIAL (in the above guidance) in designing and implementing the security controls in the Supplier System, which shall be subject to assurance and accreditation to Government standards.
- 1.5 Additional controls may be required by the Authority and any accreditor where there are aspects of data aggregation.

2 End User Devices

- 2.1 Authority Data shall, wherever possible, be held and accessed on paper or in the ICT Environment on secure premises and not on removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) without Approval. If Approval is sought to hold and access data by other means, the Supplier shall consider the second-best option and third best option below and record the reasons why a particular approach should be adopted when seeking Approval:
- 2.1.1 second best option means: secure remote access so that data can be viewed or amended over the internet without being permanently stored on the remote device, using products meeting the FIPS 140-2 standard or equivalent, unless Approved;
- 2.1.2 third best option means: secure transfer of Authority Data to a remote device at a secure site on which it will be permanently stored, in which case the Authority Data and any links to it shall be protected at least to the FIPS 140-2 standard or equivalent, unless otherwise Approved, and noting that protectively marked Authority Data must not be stored on privately owned devices unless they are protected in this way.
- 2.2 The right to transfer Authority Data to a remote device should be carefully considered and strictly limited to ensure that it is only provided where absolutely necessary and shall be subject to monitoring by the Supplier and Authority.
- 2.3 Unless otherwise Approved, when Authority Data resides on a mobile, removable or physically uncontrolled device, it shall be:
- 2.3.1 the minimum amount that is necessary to achieve the intended purpose and should be anonymised if possible;
- 2.3.2 stored in an encrypted form meeting the FIPS 140-2 standard or equivalent and using a product or system component which has been formally assured through a recognised certification process of CESG to at least Foundation Grade, for example, under the CESG Commercial Product Assurance scheme ("CPA") or equivalent, unless otherwise Approved;
- 2.3.3 protected by an authentication mechanism, such as a password; and
- 2.3.4 have up to date software patches, anti-virus software and other applicable security controls to meet the requirements of this Schedule 6.

2.4 Devices used to access or manage Authority Data shall be under the management authority of the Supplier and have a minimum set of security policy configurations enforced. Unless otherwise Approved, all Supplier devices shall satisfy the security requirements set out in the CESG End User Devices Platform Security Guidance ("CESG Guidance") (<https://www.gov.uk/government/collections/end-user-devices-securityguidance--2>) or equivalent.

2.5 Where the CESG Guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Authority and a joint decision shall be taken on whether the residual risks are acceptable. If the Supplier wishes to deviate from the CESG Guidance, this should be agreed in writing with the Authority on a case by case basis.

3 Data Storage, Processing, Management, Transfer and Destruction

3.1 The Parties recognise the need for Authority Data to be safeguarded and for compliance with the Data Protection Legislation. To that end, the Supplier shall inform the Authority of the location within the United Kingdom where Authority Data is stored, processed and managed. The import and export of Authority Data from the Supplier System must be strictly controlled and recorded.

3.2 The Supplier shall inform the Authority of any changes to the location within the United Kingdom where Authority Data is stored, processed and managed and shall not transmit, store, process or manage Authority Data outside of the United Kingdom without Approval which shall not be unreasonably withheld or delayed provided that the transmission, storage, processing and management of Authority Data offshore is within:

3.2.1 the European Economic Area ("EEA"); or

3.2.2 another country or territory outside the EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the European Commission.

3.3 The Supplier System shall support the requirement of the Authority to comply with Government policy and Cabinet Office guidance on Offshoring, currently set out at:

<https://ogsirooffshoring.zendesk.com/hc/en-us/articles/203107991-HMG-sOffshoring-Policy>

by assessing, as required, any additional security risks associated with the storage, processing and/or transmission of any data and/or information offshore, including by an offshore Supplier (which may include the use of 'landed resources'), taking account of European Union requirements to confirm the 'adequacy' of protection of Personal Data in the countries where storage, processing and/or transmission occurs. No element of the Supplier System may be off-shored without Approval.

3.4 The Supplier shall ensure that the Supplier System provides internal processing controls between security domains to prevent the unauthorised high domain exporting of Authority Data to the low domain if there is a requirement to pass data between different security domains.

3.5 The Supplier shall ensure that any electronic transfer of Authority Data:

3.5.1 protects the confidentiality of the Authority during transfer through encryption suitable for the impact level of the data;

3.5.2 maintains the integrity of the Authority Data during both transfer and loading into the receiving system through suitable technical controls for the impact level of the data; and

3.5.3 prevents the repudiation of receipt through accounting and auditing.

3.6 The Supplier shall:

3.6.1 protect Authority Data, including sensitive Personal Data, whose release or loss could cause harm or distress to individuals and ensure that this is handled as if it were confidential while it is stored and/or processed;

3.6.2 ensure that any OFFICIAL-SENSITIVE information, including Personal Data is encrypted in transit and when at rest when stored away from the Supplier's controlled environment;

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3.6.3 on demand, provide the Authority with all Authority Data in an agreed open format;

3.6.4 have documented processes to guarantee availability of Authority Data if it ceases to trade;

3.6.5 securely destroy all media that has held Authority Data at the end of life of that media in accordance with any requirements in the Contract and, in the absence of any such requirements, in accordance with Good Industry Practice;

3.6.6 securely erase any or all Authority Data held by the Supplier when requested to do so by the Authority;

3.6.7 ensure that all material used for storage of Confidential Information is subject to controlled disposal and the Supplier shall:

- a) destroy paper records containing Personal Data by incineration, pulping or shredding so that reconstruction is unlikely; and
- b) dispose of electronic media that was used for the processing or storage of Personal Data through secure destruction, overwriting, erasure or degaussing for re-use.

4 Networking

4.1 Any Authority Data transmitted over any public network (including the Internet, mobile netSupplier works or un-protected enterprise network) or to a mobile device shall be encrypted using a product or system component which has been formally assured through a certification process recognised by CESG, to at least Foundation Grade, for example, under CPA or through the use of Public Sector Network ("PSN") compliant encrypted networking services or equivalent unless none are available in which case the Supplier shall agree the solution with the Authority.

4.2 The Authority requires that the configuration and use of all networking equipment in relation to the supply of the Goods, including equipment that is located in secure physical locations, is at least compliant with Good Industry Practice.

4.3 The Supplier shall ensure that the ICT Environment (to the extent this is within the control of the Supplier) contains controls to maintain separation between the PSN and internet connections if used.

5 Security Architectures

5.1 When designing and configuring the ICT Environment (to the extent that this is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or those with a CESG Certified Professional certification (<http://www.cesg.gov.uk/awarenesstraining/IA-certification/Pages/index.aspx>) or equivalent for all bespoke or complex components.

5.2 The Supplier shall provide to the Authority and any accreditor sufficient design documentation detailing the security architecture of the ICT Environment and data transfer mechanism to support the Authority's and any accreditor's assurance that this is appropriate, secure and compliant with the Authority's requirements.

5.3 The Supplier shall apply the '*principle of least privilege*' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of the ICT Environment used for the storage, processing and management of Authority Data. Users should only be granted the minimum necessary permissions to access Information Assets and Authority Data and must be automatically logged out of the Supplier System if an account or session is inactive for more than 15 minutes.

6 Digital Continuity

The Supplier shall ensure that each Information Asset is held in an appropriate format that is capable of being updated from time to time to enable the Information Asset to be retrieved, accessed, used and transferred to the Authority, including in accordance with any information handling procedures set out in PSI 24/2014 (Information Assurance) if applicable.

7 Personnel Vetting and Security

7.1 All Supplier staff shall be subject to pre-employment checks that include, as a minimum, their employment history for at least the last 3 years, identity, unspent criminal convictions and right to work (including nationality and immigration status) and shall be vetted in accordance with:

7.1.1 the BPSS or BS7858 or equivalent; and

7.1.2 PSI 07/2014, if applicable, based on their level of access to Information Assets and/or Authority Data

7.1.2 As a minimum, supplier maintenance engineers who are required to visit prison sites will require Enhanced level 2 vetting clearance with Counter Terrorism Check (CTC).

7.2 If the Authority agrees that it is necessary for any Supplier staff to have logical or physical access to Information Assets and/or Authority Data classified at a higher level than OFFICIAL (such as that requiring 'SC' clearance), the Supplier shall obtain the specific government clearances that are required for access to such Information Assets and/or Authority Data.

7.3 The Supplier shall prevent Supplier staff who are unable to obtain the required security clearances from accessing Information Assets and/or Authority Data and/or the ICT Environment used to store, process and/or manage such Information Assets or Authority Data.

7.4 The Supplier shall procure that all Supplier staff comply with the Security Policy Framework and principles, obligations and policy priorities stated therein, including requirements to manage and report all security risks in relation to the supply of the Goods.

7.5 The Supplier shall ensure that Supplier staff who can access Information Assets and/or Authority Data and/or the ICT Environment are aware of their responsibilities when handling such information and data and undergo regular training on secure information management principles. Unless otherwise Approved, this training must be undertaken annually.

7.6 If the Supplier grants Supplier staff access to Information Assets and/or Authority Data, those individuals shall be granted only such levels of access and permissions that are necessary for them to carry out their duties. Once Supplier staff no longer require such levels of access or permissions or leave the organisation, their access rights shall be changed or revoked (as applicable) within one Working Day.

8 Identity, Authentication and Access Control

8.1 The Supplier shall operate a robust role-based access control regime, including network controls, to ensure all users and administrators of and those maintaining the ICT Environment are uniquely identified and authenticated when accessing or administering the ICT Environment to prevent unauthorised users from gaining access to Information Assets and/or Authority Data. Applying the '*principle of least privilege*', users and administrators and those responsible for maintenance shall be allowed access only to those parts of the ICT Environment they require. The Supplier shall retain an audit record of accesses and users and disclose this to the Authority upon request.

8.2 The Supplier shall ensure that Supplier staff who use the Authority System actively confirm annually their acceptance of the Authority's acceptable use policy.

9 Physical Media

9.1 The Supplier shall ensure that:

- a) all OFFICIAL information is afforded physical protection from internal, external and environmental threats commensurate with the value to the Authority of that information;
- b) all physical components of the Supplier System are kept in secure accommodation which conforms to the Security Policy Framework and CESG standards and guidance or equivalent;
- c) all physical media holding OFFICIAL information is handled in accordance with the Security Policy Framework and CESG standards and guidance or equivalent; and
- d) all Information Assets and Authority Data held on paper are:
 - i) kept secure at all times, locked away when not in use on the premises on which they are held and secured and are segregated if the Supplier is co-locating with the Authority; and
 - ii) only transferred by an approved secure form of transfer with confirmation of receipt obtained.

10 Audit and Monitoring

- 10.1 The Supplier shall implement effective monitoring of its information assurance and security obligations in accordance with Government standards and where appropriate, in accordance with CESG Good Practice Guide 13 – Protective Monitoring or equivalent.
- 10.2 The Supplier shall collect audit records which relate to security events in the ICT Environment (where this is within the control of the Supplier), including those that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness, such Supplier audit records shall include:
- a) logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent it is within the control of the Supplier). To the extent the design of the ICT Environment allows, such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers;
 - b) regular reports and alerts giving details of access by users of the ICT Environment (to the extent that it is within the control of the Supplier) to enable the identification of changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data; and
 - c) security events generated in the ICT Environment (to the extent it is within the control of the Supplier) including account logon and logoff events, start and end of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 10.3 The Parties shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 10.4 The Supplier shall retain audit records collected in compliance with paragraph 10.1 for at least 6 months.

PART 4 - PRISONS

1. ACCESS TO PRISONS

- 1.1 If Supplier staff are required to have a pass for admission to an Authority Premises which is a Prison, (a “**Prison**”) the Authority (the ‘**Ministry of Justice**’) shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued. Any member of the Supplier staff who cannot produce a security pass when required to do so by any member of the Authority’s personnel, or who contravenes any conditions on the basis of which a pass was issued, may be refused admission to a Prison or be required to leave a Prison if already there.
- 1.2 Supplier staff shall promptly return any pass if at any time the Authority so requires or if the person to whom the pass was issued ceases to be involved in the supply of the Goods. The Supplier shall promptly return all passes on expiry or termination of the Contract.
- 1.3 Supplier staff attending a Prison may be subject to search at any time. Strip searches shall be carried out only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel. The Supplier is referred to Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 and Rule 75 of Part IV of the Young Offender Institution Rules 2000 as amended by the Young Offender Institution (Amendment) Rules 2005.
- 1.4 Searches shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel and/or visitors. The Supplier is referred to Section 8 of the Prison Act 1952, Rule 64 of the Prison Rules 1999 and PSI 67/2011.

2. SECURITY

- 2.1 Whilst at Prisons Supplier staff shall comply with all security measures implemented by the Authority in respect of Supplier staff and other persons attending Prisons. The Authority shall provide copies of its written security procedures to Supplier staff on request. The Supplier and all Supplier staff are prohibited from

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taking any photographs at Prisons unless they have Approval and the Authority's representative is present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without Approval.

2.2 The Authority may search vehicles used by the Supplier or Supplier staff at Prisons.

2.3 The Supplier and Supplier staff shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible for security matters on the Authority's behalf, and when required by the Authority shall:

- a) take all reasonable measures to make available for interview by the Authority any Supplier staff identified by the Authority, or a person who is responsible for security matters, for the purposes of the investigation. Supplier staff may be accompanied by and be advised by another person whose attendance at the interview is acceptable to the Authority;
- b) subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind and in any form reasonably required by the Authority, or by a person who is responsible for security matters on the Authority's behalf, for the purposes of investigation as long as the provision of that material does not prevent the Supplier from supplying the Goods. The Authority may retain any such material for use in connection with the investigation and, as far as possible, may provide the Supplier with a copy of any material retained.

3. OFFENCES AND AUTHORISATION

3.1 In supplying the Goods the Supplier shall comply with PSI 10/2012 (Conveyance and Possession of Prohibited Items and Other Related Offences) and other applicable provisions relating to security as published by the Authority from time to time.

3.2 Nothing in the Contract is deemed to provide any "authorisation" to the Supplier in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 or other relevant legislation.

4. HEALTH & SAFETY RULES FOR SUPPLIER STAFFS WORKING ON PRISON PREMISES

This document must be read in conjunction with the prison Health & Safety Policy Document available from the Establishments Site Manager.

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1. INTRODUCTION

It is the responsibility of the governor as the controller of the establishment to ensure as far as is reasonably practicable, the health, safety and welfare of all Supplier staff, inmates and visitors. Furthermore, to ensure that the acts or omissions of Supplier staffs do not endanger Supplier staff, inmates and visitors while carrying out their normal duties in the establishment.

The establishment Health and Safety Policy Statement of Arrangements recognises these duties and this document should be read in conjunction with it. In view of the many and varied activities carried out by Suppliers and its Supplier staffs on prison premises, it is considered appropriate that an addendum to the establishment Health and Safety Policy Statement of Arrangements is implemented and recognised by Supplier staffs working on prison premises, setting out a general code of practice for each contract and takes into account the varying circumstances in each area of the establishment.

2. PURPOSE OF THE ADDENDUM

This addendum has been prepared to help Supplier staffs and their employees to work safely, and to prevent accidents and injuries to themselves and to others who may be affected by their acts or omissions while working in the prison. The addendum also aims to assist Supplier staffs in complying with the Health and Safety at Work Act, the Management of Health and Safety at Work Regulations, the Construction (Health, Safety and Welfare) Regulations, and all other association legislation.

All Supplier staffs working on prison premises must conform to the provisions of the Health and Safety Policy Statement of Arrangements and this addendum. The observance of the statement and addendum, however, does not in any way relieve the Supplier staff of his legal or contractual obligations. All Supplier staffs and their employees should be conversant with the safety requirements of the area in which they are working, and the Supplier staff's representative named in the addendum has the responsibility for ensuring that this is the case.

In the event of any doubt regarding the application of the Statement of Arrangements or the addendum, or in any circumstances affecting safe working not covered by the two documents, advice should be sought from the establishment Health & Safety Advisor (if appointed) who will be available for consultation during normal working hours. Otherwise the Establishments Site Manager or his representative.

3. SECURITY REQUIREMENTS

For Supplier staffs and their employees working for the first time within a prison can be a very traumatic experience. It need hardly be pointed out that it is not a normal working environment in the sense of working in public or private premises. This environment brings with it a unique set of problems which need to be taken into account by both the Supplier staffs, his employees and prison Supplier staff, not the least of which is security.

The principal security requirements are clearly set out in the Preliminaries (Section 1) to the contract documents and it is not proposed to expand upon them in these notes.

The Supplier staff will be escorted at all times by a member of Prison Supplier staff. The escort is responsible for all security matters relating to the contract, but not the technical content.

Further guidance upon security, of resolution of security matters arising from the Supplier staffs' work, which are beyond the delegated responsibilities of the escort Supplier staff, must be referred in the first instance to the Establishments Site Manager or his authorised representative.

The requirements of security must not be taken to override or mitigate the requirements of Health and Safety: both are essential functions for all persons on prison premises and under normal circumstances are regarded as complimentary to each other

4. STARTING WORK

Before work commences on each area of the contract, the Establishments Site Manager must be informed so that the appropriate arrangements for Health and Safety can be made.

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The form at the back of this document must be completed in full and signed by the appropriate persons concerned and a Safe System of Work arranged before Supplier staff operations are allowed to begin.

5. SUPPLIER STAFF'S SAFETY REPRESENTATIVE

It shall be the duty of each individual Supplier staff to name one of his Employees who will be responsible for the safety of the Supplier staff's Supplier works. The person must be named in writing to the client and will liaise with the site Safety Supervisor appointed by the client. The Supplier staff or his representative will be requested to attend on site Safety Meetings as and when instructed by the client. If a Supplier staff sub-lets the work, it will be the duty of the Supplier staff to ensure the above condition is adhered to.

6. HEALTH & SAFETY

Through the Establishment's Site Manager, the Health & Safety advisor will give assistance to ensure a safe working environment is provided.

7. ALARMS

In the event of a general or fire alarm being sounded, the Supplier staff or his employees must follow the instructions given to him by the Escorting Officer.

8. WELFARE FACILITIES

The Supplier staff shall provide his own First Aid, sanitary, washing, Mess room, rest room and drying facilities unless it has been agreed that the client shall supply any or all these facilities, if this is the case a written agreement must be introduced and signed by both the client and the Supplier staff to that effect.

9. FIRE PRECAUTIONS AND EQUIPMENT

The Supplier staff shall ensure that adequate and suitable firefighting equipment is available with his site accommodation and that it is to be maintained in good and efficient working order. All of the Supplier staff's employees must be trained in the use of such equipment and be familiar with the establishment's evacuation procedures.

10. PERSONAL PROTECTIVE EQUIPMENT

The Supplier shall provide its staff with PPE appropriate to the task being carried out, in full compliance with the Personal Protective Equipment At Work Regulations. Particular attention is drawn to the wearing of safety helmets and safety footwear in designated areas, where they must be worn at all times, failure to do so, (after due warning from the client in Writing) will result in the removal of contract personnel from site.

11. METHOD STATEMENTS (SAFE SYSTEMS OF WORK)

All Supplier staff shall provide written safety method statements to the client and ensure that copies are provided to and understood by his own operatives including Supplier staff prior to the commencement of any work. A copy must be submitted to the establishment's Site Manager, prior to starting work.

12. RISK ASSESSMENTS

A suitable and sufficient assessment of the risks to health and safety shall be made by the Supplier staff in respect of his own employees and persons not in his employment who may be affected by his acts and omissions. Risk assessments shall be in writing where the Supplier staff employs or more employees or Sub-Supplier staffs and the results of the assessments made available to the employees for reference at any time. A copy of the assessments must be submitted to the Establishments Site Manager prior to starting work.

13. PERMIT TO WORK

Any Supplier staff who must perform a potentially hazardous operation, such as working with high voltage, at height, working in confined spaces, hot work, or working in excavations shall provide a permit to work system for his employees. The permit to work must be in writing and each part authorised by a suitably responsible person. And a copy of the permit to work must be provided at the request of the

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Establishments Site Manager, and a appointed person from the Establishment will ensure that the said permit is signed off at the appropriate time.

14. ROOF WORK

The Work at Height Regulations 2005 (WAHR) have no minimum height requirement for work at height. They include all work activities where there is a need to control a risk of falling a distance liable to cause personal injury. This is regardless of the work equipment being used, the duration the person is at a height, or the height at which the work is performed. It includes access to and egress from a place of work Supplier staff working at height or on fragile roofs must provide and use adequate crawling boards, crawling ladders and/or staging. Roof edge protection must be provided by the Supplier staff, unless the client has agreed to provide the necessary protection. If this is not possible, operatives must wear a suitable harness to protect him/her from falling.

15. GENERAL SERVICES

Supplier staff must not connect or interfere with the water, gas, or electrical or other service without the permission of the Establishments Site Manager or his representative; connection of 110-volt portable electric tools is exempt from this rule.

16. ELECTRICITY

The voltage of all portable electric power tools and lighting apparatus used on site must not exceed 110 volts. All such equipment must be PAT tested prior to being used on site and records kept. All equipment used must comply with Provision and Use of Work Equipment Regulations, and the Electricity at Work Regulations.

17. NOISE

To comply with the Noise at Work Regulations 1989, all Supplier staff must provide, maintain and ensure all of their employees wear suitable ear protection (where necessary) while working on site.

18. COSHH

To comply with the Control of Substances Hazardous to Health, Supplier staff must provide written risk assessments and safety data sheets that must be available for his employees to see, of all substances used in his undertaking, which may effect the health of his Employees, prison staff, Supplier staff and visitors of the establishment and a copy of the assessments must be submitted to the Establishments Site Manager. Any Supplier staff using chemicals must be suitably trained to do so and should be provided with and use appropriate protective clothing and equipment

19. SPECIAL HAZARDS

Where Supplier staff operations are expected to create special hazards, i.e. in the application of heat, demolition work or use of dangerous articles or substances etc. The Supplier staff must inform the Establishments Site Manager so that arrangements can be made with the management of the affected area, and the appropriate action can be taken to minimise the risk to persons in the immediate and surrounding areas.

20. ASBESTOS

The Establishments Site Manager or his representative will inform the Supplier staff of the location of any suspected asbestos materials prior to the Supplier staff commencing any work within the establishment. No work must be undertaken by Supplier staffs involving the drilling, removing or disturbance of any asbestos based materials in any way, without the permission of the Establishments Site Manager.

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21. ACCIDENT REPORTING AND DANGEROUS OCCURRENCES

All accidents and dangerous occurrences involving Supplier staffs and their employees must be reported to the Supplier staff who must record the details in the site accident book (B1 510). **All accidents and dangerous occurrences resulting in employees absent from work for 3 days or more must be reported to the Health and Safety Executive on form F5028.** It is the responsibility of the site manager to inform the Health and Safety Executive as soon as possible.

22. USE OF TOOLS AND EQUIPMENT

All plant, tools and equipment used by Supplier staff on prison premises must be suitable for the work to be undertaken and must comply with all relevant legal standards and must be maintained in accordance with all appropriate standards. It is the responsibility of the Supplier staff to ensure his employees takes care of tools and equipment and for security reasons not to mislay any, if this should happen, the Security Department must be informed without delay.

5 LIST OF PROHIBITED AND CONTROLLED ITEMS

Prohibited Items

These are items or articles that are not permitted under any circumstances within the prison establishment:

| | | |
|-----------------------------------|------------------------|--------------------------------------|
| Explosives | Aerosols | Game Stations with an Internal Modem |
| Wax | Wire | |
| Weapons | Drugs (none HCC) | |
| Cameras (including video cameras) | Toy Guns | |
| Magnets | Mobile Phones | |
| Mobile Phone Bluetooth | Alcohol | |
| Headsets and Technology | Metal cutlery | |
| | Mobile phone SIM cards | |

Controlled Items

These are items or articles that must be carefully monitored when in the prison

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| | | |
|-----------------------------------|--------------------------|------------------------------------|
| Tools | Skips | Glue |
| Matches | Ladders | Tin Foil |
| Yeast | Solvents | Video |
| Clingfilm | Bleach | Dustbins |
| Chewing Gum | Personal Audio Equipment | Foods |
| Rope | DVD's and DVD Players | CD's |
| Vinegar | Computer Memory Devices | Electrical equipment of any nature |
| Games Consoles of any description | Money (limit £100) | |
| Computer Software | Alarm clocks | |
| Syringes | | |

6 UNAUTHORISED ARTICLES NOTICE AND LIST

It is a criminal offence under the Prison Act 1952 for certain items to be used, brought into, possessed within or taken out of prisons.

It is a criminal offence for any person without authority:

i. - to bring or throw any of the following items in or out of a prison or to cause another person to do so, to leave any of the following items in any place (in or out of the prison) intending it to come into the possession of a man in custody or to give to a man in custody any of the following items:

(a) a controlled drug, an explosive a firearm or other offensive weapon;

Maximum penalty is 10 years imprisonment or an unlimited fine or both.

(b) Alcohol, a mobile telephone, a camera or a sound-recording device;

Maximum penalty is 2 years imprisonment or an unlimited fine or both.

ii. - to bring or throw any of the following items in or out of a prison with the intention of it coming into the possession of a man in custody or to cause another person to do so, or to leave any of the following items in any place (in or out of the prison) intending it to come into the possession of a man in custody, or to give to a man in custody any of the following items:

(c) Tobacco, money, clothing, food, drink, letters, papers, books, tools, IT equipment and associated peripherals

Maximum penalty is a £1000 fine

iii. - to possess inside a prison a mobile telephone or any device capable of transmitting or receiving images, sounds or information by electronic communications (or a component part of such a device or an article designed or adapted for use with such a device) or take a photograph or make a sound recording within a prison or convey a restricted document out of a prison.

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Maximum penalty is 2 years imprisonment or an unlimited fine or both.

Criminal prosecutions will be pursued against those found to be in deliberate breach of the above provisions.

UNAUTHORISED ARTICLES LIST

- Mains electrical items
- Alcohol
- Tobacco and smoking requisites (including Vapes)
- Offensive weapons (knives)
- Tools (inc metal cutlery, knitting needles, scissors, metal combs, metal bike tools)
- Data recording equipment (disks, CDs, DVDs, MP3/MP4 players/IPods/ Kindle/ Hudl)
- Pre-recorded CDs, DVDs, video tapes & blue ray disks (Licensing Laws)
- Portable personal computers (unless authorised by Governor)
- Drugs (including Psychoactive Substances) and Medication (prescribed medication for one day in original packaging permissible)
- Firearms, ammunition, explosives, fireSupplier works
- Radio scanning equipment, Mobile telephones, data recording devices, SIM cards, Pagers (unless NOMS issued and with written approvals from Governor or DDC as appropriate)
- Dictaphones – unless specifically authorised by the Governor
- Laser pointers
- Cameras – and all ancillary equipment (in compliance with PSO 1100 2.3)
- Floppy disks/blank CDs/pen drives/memory sticks/USB including chargers for electronic cigarettes/MP3 players/ Kindle/ Hudl/ iPad/MP4 players / cassettes or any data transfer equipment or Sat Nav (unless written authorisation by the Governor)
- **Legal visitors will be allowed recording/digital playing devices due to the nature of their visit with their client.**
- Games consoles
- Solvents/glue
- Pornography, Racist and Protected Characteristics Materials
- Protectively marked documentation, in/out of establishment (unless written authorisation by the Governor)
- Excess cash - i.e. more than £100 (larger amounts by authorisation by the Governor)
- Darts
- Yeast
- Internet connectivity devices, such as dongles.
- Smart watches/technology Fit Bit/similar devices **(Those which have NO internet capacity, NO GPS, NO text/phone/camera/sound recording/video/data storage functions are allowable – seek further clarification from Security department.)**

7. DELIVERY DRIVERS HANDBOOK

7.1 Important Points about the Drivers Handbook

- a) It must be kept in your vehicle at all times.
- b) The Handbook is an important document and must be read and fully understood before attempting to make deliveries to Prison Establishments.
- c) If you are unsure about any of your duties and responsibilities, or you do not fully understand any part of this handbook, consult your Line Manager who will give you further advice. **7.2 Load Security**

It is the responsibility of the driver to ensure:

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- a) That the vehicle's load is secure at all times
- b) The vehicle is not over loaded
- c) The load is evenly distributed
- d) All pallets are securely wrapped and appropriately supported
- e) All cages are secured using load restraints
- f) All cage deliveries have a maximum loaded weight of 350 kilograms.
- g) All pallet deliveries have a maximum loaded weight of 800 kilograms.

NOTE Webbing straps can be used to secure the cage or load. If used, the webbing straps must stay on the vehicle and be accounted for before leaving the unloading area. Any missing webbing straps must be reported to the escorting officer before moving the vehicle. An inventory of straps and other equipment on all vehicles should be maintained and checked on a regular basis.

7.3 Before Departing from the Depot

- a) Regular and relief company drivers delivering to the prisons must carry their company photo identification badges. Depots should contact the establishment to provide details of change to a regular driver.
- b) Agency Drivers must have a photo identification i.e. driving licence, passport.
- c) You should ensure that you have all necessary paperwork for the deliveries and equipment to unload the vehicle. Your paperwork should be compatible to the load plan for your vehicle.
- d) No alcohol, or products containing alcohol, will be permitted on prison property; this must be delivered before arriving at an establishment.
- e) If you know a prisoner who is held at any of the establishments which you are delivering to, tell your Line Manager before leaving the depot.
- f) There is no authorised drop off points at establishments where you can leave goods unattended.
- g) Medication and prescription drugs should be kept to the minimum you require for that working session.
- h) Large quantities of medication and prescription drugs should not be taken in to establishments as this may cause problems when vehicle or the person are searched.
- i) You should advise the escorting Supplier staff of any medication you have in your possession when they initially search the vehicle on entry to the establishment, this will then be dealt with in accordance with the local security strategy.

7.4 Delivery Windows

- a) All establishments have strict delivery windows; the delivery must be completed within these times. Deliveries will not normally be accepted outside these windows. Due to other timed activities at establishments, if you have not completed your delivery within your approved window time, you may not be allowed to complete the unloading and requested to leave the establishment. You must contact your Line Manager, so they can arrange an agreeable time for you to re-enter the establishment to complete the delivery.
- b) If you become aware that you will not be able to meet any specified delivery window, you should immediately advise your Line Manager in order that this can be communicated to the establishment in a timely manner.

7.5 Communication

Drivers should:

- a) Maintain regular contact with their home depot
- b) Always seek advice from your Line Manager whenever you are unsure about any aspect of your work
- c) Communicate the cause and likely duration of any delays to your Line Manager
- d) Be polite and act in a professional manner at all times
- e) Ask for clarification on any unclear instructions given by HMPS Supplier staff
- f) Inform prison Supplier staff and your Line Manager if approached by a prisoner for any reason not connected to the delivery
- g) Report any behaviour by prisoners that is unusual or would suggest a pattern of behaviour that would lead to conditioning, i.e. the prisoner being overly friendly or performing delivery tasks as a favour or giving a helping hand. Be aware of every day questions about home life or other delivery points connected with your work.
- h) Be mindful of who is listening to you when talking to Supplier staff about home life or work-related information.

7.6 Prison Specific Delivery Requirements/Process

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Whilst adhering to company standard procedures, there are a number of additional requirements that must be complied with:

- a) Drivers should remain polite and helpful when making deliveries, no matter how trying the circumstances. If you have a dispute with the gate Supplier staff prior to entry to the establishment; please contact your manager for guidance.
- b) Once within the establishment drivers must always follow Prison Supplier staff instructions and adhere to the speed limits and the constraints of escorting Supplier staff walking behind the vehicle.
- c) Unloading should not commence until the escort Supplier staff indicate it is appropriate to do so. The cab should be locked and keys handed to escorting Supplier staff whilst unloading takes place.
- d) It is important to remember that there are stringent security protocols in effect at establishments which may at first appear abrupt and occasionally invasive. Drivers are expected to deal with these protocols in a professional and courteous manner. Their purpose is to ensure the safety of all concerned.
- e) If you are given an instruction which is unclear, or you do not understand, please ask for further clarification from the member of Supplier staff.
- f) Drivers are not allowed to smoke in the establishment given that it is likely the areas they will deliver to are designated non-smoking areas.
- g) A notice is displayed at the entrance to an establishment or at the gate providing information on the major issues relating to visiting an establishment.

On arrival drivers must observe the following points:

- a) Observe all speed limits and traffic directives in force on crown property.
- b) When stationary ensure your vehicle, engine is turned off.
- c) The vehicle must be securely locked before reporting to the main gate.
- d) Report to the main gate taking your ID and paperwork for the delivery or collection with you.
- e) The vehicle must not obstruct the gate to such an extent that it interferes with the free-flow of vehicles.
- f) You must always hand in any detachable mobile phones (including personal mobile phones), satellite navigation aids, accident recording camera at the main gate.
- g) These will be returned when leaving the establishment. If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence.
- h) Any permanently fitted cab-phone, satellite navigational aids, accident recording camera must be switched off and must remain off until you leave the establishment.
- i) If the vehicle is fitted with a manufacturer's vehicle management monitoring systems which must remain live at all times and which cannot be disabled or switched off, this must be reported to the gate keeper before entering the establishment.
- j) Medication and prescription drugs should be kept to the minimum you require them for that working session. You should advise the escorting Supplier staff of any medication you have in your possession when they initially search the vehicle on entry to the establishment, this will then be dealt with in accordance with the local security strategy.
- k) If you have not delivered or collected from the establishment before, always ask the gate Supplier staff about the procedures for visiting drivers; this will ensure the prompt completion of your visit.
- l) If you are carrying knives of any kind or any item which could be classed as a weapon, these must also be handed in at the gate.
- m) If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence.
- n) No alcohol is permitted in an establishment. If found on the vehicle when in the establishment this could be classed as trafficking, which is a criminal offence.
- o) Establishment Governors have the right to add other items to the banned list, an example being aerosols. You are encouraged to declare any item at the gate that you are unsure about to guard against confusion/embarrassment/potential prosecution.
- p) Ensure that you remove any cigarettes, lighters and personal items including letters from sight.
- q) If you have any operational tools which could be classed as a weapon (e.g. vehicle cranking bar or hook) these must be declared.
- r) Vehicles are searched when entering or leaving the establishment. Please ensure you conform with the points above to save delays and any embarrassment to yourself or your company. Please note searches may include the use of a sniffer dog.

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7.7 Making the Delivery

- a) Prison Supplier staff will usually escort you to and from the delivery point. Escorting officers are not permitted to travel in Supplier staffs vehicles.
- b) For the avoidance of doubt, when escorted, you must always travel at the speed of the walking escorting officer and ensure you have visual contact with the escorting officer at all times.
- c) When going through internal gates you must wait until the escorting officer has closed and locked the gates. The escorting officer will instruct you when to continue with your journey.
- d) Never allow any third party to board your vehicle or its load area, particularly prisoners. It is your responsibility to unload/load your vehicle.
- e) Always ensure that your vehicle engine is switched off and the cab is securely locked with the keys removed whilst making the delivery.
- f) The Delivery Note must be signed and dated by the receiving member of Supplier staff. Under no circumstances are prisoners authorised to sign for the goods delivered. The load will be checked and signed for if possible, due to the size and complexity of some deliveries it is not practical on all occasions for a full check to be made on delivery and goods will be signed as unchecked at point of delivery. Discrepancies will be advised within 24 hours. This will allow the vehicle to leave and other deliveries to other areas to be made.
- g) You must undertake a check to ensure all your webbing straps and securing bars are accounted for before leaving the unloading area. If any items are missing, you must make the escorting officer aware of the situation before moving the vehicle.
- h) Do not enter into conversations with prisoners (other than those directly related to receipt of the goods or as general good manners whilst delivering).
- i) Do not give prisoners anything. It may seem innocent enough to reward them with a cigarette for helping to unload / load your vehicle, this could result in prisoners demanding more which can end in trafficking for them.
- j) Immediately inform a member of the prison Supplier staff before leaving the establishment if a prisoner asks you to take out or bring items into the establishment for them. This is classed as trafficking which is a criminal offence. You must also inform your depot transport management on return.
- k) If you find yourself accepting anything (e.g. a letter or package) from a prisoner– do NOT attempt to give it back. Inform your escorting officer immediately and pass the package to them. Upon leaving the establishment, contact the depot immediately and notify them of any such incident.
- l) If you see a prisoner that you know (family / friend etc.), you must report this to the gate Supplier staff or your escorting officer immediately. This must be reported back to your manager as part of the debriefing.

7.8 Departure from the prison site

- a) Before leaving the site ensure you have collected all returnable cages, pallets and boxes. If you are unable to collect all the returnable items awaiting for collection this must be reported back to your Line Manager as part of the Drivers De-brief ;
- b) Remember: to collect your belongings, e.g. mobile phones, etc., from the main gate before leaving the site;
- c) Before leaving you will need to pass on details of your next designation and contact details in case an issue arises from your delivery;
- d) Ensure you remain with your escort until dismissed; and
- e) Prison speed limits and traffic directives remain in force until you re-join the public highway

Signing Page

(REDACTED)

