

DATED

(1) THE NATIONAL ARCHIVES

and

(2) LEIDOS PTY LTD.

AGREEMENT

relating to

**LEGISLATION DRAFTING AND
AMENDING SERVICE**

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THIS AGREEMENT is made on

BETWEEN:

- (1) The *SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT ("DCMS")* as represented by *The National Archives, which is a non-ministerial Government department and executive agency*, whose offices are located at Bessant Drive, Kew, Richmond, Surrey TW9 4DU (the "**Authority**"); and
- (2) Leidos Pty Ltd a company registered in Australia under company number ACN 011 071 239 whose registered office is at Level 5, 385 Bourke Street (GPO Box 5109), Melbourne, VIC 3001, AUSTRALIA (the "**Supplier**")

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

INTRODUCTION

- (A) On 18 May 2017 the Authority advertised in the Official Journal of the European Union (reference 2017/S 095-186818) and on 18 May 2017 the Authority published its Invitation to Tender (ITT) inviting prospective suppliers to submit proposals for the provision of the Legislation Drafting and Amending Service ("the Service").
- (B) On the basis of the Supplier's response to the advertisement and the subsequent competitive procedure with negotiation process as set out in the ITT, the Authority selected the Supplier as its preferred supplier.
- (C) The Supplier has agreed to supply the services in accordance with the terms and conditions of this Agreement.

IT IS AGREED as follows:

SECTION A – PRELIMINARIES

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 In this Agreement, unless the context otherwise requires:
 - (a) the singular includes the plural and vice versa;
 - (b) reference to a gender includes the other gender and the neuter;
 - (c) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Government Body;
 - (d) a reference to any Law includes a reference to that Law as amended,

- extended, consolidated or re-enacted from time to time;
- (e) the words “**including**”, “**other**”, “**in particular**”, “**for example**” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;
- (f) references to “**writing**” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- (g) the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;
- (h) unless otherwise provided references to Clauses and Schedules are references to the clauses and schedules of this Agreement and references in any Schedule to Paragraphs, Parts and Annexes are, unless otherwise provided, references to the paragraphs, parts and annexes of the Schedule or the Part of the Schedule in which the references appear; and
- (i) references to this Agreement are references to this Agreement as amended from time to time.

1.3 Where a standard, policy or document is referred to in this Agreement by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall update this Agreement with a reference to the replacement hyperlink.

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

- (a) the Clauses and Schedule 1 (*Definitions*);
- (b) Schedules 2.1 (Services Description) and 2.2 (Performance Monitoring and Service Levels) and their Annexes;
- (c) any other Schedules and their Annexes.

1.5 The Schedules and their Annexes form part of this Agreement.

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

2 DUE DILIGENCE

2.1 The Supplier acknowledges that:

- (a) the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Agreement;
- (b) it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;
- (c) it has satisfied itself (whether by inspection or having raised all relevant

due diligence questions with the Authority before the Effective Date) of all relevant details relating to this Agreement, including:

- (i) the Authority Requirements;
 - (ii) the suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
 - (iii) the operating processes and procedures and the working methods of the Authority, including Agile;
 - (iv) the Partner Organisations and End Users, which may be subject to change during the Term;
 - (v) the ownership, functionality, capacity, condition and suitability for use in the Services of the Authority Assets; and
 - (vi) the existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Agreement and/or which the Supplier will require the benefit of for the provision of the Services.
- (d) it has advised the Authority in writing of:
- (i) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;
 - (ii) the actions needed to remedy each such unsuitable aspect; and
 - (iii) a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions;

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

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

- (a) any unsuitable aspects of the Operating Environment;
- (b) any misinterpretation of the Authority Requirements; and/or
- (c) any failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

2.3 The Supplier will be responsible for the accuracy of all drawings, documentation and information it supplies to the Authority in connection with the supply of the Services and will pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

3 WARRANTIES

3.1 The Authority represents and warrants that:

- (a) it has full capacity and authority to enter into and to perform this Agreement;
- (b) this Agreement is executed by its duly authorised representative;
- (c) there are no actions, suits or proceedings or regulatory investigations

before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Agreement; and

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

3.2 The Supplier represents and warrants that:

- (a) it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- (b) it has full capacity and authority to enter into and to perform this Agreement;
- (c) this Agreement is executed by its duly authorised representative;
- (d) it has all necessary consents and regulatory approvals to enter into this Agreement;
- (e) there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Agreement;
- (f) its execution, delivery and performance of its obligations under this Agreement will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- (g) its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);
- (h) all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation its response to the PQQ and ITT (if applicable), its tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Supplier has otherwise disclosed to the Authority in writing prior to the date of this Agreement;
- (i) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- (j) it has all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to the

Authority which are necessary for the performance of the Supplier's obligations under this Agreement and/or the receipt of the Services by the Authority;

- (k) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement; and
- (l) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue.

- 3.3 The representations and warranties set out in Clause 3.2 shall be deemed to be repeated by the Supplier on the Effective Date (if later than the date of signature of this Agreement) by reference to the facts then existing.
- 3.4 Each of the representations and warranties set out in Clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Agreement.
- 3.5 If at any time a Party becomes aware that a representation or warranty given by it under Clause 3.1 or 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
- 3.6 For the avoidance of doubt, the fact that any provision within this Agreement is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Supplier.
- 3.7 Except as expressly stated in this Agreement, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

SECTION B – THE SERVICES

4 TERM

4.1 This Agreement shall:

- (a) come into force on the Effective Date, save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 25 (*Confidentiality*), 26 (*Transparency and Freedom of Information*), 28 (*Publicity and Branding*), 29 (*Limitations on Liability*), 41 (*Waiver and Cumulative Remedies*), 42 (*Relationship of the Parties*), 44 (*Severance*), 46 (*Entire Agreement*), 47 (*Third Party Rights*), 48 (*Notices*), 49 (*Disputes*) and 50 (*Governing Law and Jurisdiction*), which shall be binding and enforceable as between the Parties from the date of signature; and
- (b) unless terminated at an earlier date by operation of Law or in accordance with Clause 37 (*Termination Rights*), terminate:
 - (i) at the end of the Initial Term; or
 - (ii) if the Authority elects to extend the Initial Term by giving the Supplier at least 120 Working Days' notice before the end of the Initial Term, at the end of the Extension Period.

Condition Precedent

4.2 Save for Clauses 1 (*Definitions and Interpretation*), 3 (*Warranties*), 4 (*Term*), 25 (*Confidentiality*), 26 (*Transparency and Freedom of Information*), 28 (*Publicity and Branding*), 29 (*Limitations on Liability*), 41 (*Waiver and Cumulative Remedies*), 42 (*Relationship of the Parties*), 44 (*Severance*), 46 (*Entire Agreement*), 47 (*Third Party Rights*), 48 (*Notices*), 49 (*Disputes*) and 50 (*Governing Law and Jurisdiction*), this Agreement is conditional upon the valid execution and delivery to the Authority of the Guarantee (the “**Condition Precedent**”). The Authority may in its sole discretion at any time agree to waive compliance with the Condition Precedent by giving the Supplier notice in writing.

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

- (a) this Agreement shall automatically cease and shall not come into effect; and
- (b) neither Party shall have any obligation to pay any compensation to the other Party as a result of such cessation.

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

5 SERVICES

Standard of Services

- 5.1 The Supplier shall provide the Services according to the Detailed Implementation Plan, as drawn up in accordance with the provisions of Schedule 6.1 (Implementation Plan).
- 5.2 The Supplier shall ensure that the Services:
- (a) comply in all respects with Schedule 2 (*Service Requirements*); and
 - (b) are supplied in accordance with the provisions of this Agreement.
- 5.3 The Supplier shall:
- (a) perform its obligations under this Agreement, including in relation to the supply of the Services in accordance with:
 - (i) all applicable Law;
 - (ii) Good Industry Practice;
 - (iii) the Standards;
 - (iv) the Baseline Security Requirements;
 - (v) the Quality Plans;
 - (vi) the Authority IT and Digital Strategies; and
 - (vii) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 5.3(a)(i) to 5.3(a)(vi); and
 - (b) deliver the Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.
- 5.4 In the event that the Supplier becomes aware of any inconsistency between the requirements of Clauses 5.3(a)(i) to 5.3(a)(vi), the Supplier shall immediately notify the Authority Representative in writing of such inconsistency and the Authority Representative shall, as soon as practicable, notify the Supplier which requirement the Supplier shall comply with.

Supplier covenants

- 5.5 The Supplier shall:
- (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Agreement;
 - (b) save to the extent that obtaining and maintaining the same are Authority Responsibilities and subject to Clause 13 (*Change*), obtain, and maintain throughout the duration of this Agreement, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
 - (c) ensure that:

- (i) it complies with its IPR obligations under Section F of this Agreement.
- (ii) the release of any new Software or upgrade to any Software complies with the interface requirements in the Services Description and (except in relation to new Software or upgrades which are released to address Malicious Software or to comply with the requirements of Schedule 2.4 (*Security Management*)) shall notify the Authority 3 months before the release of any new Software or Upgrade;
- (iii) all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
- (iv) any products or services recommended or otherwise specified by the Supplier for use by the Authority in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the Authority Requirements; and
- (v) the Supplier System and Assets used in the performance of the Services will be free of all encumbrances (except as agreed in writing with the Authority);
- (d) minimise any disruption to the Services, the IT Environment and/or the Authority's operations when carrying out its obligations under this Agreement;
- (e) ensure that any Documentation and training provided by the Supplier to the Authority are comprehensive, accurate and prepared in accordance with Good Industry Practice;
- (f) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Agreement for any reason, to enable the timely transition of the Services (or any of them) to the Authority and/or to any Replacement Supplier;
- (g) to the extent it is legally able to do so, hold on trust for the sole benefit of the Authority, all warranties and indemnities provided by third parties or any Sub-contractor in respect of any Deliverables and/or the Services and, where any such warranties are held on trust, at its cost enforce such warranties in accordance with any reasonable directions that the Authority may notify from time to time to the Supplier;
- (h) unless it is unable to do so, assign to the Authority on the Authority's written request and at the cost of the Supplier any such warranties and/or indemnities as are referred to in Clause 5.5(g);
- (i) provide the Authority with such assistance as the Authority may reasonably require during the Term in respect of the supply of the Services;
- (j) gather, collate and provide such information and co-operation as the Authority may reasonably request for the purposes of ascertaining the

- Supplier's compliance with its obligations under this Agreement;
- (k) notify the Authority in writing as soon as reasonably possible and in any event within 1 month of any change of Control taking place;
- (l) notify the Authority in writing within 10 Working Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Agreement;
- (m) ensure that neither it, nor any of its Affiliates, embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Supplier's obligations under this Agreement;
- (n) manage closure or termination of Services to take account of the Authority's disposal requirements, including recycling and scope for re-use, and all applicable Standards;
- (o) agree to any additional Standards the Authority may specify applies to the provision of Services during the Contract Period, provided the Authority provides written notice of the additional Standards to the Supplier in accordance with the Agreement; and
- (p) ensure that all staff supplying the Services do so with all due skill, care and diligence and will possess such qualifications, skills and experience as are necessary for the proper supply of the Services in accordance with this Agreement.

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

5.7 Without prejudice to Clause 20 (*IPRs Indemnity*) and any other rights and remedies of the Authority howsoever arising, the Supplier shall:

- (a) remedy any breach of its obligations in Clauses 5.5(b) to 5.5(d) inclusive within 3 Working Days of becoming aware of the breach or being notified of the breach by the Authority where practicable or within such other time period as may be agreed with the Authority (taking into account the nature of the breach that has occurred);
- (b) remedy any breach of its obligations in Clause 5.5(a) and Clauses 5.5(e) to 5.5(j) inclusive within 20 Working Days of becoming aware of the breach or being notified of the breach by the Authority; and
- (c) meet all the costs of, and incidental to, the performance of such remedial work,

and any failure of the Supplier to comply with its obligations under Clause 5.7(a) or Clause 5.7(b) within the specified or agreed timeframe shall constitute a Notifiable Default.

Specially Written Software warranty

- 5.8 Without prejudice to Clauses 5.5 (*Supplier Covenants*) and 5.7 (*Services*) and any other rights and remedies of the Authority howsoever arising, the Supplier warrants to the Authority that all components of the Specially Written Software shall:
- (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in Schedule 2 (*Services Requirements*); and
 - (c) not infringe any Intellectual Property Rights.

Continuing obligation to provide the Services

- 5.9 The Supplier shall continue to perform all of its obligations under this Agreement and shall not suspend the supply of the Services, notwithstanding:
- (a) any withholding of the Service Charges by the Authority pursuant to Clause 7.2(b)(ii) (*Performance Failures*);
 - (b) the existence of an unresolved Dispute; and/or
 - (c) any failure by the Authority to pay any Charges.

Optional Services

- 5.10 The Authority may require the Supplier to provide any or all of the Optional Services at any time by giving notice to the Supplier in writing. The Supplier acknowledges that the Authority is not obliged to take any Optional Services from the Supplier and that nothing shall prevent the Authority from receiving services that are the same as or similar to the Optional Services from any third party.
- 5.11 If a Change Request is submitted, the Supplier shall, as part of the Impact Assessment provided by the Supplier in relation to such Change Request, provide details of the impact (if any) that the proposed Change will have on the relevant Optional Services.
- 5.12 Following receipt of the Authority's notice pursuant to Clause 5.10:
- (a) the Parties shall document the inclusion of the relevant Optional Services within the Services in accordance with the Change Control Procedure, modified to reflect the fact that the terms and conditions on which the Supplier shall provide the relevant Optional Services have already been agreed;
 - (b) the Supplier shall implement and Test the relevant Optional Services in accordance with the Optional Services Implementation Plan;
 - (c) any additional charges for the Optional Services shall be incorporated in the Charges as specified in Schedule 7.1 (*Charges and Invoicing*); and
 - (d) the Supplier shall, from the date agreed in the Optional Services Implementation Plan (or, if later, the date of Achievement of any Milestones associated with the commencement of the relevant Optional Services (if any)), provide the relevant Optional Services to

meet or exceed the applicable Target Performance Level in respect of all Key Performance Indicators applicable to the Optional Services as set out in Schedule 2.2 (*Performance Monitoring and Service Levels*).

Power of attorney

- 5.13 By way of security for the performance of its obligations under Clauses 5.5(g) and 5.5(h) (*Supplier covenants*) the Supplier hereby irrevocably appoints the Authority as its agent and attorney to act with full power and authority in the Supplier's name and on its behalf to do all such acts and execute all such documents as may be necessary or desirable to enforce any such warranties and/or effect any such assignment as are referred to in such Clauses and to delegate one or more of the powers conferred on it by this Clause 5.13 (other than the power to delegate) to officer(s) appointed for that purpose by the Authority and may vary or revoke such delegation at any time.

Authority Responsibilities

- 5.14 The Authority shall comply with its responsibilities set out in Schedule 3 (*Authority Responsibilities*).

6 IMPLEMENTATION

Quality Plans

- 6.1 The Supplier shall develop, within 120 Working Days of the Effective Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2 The Supplier shall obtain the Authority Representative's written approval of the Quality Plans before implementing them, which approval shall not be unreasonably withheld or delayed. The Supplier acknowledges and accepts that the Authority's approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Agreement.
- 6.3 Following the approval by the Authority of the Quality Plans:
- (a) the Supplier shall design and deliver all Deliverables in accordance with the Quality Plans; and
 - (b) any Changes to the Quality Plans shall be agreed in accordance with the Change Control Procedure.

Implementation Plan and Delays

- 6.4 The Parties shall comply with the provisions of Schedule 6.1 (*Implementation Plan*) in relation to the agreement and maintenance of the Detailed Implementation Plan.

- 6.5 The Supplier shall:
- (a) comply with the Implementation Plan; and
 - (b) ensure that each Milestone is Achieved on or before its Milestone Date.
- 6.6 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay:
- (a) it shall:
 - (i) notify the Authority in accordance with Clause 31.1 (*Rectification Plan Process*); and
 - (ii) comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and
 - (iii) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
 - (b) if the Delay or anticipated Delay relates to a Key Milestone, the provisions of Clause 32 (*Delay Payments*) shall apply.

Testing and Achievement of Milestones

- 6.7 The Parties shall comply with the provisions of Schedule 6.2 (*Testing Procedures*) in relation to the procedures to determine whether a Milestone or Test has been Achieved.

7 PERFORMANCE INDICATORS

- 7.1 The Supplier shall:
- (a) provide the Operational Services in such a manner so as to meet or exceed the Target Performance Level for each Key Performance Indicator from the Milestone Date for each relevant CPP Milestone; and
 - (b) comply with the provisions of Schedule 2.2 (*Performance Monitoring and Service Levels*) in relation to the monitoring and reporting on its performance against the Key Performance Indicators.

Performance Failures

- 7.2 If in any Service Period:
- (a) a KPI Failure occurs, Service Credits shall be deducted from the Service Charges in accordance with Paragraph 3 of Part C of Schedule 7.1 (*Charges and Invoicing*);
 - (b) a Material KPI Failure occurs, the Supplier shall:
 - (i) comply with the Rectification Plan Process (in addition to Service Credits accruing in accordance with Clause 7.1(a)); and
 - (ii) the Authority may withhold a proportionate amount of the Service Charges in accordance with the process set out in Clause 10.7 (*Set Off and Withholding*) until the relevant Material KPI Failure is rectified to the reasonable satisfaction of the Authority, at

which point the Authority shall pay the amount withheld.

- 7.3 Service Credits shall be the Authority's only financial remedy for a KPI Failure except where:
- (a) the Supplier has over the previous 12 month period accrued Service Credits in excess of the Service Credit Cap;
 - (b) the KPI Failure:
 - (i) breaches the relevant KPI Service Threshold;
 - (ii) has arisen due to the wilful default by the Supplier or any Supplier Personnel; or
 - (iii) results in:
 - A. the corruption or loss of any Authority Data (in which case the remedies under Clause 24.7 (*Authority Data and Security Requirements*) shall also be available); and/or
 - B. the Authority being required to make a compensation payment to one or more third parties;
 - (c) the Supplier has fraudulently misreported its performance against any Key Performance Indicator; and/or
 - (d) the Authority is otherwise entitled to or does terminate the relevant Services or this Agreement pursuant to Clause 37.1(b) (*Termination by the Authority*).

Unacceptable KPI Failure

- 7.4 If in any Service Period an Unacceptable KPI Failure occurs:
- (a) the Authority shall (subject to the Service Credit Cap set out in Clause 29.4(b) (*Financial and other limits*)) be entitled to withhold and retain as compensation for the Unacceptable KPI Failure a sum equal to any Service Charges which would otherwise have been due to the Supplier in respect of that Service Period (such sum being "**Compensation for Unacceptable KPI Failure**"); and
 - (b) if the Authority withholds and retains such Compensation for Unacceptable KPI Failure, any Service Points and Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue, provided that the operation of this Clause 7.4 shall be without prejudice to any right which the Authority may have to terminate this Agreement and/or to claim damages from the Supplier as a result of such Unacceptable KPI Failure.
- 7.5 The Supplier:
- (a) agrees that the application of Clause 7.4 is commercially justifiable where an Unacceptable KPI Failure occurs; and
 - (b) acknowledges that it has taken legal advice on the application of Clause 7.4 and has had the opportunity to price for that risk when calculating the Service Charges.

Critical Performance Failure

- 7.6 If a Critical Performance Failure occurs, the Authority may exercise its rights to terminate this Agreement in whole or in part pursuant to Clause 37.1 or 37.2 (*Termination by the Authority*).

Changes to Performance Indicators and Service Credits

- 7.7 Not more than once in each Contract Year the Authority may, on giving the Supplier at least 3 months' notice, change:
- (a) for any Key Performance Indicator, the details of what will constitute a Minor KPI Failure, a Serious KPI Failure and a Severe KPI Failure.
- 7.8 The Supplier shall not be entitled to object to any changes made by the Authority under Clause 7.7, or increase the Service Charges as a result of such changes provided that:
- (a) the total number of Key Performance Indicators does not exceed 20;
 - (b) the principal purpose of the change is to reflect changes in the Authority's business requirements and/or priorities or to reflect changing industry standards; and
 - (c) there is no change to the Service Credit Cap.

8 SERVICES IMPROVEMENT

- 8.1 The Supplier shall have an ongoing obligation throughout the Term to identify, at no extra cost to the Authority, new or potential improvements to the Services in accordance with this Clause 8. As part of this obligation the Supplier shall identify and report to the Project Board on:
- (a) the emergence of new and evolving relevant technologies which could improve the IT Environment and/or the Services, and those technological advances potentially available to the Supplier and the Authority which the Parties may wish to adopt;
 - (b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;
 - (c) new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or in reduction of operational risk;
 - (d) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Authority; and/or
 - (e) changes to the IT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.
- 8.2 The Supplier shall ensure that the information that it provides to the Authority shall

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

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

9 EQUIPMENT AND MAINTENANCE

Supplier Equipment

- 9.1 The Supplier shall be solely responsible for the cost of carriage of Supplier Equipment to the Sites and to the Authority Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on termination or expiry of this Agreement the Supplier shall be responsible for the removal and safe disposal of all relevant Supplier Equipment from the Sites and the Authority Premises, including the cost of packing, carriage and making good the Sites and/or the Authority Premises following removal, and taking account of any sustainability requirements, including safe removal of data and recycling requirements.
- 9.2 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Authority shall be liable for loss of or damage to any of the Supplier's property located on Authority Premises which is due to the negligent act or omission of the Authority.
- 9.3 Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Agreement, including the Target Performance Levels.

Maintenance

- 9.4 The Supplier shall create and maintain a rolling schedule of planned maintenance to the IT Environment (the “**Maintenance Schedule**”) which shall be agreed with the Authority. Once the Maintenance Schedule has been agreed with the Authority Representative, the Supplier shall only undertake such planned maintenance (which shall be known as “**Permitted Maintenance**”) in accordance with the Maintenance Schedule.
- 9.5 The Supplier shall give as much notice as is reasonably practicable to the Authority Representative prior to carrying out any Emergency Maintenance.
- 9.6 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the IT Environment or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as

to avoid (or where this is not possible so as to minimise) disruption to the IT Environment and the Services.

Property

- 9.7 Where the Authority issues Property free of charge to the Supplier such Property will be and remain the property of the Authority and the Supplier hereby irrevocably licences the Authority and its agents to enter upon any premises of the Supplier during normal business hours on reasonable notice to recover any such Property. The Supplier will not in any circumstances have a lien or any other interest in, on or over the Property and the Supplier will at all times possess the Property as fiduciary agent and bailee of the Authority. The Supplier will take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all sub-contractors and other appropriate persons and will, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- 9.8 The Property will be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Authority otherwise within five (5) Working Days of receipt.
- 9.9 The Supplier will maintain the Property in good order and condition (excluding fair wear and tear), and will use the Property solely in connection with this Agreement and for no other purpose without prior written approval from the Authority.
- 9.10 The Supplier will ensure the security of all the Property in its possession or control, either on the Premises or elsewhere during the Term, in accordance with the Authority's reasonable security requirements in force from time to time.
- 9.11 The Supplier shall return the Property to the Authority at the end of the Term or upon the Authority's request.
- 9.12 The Supplier will be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Supplier will inform the Authority within two (2) Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

SECTION C – PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

10 FINANCIAL AND TAXATION MATTERS

Charges and Invoicing

- 10.1 In consideration of the Supplier carrying out its obligations under this Agreement, including the provision of the Services, the Authority shall pay the Charges to the Supplier in accordance with the pricing and payment profile and the invoicing procedure specified in Schedule 7.1 (Charges and Invoicing).
- 10.2 Except as otherwise provided, each Party shall each bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 6.7 (*Testing and Achievement of Milestones*), 12 (*Records, Reports, Audits and Open Book Data*), 26 (*Transparency and Freedom of Information*), 27 (*Data Protection*) and, to the extent specified therein, Clause 33 (*Remedial Adviser*) and Clause 34 (*Step-In Rights*).
- 10.3 If the Authority fails to pay any undisputed Charges properly invoiced under this Agreement, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

VAT

- 10.4 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.
- 10.5 The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 10.5 shall be paid in cleared funds by the Supplier to the Authority not less than five Working Days before the date upon which the tax or other liability is payable by the Authority.

Set-off and Withholding

- 10.6 The Authority may set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Authority) against any amount due to the Supplier under this Agreement or under any other agreement between the Supplier and the Authority.
- 10.7 If the Authority wishes to:
- (a) set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Authority) against any amount due to the

Supplier pursuant to Clause 10.6, and/or
(b) exercise its right pursuant to Clause 7.2(b)(ii) (Performance Failures) to withhold payment of a proportion of the Service Charges,
it shall give notice to the Supplier within 30 days of receipt of the relevant invoice, setting out the Authority's reasons for withholding or retaining the relevant Charges.

Financial Distress

10.8 The Parties shall comply with the provisions of Schedule 7.3 (*Financial Distress*) in relation to the assessment of the financial standing of the Supplier and the consequences of a change to that financial standing.

Promoting Tax Compliance

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

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

SECTION D - CONTRACT GOVERNANCE

11 GOVERNANCE

- 11.1 The Parties shall comply with the provisions of Schedule 8.1 (*Governance*) in relation to the management and governance of this Agreement.

Representatives

- 11.2 Each Party shall have a representative for the duration of this Agreement who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Agreement.
- 11.3 The initial Supplier Representative shall be the person named as such in Schedule 9.2 (*Key Personnel*). Any change to the Supplier Representative shall be agreed in accordance with Clause 14 (*Supplier Personnel*).
- 11.4 The Authority shall notify the Supplier of the identity of the initial Authority Representative within 5 Working Days of the Effective Date. The Authority may, by written notice to the Supplier, revoke or amend the authority of the Authority Representative or appoint a new Authority Representative.

12 RECORDS, REPORTS, AUDITS & OPEN BOOK DATA

- 12.1 The Supplier shall comply with the provisions of:
- (a) Schedule 8.4 (*Reports and Records Provisions*) in relation to the maintenance and retention of Records; and
 - (b) Schedule 7.4 (*Financial Transparency and Audit Rights*) in relation to the maintenance of Open Book Data.
- 12.2 The Parties shall comply with the provisions of:
- (c) Schedule 7.4 (*Financial Transparency and Audit Rights*) in relation to the exercise of the Audit Rights by the Authority or any Audit Agents.

13 CHANGE

Change Control Procedure

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

Change in Law

- 13.2 The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Agreement nor be entitled to an increase in the Charges as the result of:
- (a) a General Change in Law; or
 - (b) a Specific Change in Law where the effect of that Specific Change in

Law on the Services is reasonably foreseeable at the Effective Date.

- 13.3 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 13.2(b)), the Supplier shall:
- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including:
 - (i) whether any Change is required to the Services, the Charges or this Agreement; and
 - (ii) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Target Performance Levels; and
 - (b) provide the Authority with evidence:
 - (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 8 (*Services Improvement*), has been taken into account in amending the Charges.
- 13.4 Any variation in the Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 13.2(b)) shall be implemented in accordance with the Change Control Procedure.
- 13.5 These changes shall not be subject to the Change Control Procedure:
- (a) Agile projects, which have a scope that changes over time. The detailed scope (for example, as defined in user stories including user stories that the Authority may group to define a product) may evolve and change. Such changes require the Authority to be satisfied that they are within the scope of Schedule 2 (*Service Requirements*); and
 - (b) if the Partner Organisations listed in Schedule 1 (*Definitions*) increase or decrease in number over the Term and/or differ from the Partner Organisations who entered into arrangements with the Authority on commencement of this Agreement. The Authority shall notify the Supplier in writing of any such changes during the Term, including any impact the changes may have on the provision of Services.

SECTION E – SUPPLIER PERSONNEL AND SUPPLY CHAIN

14 SUPPLIER PERSONNEL

14.1 The Supplier shall:

- (a) provide in advance of any admission to Authority Premises a list of the names of all Supplier Personnel requiring such admission, specifying the capacity in which they require admission and giving such other particulars as the Authority may reasonably require;
- (b) ensure that all Supplier Personnel:
 - (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
 - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Schedule 2.1 (*Services Description*) and Schedule 2.4 (*Security Management*); and
 - (iii) comply with all reasonable requirements of the Authority concerning conduct at the Authority Premises, including the security requirements as set out in Schedule 2.4 (*Security Management*);
- (c) subject to Schedule 9.1 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Authority;
- (d) be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Agreement shall be a Default by the Supplier;
- (e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
- (f) replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
- (g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
- (h) procure that the Supplier Personnel shall vacate the Authority Premises immediately upon the termination or expiry of this Agreement.

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

- (a) refuse admission to the relevant person(s) to the Authority Premises; and/or
- (b) direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

Key Personnel

- 14.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term. Schedule 9.2 (*Key Personnel*) lists the Key Roles and names of the persons who the Supplier shall appoint to fill those Key Roles at the Effective Date.
- 14.4 The Authority may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
- 14.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out Exit Management) unless:
- (a) requested to do so by the Authority;
 - (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
 - (c) the person's employment or contractual arrangement with the Supplier or a Sub-contractor is terminated for material breach of contract by the employee; or
 - (d) the Supplier obtains the Authority's prior written consent (such consent not to be unreasonably withheld or delayed).
- 14.6 The Supplier shall:
- (a) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of 2 weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - (b) ensure that any Key Role is not vacant for any longer than 10 Working Days;
 - (c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least 60 Working Days' notice;
 - (d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services; and
 - (e) ensure that any replacement for a Key Role:
 - (i) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - (ii) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

Employment Indemnity

- 14.7 The Parties agree that:
- (a) the Supplier shall both during and after the Term indemnify the Authority against all Employee Liabilities that may arise as a result of

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

Income Tax and National Insurance Contributions

- 14.8 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Agreement, the Supplier shall:
- (a) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

Staff Transfer

- 14.9 The Parties agree that Schedule 9.1 (Staff Transfer) shall apply.

15 SUPPLY CHAIN RIGHTS AND PROTECTIONS

Appointment of Sub-contractors

- 15.1 The Supplier shall exercise due skill and care in the selection and appointment of any Sub-contractors to ensure that the Supplier is able to:
- (a) manage any Sub-contractors in accordance with Good Industry Practice;
- (b) comply with its obligations under this Agreement in the delivery of the Services; and
- (c) assign, novate or otherwise transfer to the Authority or any Replacement Supplier any of its rights and/or obligations under each Sub-contract that relates exclusively to this Agreement.
- 15.2 Prior to sub-contracting any of its obligations under this Agreement, the Supplier shall notify the Authority in writing of:
- (a) the proposed Sub-contractor's name, registered office and company registration number;

- (b) the scope of any Services to be provided by the proposed Sub-contractor; and
 - (c) where the proposed Sub-contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-contract has been agreed on “arm’s-length” terms.
- 15.3 If requested by the Authority within 10 Working Days of receipt of the Supplier’s notice issued pursuant to Clause 15.2 the Supplier shall also provide:
 - (a) a copy of the proposed Sub-contract; and
 - (b) any further information reasonably requested by the Authority.
- 15.4 The Authority may, within 10 Working Days of receipt of the Supplier’s notice issued pursuant to Clause 15.2 (or, if later, receipt of any further information requested pursuant to Clause 15.3), object to the appointment of the relevant Sub-contractor if it considers that:
 - (a) the appointment of a proposed Sub-contractor may prejudice the provision of the Services and/or may be contrary to the interests of the Authority;
 - (b) the proposed Sub-contractor is unreliable and/or has not provided reasonable services to its other customers;
 - (c) the proposed Sub-contractor employs unfit persons; and/or
 - (d) the proposed Sub-contractor should be excluded in accordance with Clause 15.8;
 in which case, the Supplier shall not proceed with the proposed appointment.
- 15.5 If:
 - (a) the Authority has not notified the Supplier that it objects to the proposed Sub-contractor’s appointment by the later of 10 Working Days of receipt of:
 - (i) the Supplier’s notice issued pursuant to Clause 15.1; and
 - (ii) any further information requested by the Authority pursuant to Clause 15.3; and
 - (b) the proposed Sub-contract is not a Key Sub-contract (which shall require the written consent of the Authority in accordance with Clause 15.6 (*Appointment of Key Sub-contractors*),
 the Supplier may proceed with the proposed appointment and, where the Sub-contract is entered into exclusively for the purpose of delivery of the Services, may notify the Authority that the relevant Sub-contract shall constitute a Third Party Contract for the purposes of Schedule 4.4 (*Third Party Contracts*).

Appointment of Key Sub-contractors

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

considers that:

- (a) the appointment of a proposed Key Sub-contractor may prejudice the provision of the Services or may be contrary to the interests of the Authority;
- (b) the proposed Key Sub-contractor is unreliable and/or has not provided reasonable services to its other customers; and/or
- (c) the proposed Key Sub-contractor employs unfit persons; and/or
- (d) the proposed Key Sub-contractor should be excluded in accordance with Clause 15.8.

15.7 The Authority consents to the appointment of the Key Sub-contractors listed in Schedule 4.3 (*Notified Key Sub-contractors*).

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

- (a) provisions which will enable the Supplier to discharge its obligations under this Agreement;
- (b) a right under CRTPA for the Authority to enforce any provisions under the Key Sub-contract which are capable of conferring a benefit upon the Authority;
- (c) a provision enabling the Authority to enforce the Key Sub-contract as if it were the Supplier;
- (d) a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-contract to the Authority or any Replacement Supplier without restriction (including any need to obtain any consent or approval) or payment by the Authority;
- (e) obligations no less onerous on the Key Sub-contractor than those imposed on the Supplier under this Agreement in respect of:
 - (i) data protection requirements set out in Clauses 24 (*Authority Data and Security Requirements*) and 27 (*Data Protection*);
 - (ii) FOIA requirements set out in Clause 26 (*Transparency and Freedom of Information*);
 - (iii) the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 5.5(m) (*Services*);
- (f) the keeping of records in respect of the services being provided under the Key Sub-contract, including:
 - (i) the maintenance of Open Book Data; and
 - (ii) the conduct of Audits set out in Part C of Schedule 7.4 (*Financial Transparency and Audit Rights*);
- (g) provisions enabling the Supplier to terminate the Key Sub-contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under Clauses 37.1(a) (*Termination by the Authority*) and 38.4 (*Payments by the Authority*);
- (h) a provision restricting the ability of the Key Sub-contractor to sub-contract all or any part of the services provided to the Supplier under the Key Sub-contract without first seeking the written consent of

the Authority;

- (i) a provision enabling the Supplier or the Authority to appoint a Remedial Adviser on substantially the same terms as are set out in Clause 33 (*Remedial Adviser*);
- (j) a provision enabling the Supplier, the Authority or any other person on behalf of the Authority to step-in on substantially the same terms as are set out in Clause 34 (*Step-in Rights*);
- (k) a provision requiring the Key Sub-contractor to participate in, and if required by the Authority in the relevant Multi-Party Procedure Initiation Notice to procure the participation of all or any of its Sub-contractors in, the Multi-Party Dispute Resolution Procedure.; and
- (l) a provision requiring the Key Sub-contractor to:
 - (i) promptly notify the Supplier and the Authority in writing of any of the following of which it is, or ought to be, aware:
 - A. the occurrence of a Financial Distress Event in relation to the Key Sub-contractor; or
 - B. any fact, circumstance or matter of which it is aware which could cause the occurrence of a Financial Distress Event in relation to the Key Sub-contractor,and in any event, provide such notification within 10 Working Days of the date on which the Key Sub-contractor first becomes aware of such); and
 - (ii) co-operate with the Supplier and the Authority in order to give full effect to the provisions of Schedule 7.3 (*Financial Distress*), including meeting with the Supplier and the Authority to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Service Continuity Plan.

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

Supply chain protection

15.10 The Supplier shall ensure that all Sub-contracts (which in this sub-clause includes any contract in the Supplier's supply chain made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Agreement) contain provisions:

- (a) giving the Supplier a right to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour law;
- (b) requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- (c) that if the Supplier or other party fails to consider and verify an invoice

in accordance with Clause 15.10(b), the invoice shall be regarded as valid and undisputed for the purpose of Clause 15.10(d) after a reasonable time has passed;

- (d) requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding 30 days of verifying that the invoice is valid and undisputed; and
- (e) giving the Authority a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
- (f) requiring the Sub-contractor to include a clause to the same effect as this Clause 5.10 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Agreement.

15.11 The Supplier shall:

- (a) pay any undisputed sums which are due from it to a Sub-contractor within 30 days of verifying that the invoice is valid and undisputed;
- (b) include within the Balanced Scorecard Report produced by it pursuant to Schedule 2.2 (*Performance Monitoring and Service Levels*) a summary of its compliance with Clause 15.11(a), such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

15.12 Notwithstanding any provision of Clauses 25 (*Confidentiality*) and 28 (*Publicity and Branding*), if the Supplier notifies the Authority (whether in a Balanced Scorecard Report or otherwise) that the Supplier has failed to pay a Sub-contractor's undisputed invoice within 30 days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Termination of Sub-contracts

15.13 The Authority may require the Supplier to terminate:

- (a) a Sub-contract where:
 - (i) the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause 37.1(b) (*Termination by the Authority*);
 - (ii) the relevant Sub-contractor or any of its Affiliates have embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the Services or otherwise;
 - (iii) the relevant Sub-contractor has failed to comply in the

- performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or
- (iv) the Authority has found grounds for exclusion of the Sub-contractor in accordance with Clause 15.8; and
- (b) a Key Sub-contract where there is a Change of Control of the relevant Key Sub-contractor, unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Authority has not served its notice of objection within 6 months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control.

Competitive Terms

- 15.14 If the Authority is able to obtain from any Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Supplier or the Supplier Personnel in the supply of the Services, then the Authority may:
- (a) require the Supplier to replace its existing commercial terms with that person with the more favourable commercial terms obtained by the Authority in respect of the relevant item; or
 - (b) subject to Clause 15.13, enter into a direct agreement with that Sub-contractor or third party in respect of the relevant item.
- 15.15 If the Authority exercises either of its options pursuant to Clause 15.14, then the Charges shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.
- 15.16 The Authority's right to enter into a direct agreement for the supply of the relevant items is subject to:
- (a) the Authority making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and
 - (b) any reduction in the Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

Retention of Legal Obligations

- 15.17 Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 15, the Supplier shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own.

Exclusion of Sub-contractors

- 15.18 Where the Authority considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:
- (a) if the Authority finds there are compulsory grounds for exclusion, the Supplier shall replace or shall not appoint the Sub-contractor;
 - (b) if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to replace or not to appoint the Sub-contractor and the Supplier shall comply with such a requirement.

16 CONFLICT OF INTEREST

- 16.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor the Supplier Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier Personnel and the duties owed to the Authority under the provisions of this Agreement.
- 16.2 The Supplier shall promptly notify and provide full particulars to the Authority if such conflict referred to in Clause 16.1 arises or may reasonably be foreseen as arising.
- 16.3 The Authority reserves the right to terminate this Agreement immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Agreement. The action of the Authority pursuant to this Clause 16.3 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

SECTION F - INTELLECTUAL PROPERTY, DATA AND CONFIDENTIALITY

17 INTELLECTUAL PROPERTY RIGHTS

- 17.1 Except as expressly set out in this Agreement:
- (a) the Authority shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:
 - (i) the Supplier Software;
 - (ii) the Third Party Software;
 - (iii) the Third Party IPRs; and
 - (iv) the Supplier Background IPRs;
 - (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Authority or its licensors, including:
 - (i) the Authority Software;
 - (ii) the Authority Data; and
 - (iii) the Authority Background IPRs.
- 17.2 Where either Party acquires, by operation of law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 18.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
- 17.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- 17.4 Unless the Authority otherwise agrees in writing:
- (a) all Specially Written Software and Project Specific IPRs shall be created in a format, or be able to be converted into a format, which is suitable for publication by the Authority as open source software; and
 - (b) where the Specially Written Software and Project Specific IPRs are written in a format that requires conversion before publication as open source software, the Supplier shall also provide that converted format to the Authority.

18 TRANSFER AND LICENCES GRANTED BY THE SUPPLIER

Specially Written Software and Project Specific IPRs

- 18.1 Subject to Clause 18.13 (Patents), the Supplier hereby assigns to the Authority with full guarantee (or shall procure from the first owner the assignment to the Authority), title to and all rights and interest in the Specially Written Software and the Project Specific IPRs including:
- (a) the Documentation, Source Code and the Object Code of the Specially Written Software;
 - (b) all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining

- and supporting the Specially Written Software (together the “Software Supporting Materials”; and
- (c) the Project Specific IPRs.

18.2 The assignment under Clause 18.1 above shall take effect as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant Specially Written Software and the Project Specific IPRs.

18.3 The Supplier:

- (a) shall:
- (i) inform the Authority of all Specially Written Software that constitutes a modification or enhancement to Supplier Software or Third Party Software; and
 - (ii) deliver to the Authority on media that is reasonably acceptable to the Authority the Specially Written Software in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials:
 - A. within seven days of the issue of a Milestone Achievement Certificate in respect of the relevant Deliverable; and
 - B. at such other times as are reasonably requested by the Authority; and
 - C. provide on the media that is reasonably acceptable to the Authority updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software; and
 - (b) acknowledges and agrees that the ownership of the media referred to in Clause 18.3(a)(ii) shall vest in the Authority upon their receipt by the Authority;
 - (c) shall waive or procure a waiver of any moral rights arising in any Specially Written Software or Project Specific IPRs assigned under Clause 18.1 above; and
 - (d) shall execute all such assignments as are required to ensure that any rights in the Specially Written Software and Project Specific IPRs are properly transferred to the Authority.

Supplier Software and Supplier Background IPRs

18.4 The Supplier hereby grants to the Authority, subject to the provisions of Clause 18.13 (*Patents*), and Clause 38.10(b) (*Consequences of Expiry or Termination*) and unless otherwise Approved by the Authority, perpetual, royalty-free, irrevocable, sub-licensable and non-exclusive licences to use (including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)):

- (a) the Supplier Software for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Government Body's) business or function under the Supplier's standard license terms including

- applicable license fee;
- (b) the Supplier Background IPRs for any purpose relating to the Services (or substantially equivalent services) or for any purpose relating to the exercise of the Authority's (or any other Government Body's) business or function.

Authority's right to assign/novate licences

- 18.5 The Authority may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Clause 18.4 (Supplier Software and Supplier Background IPRs) to:
- (a) a Government Body; or
 - (b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority, including a Partner Organisation.
- 18.6 Any change in the legal status of the Authority which means that it ceases to be a Government Body shall not affect the validity of any licence granted in Clause 18.4 (Supplier Software and Supplier Background IPRs). If the Authority ceases to be a Government Body, the Successor Body to the Authority shall still be entitled to the benefit of the licence granted in Clause 18.4 (Supplier Software and Supplier Background IPRs).
- 18.7 If a licence granted in Clause 18.4 (Supplier Software and Supplier Background IPRs) is novated under Clause 18.5 (Authority's right to assign/novate licences) or there is a change of the Authority's status pursuant to Clause 18.6, the rights acquired on that novation or change of status shall not extend beyond those previously enjoyed by the Authority.

Third Party Software and Third Party IPRs

- 18.8 The Supplier shall not use in the provision of the Services any Third Party Software or Third Party IPRs unless in each case it has:
- 18.8.1 first procured that the owner or an authorised licensor of the relevant Third Party IPRs or Third Party Software (as the case may be) has granted a direct licence to the Authority on a royalty-free basis to the Authority and on terms no less favourable to the Authority than those set out in Clause 18.4 (Supplier Software and Supplier Background IPRs) and Clause 18.5 (Authority's right to assign/novate licences); or
 - 18.8.2 complied with the provisions of Clause 18.9.
- 18.9 If the Supplier cannot obtain for the Authority a licence in respect of any Third Party Software and/or Third Party IPRs in accordance with the licence terms set out in Clause 18.8.1, the Supplier shall:
- (a) notify the Authority in writing giving details of what licence terms can be obtained from the relevant third party and whether there are

alternative software providers which the Supplier could seek to use;
and

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

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

Termination and Replacement Suppliers

- 18.11 For the avoidance of doubt, the termination or expiry of this Agreement shall not of itself result in any termination of any of the licences granted by the Supplier or relevant third party pursuant to or as contemplated by this Clause 18.
- 18.12 The Supplier shall, if requested by the Authority in accordance with Schedule 8.5 (Exit Management), grant (or procure the grant) to any Replacement Supplier of a licence to use any Supplier Software, Supplier IPRs, Third Party IPRs and/or Third Party Software on a royalty-free basis, except where the licences are subscription based, to the Replacement Supplier for the remainder of the Term and on terms no less favourable than those granted to the Authority in respect of the relevant Software and/or IPRs pursuant to or as contemplated by this Clause 18 subject to receipt by the Supplier of a confidentiality undertaking in its favour in or substantially in the form set out in Annex 2 to Schedule 5 (Software) duly executed by the Replacement Supplier.

Patents

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

19 LICENCES GRANTED BY THE AUTHORITY

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

undertaking with the Supplier on the same terms as set out in Clause 25 (*Confidentiality*); and

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

19.2 In the event of the termination or expiry of this Agreement, the licence granted pursuant to Clause 19.1, and any sub-licence granted by the Supplier in accordance with Clause 19.1 shall terminate automatically on the date of such termination or expiry and the Supplier shall:

- (a) immediately cease all use of the Authority Software, the Authority Background IPRs and the Authority Data (as the case may be);
- (b) at the discretion of the Authority, return or destroy documents and other tangible Materials that contain any of the Authority Software, the Authority Background IPRs and the Authority Data, provided that, if the Authority has not made an election within 6 months of the termination of the licence, the Supplier may destroy the documents and other tangible Materials that contain any of the Authority Software, the Authority Background IPRs and the Authority Data (as the case may be); and
- (c) ensure, so far as reasonably practicable, that any Authority Software, Authority Background IPRs and Authority Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any Supplier computer, word processor, voicemail system or any other Supplier device containing such Authority Software, Authority Background IPRs and/or Authority Data.

19.3 The Authority recognizes and accepts that the Supplier may wish to use the Specially Written Software and/or the Project Specific IPRs for a purpose other than that specified in Clause 19.1. The Authority may, at its sole discretion, grant a licence to use the Specially Written Software and/or the Project Specific IPRs on such terms as it considers appropriate.

20 IPRs INDEMNITY

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

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

- (a) procure for the Authority or other relevant Indemnified Person the right to continue using the relevant item which is subject to the IPRs Claim; or
- (b) replace or modify the relevant item with non-infringing substitutes

provided that:

- (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
- (ii) the replaced or modified item does not have an adverse effect on any other services or the IT Environment;
- (iii) there is no additional cost to the Authority or relevant Indemnified Person (as the case may be); and
- (iv) the terms and conditions of this Agreement shall apply to the replaced or modified Services.

20.3 If the Supplier elects to procure a licence in accordance with Clause 20.2(a) or to modify or replace an item pursuant to Clause 20.2(b), but this has not avoided or resolved the IPRs Claim, then:

- (a) the Authority may terminate this Agreement (if subsisting) with immediate effect by written notice to the Supplier; and
- (b) without prejudice to the indemnity set out in Clause 20.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

21 OPEN SOURCE PUBLICATION

21.1 The Supplier agrees that the Authority may at its sole discretion publish as Open Source Software all or part of the Specially Written Software and the Project Specific IPRs after the Effective Date.

21.2 The Supplier hereby warrants that the Specially Written Software and the Project Specific IPRs:

- (a) are suitable for release as Open Source and that any release will not allow a third party to use the Open Source software to in any way compromise the operation, running or security of the Specially Written Software, the Project Specific IPRs or the Authority System;
- (b) shall not cause any harm or damage to any party using anything published as Open Source and that the Specially Written Software and the Project Specific IPRs do not contain any Malicious Software;
- (c) do not contain any material which would bring the Authority into disrepute upon publication as Open Source;
- (d) do not contain any Non-Party IPRs which are not licensed to the Authority under Clause 18.8 (Third Party Software and Third Party IPRs); and
- (e) will be supplied in a format suitable for publication as Open Source ("**the Open Source Publication Material**") no later than the date reasonably required by the Authority.

21.3 The Supplier shall ensure that the Open Source Publication Material provided to the Authority does not include any Supplier Background IPRs save that any Supplier

Background IPRs that the Supplier is willing to allow to be included in any Open Source publication can remain in the Open Source Publication Material supplied to the Authority. In such a case, the Supplier hereby acknowledges that any such Supplier Background IPRs will become Open Source and will be licensed and treated as such following publication by the Authority and any third party that uses the Open Source Publication Material on the terms of the Open Source licence used by the Authority when publishing as Open Source.

- 21.4 The Supplier hereby indemnifies the Authority against all claims in which the Authority is, or is threatened to be, a party for any alleged infringement of any Non-Party IPRs arising from publication of the Specially Written Software and the Project Specific IPRs as Open Source under Clause 21.1.
- 21.5 In this Clause 21 “**Non-Party IPRs**” means any Intellectual Property Right owned or claimed to be owned by any third party which is found, or alleged to be found, in the Specially Written Software and the Project Specific IPRs.

22 CROWN AND PARLIAMENTARY COPYRIGHT

- 22.1 Without prejudice to Clauses 17 (*Intellectual Property Rights*), 18 (*Transfer and Licences granted by the Supplier*) and 19 (*Licences Granted by the Authority*), the Supplier acknowledges and agrees that the Documents including the typographical arrangement of a published Document, may be subject to Crown Copyright or Parliamentary Copyright in accordance with sections 163 to 167 (inclusive) of the Copyright, Designs and Patents Act 1988 and hereby:
- (a) assigns to the body to which such Crown Copyright or Parliamentary Copyright belongs any Intellectual Property Rights the Supplier may have now, or in the future create in the relevant Documents (including without limitation any Intellectual Property Rights created in any information, Deliverables, Specially Written Software, Project-Specific IPRs or other materials developed by or on behalf of the Supplier which is / are used either exclusively or non-exclusively in the performance of the Services, or in any Authority Materials or other information provided to the Supplier from or on behalf of the Authority, End Users and/or Partner Organisations); and
 - (b) irrevocably grants for the legal term of copyright a non-exclusive, royalty free licence for the relevant body, to which Crown Copyright or Parliamentary Copyright in the Documents belongs after termination of this Agreement to use and to permit others to use any information or materials developed by or on behalf of the Supplier which is / are used non-exclusively in the performance of the Services for the sole purpose of publishing such Documents.
- 22.2 The Supplier:
- (a) acknowledges and agrees that for any Documents subject to Crown Copyright or Parliamentary Copyright the body to which such copyright belongs has the sole right and responsibility to enforce such copyright,

except that:

- (i) the Keeper of Public Records has the sole right and responsibility to enforce Crown copyright; and
 - (ii) the functions of the House of Commons and the House of Lords as owners of copyright are exercised in accordance with s167 Copyright Designs and Patents Act 1988;
- (b) undertakes to notify the body to which such Crown Copyright or Parliamentary Copyright belongs as soon as the Supplier becomes aware of any unauthorised use or infringement of such copyright or of any other Intellectual Property Rights in such Documents; and
- (c) agrees that it will, at the cost and expense of the Supplier, take part in or give assistance in respect of any legal proceedings where requested by the body to which such Crown Copyright or Parliamentary Copyright belongs and execute any documents and do any things reasonably necessary to protect the Crown Copyright or Parliamentary Copyright or other Intellectual Property Rights in such Documents.

22.3 The Authority and, as applicable, the body to which any copyright in the Documents belongs reserve all rights including without limitation:

- (a) the right to publish itself in any Format the material comprised in the Documents;
- (b) the right to publish or to license others to publish the information in the Documents in another Format (including in any Value Added Format); and
- (c) The right to license the re-use of such material in accordance with UK information policy as reflected in the Guidance issued by the Authority at the date of this Agreement and which may be amended from time to time.

23 SOFTWARE AND ESCROW

23.1 The Supplier shall deposit in escrow or a shared code repository as agreed with the Authority, all updated bespoke code, scripts, schemas, ontologies and configurations including those for automated build and deployment of virtual infrastructure and configurations used or developed for the Services and provide a report to confirm that this has been done. Should the Authority identify any missing items or discrepancies in the escrow or shared code repository, or have any other reasonable complaint the Supplier shall use best endeavours to resolve the complaint.

23.2 If the Authority determines that escrow is required, the cost of the escrow arrangements will be an additional cost to the Authority.

24 Authority Data and Security Requirements

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

- 24.2 The Supplier shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise expressly authorised in writing by the Authority.
- 24.3 To the extent that Authority Data is held and/or processed by the Supplier, the Supplier shall supply that Authority Data to the Authority, and/or another body which may be a Partner Organisation as requested by the Authority in the format specified in Schedule 2 (*Services Requirements*).
- 24.4 The Supplier shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data at all times that the relevant Authority Data is under its control or the control of any Sub-contractor.
- 24.5 The Supplier shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored in accordance with the BCDR Plan. The Supplier shall ensure that such back-ups are available to the Authority (or to such other person as the Authority may direct) at all times upon request and are delivered to the Authority at no less than 6 monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 24.6 The Supplier shall ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with Schedule 2.4 (*Security Management*).
- 24.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:
- (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Authority Data to the extent and in accordance with the requirements specified in Schedule 8.6 (*Business Continuity and Disaster Recovery*) and the Supplier shall do so as soon as practicable but not later than 5 Working Days from the date of receipt of the Authority's notice; and/or
 - (b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so.
- 24.8 If at any time the Supplier suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.
- 24.9 The Supplier shall comply with the requirements of Schedule 2.4 (*Security Management*).
- 24.10 The Authority shall notify the Supplier of any changes or proposed changes to the Baseline Security Requirements.

- 24.11 If the Supplier believes that a change or proposed change to the Baseline Security Requirements will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.
- 24.12 Until and/or unless a change to the Charges is agreed by the Authority pursuant to Clause 24.11 the Supplier shall continue to perform the Services in accordance with its existing obligations.

Malicious Software

- 24.13 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software in the IT Environment (or as otherwise agreed by the Parties).
- 24.14 Notwithstanding Clause 24.13, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.
- 24.15 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 24.14 shall be borne by the Parties as follows:
- (a) by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Authority has waived the obligation set out in Clause 24.13) or the Authority Data (whilst the Authority Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority when provided to the Supplier; and
 - (b) otherwise by the Authority.

25 CONFIDENTIALITY

- 25.1 For the purposes of this Clause 25, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- 25.2 Except to the extent set out in this Clause 25 or where disclosure is expressly permitted elsewhere in this Agreement, the Recipient shall:
- (a) treat the Disclosing Party’s Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon

the form in which such materials are stored and the nature of the Confidential Information contained in those materials);

- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Agreement or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement; and
- (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

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

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 26 (*Transparency and Freedom of Information*) shall apply to disclosures required under the FOIA or the EIRs;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Agreement;
 - (ii) the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of any Services provided under this Agreement; or
 - (iii) the conduct of a Government Body review in respect of this Agreement; or
- (c) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

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

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

- (a) Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Agreement;
- (b) its auditors; and
- (c) its professional advisers for the purposes of obtaining advice in relation to this Agreement.

Where the Supplier discloses Confidential Information of the Authority pursuant to this Clause 25.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.

- 25.6 The Authority may disclose the Confidential Information of the Supplier:
- (a) on a confidential basis to any Government Body for any proper purpose of the Authority or of the relevant Government Body;
 - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 25.6(a) (including any benchmarking organisation) for any purpose relating to or connected with this Agreement;
 - (e) on a confidential basis for the purpose of the exercise of its rights under this Agreement, including the Audit Rights, its step-in rights pursuant to Clause 34 (*Step-In Rights*), its rights to appoint a Remedial Adviser pursuant to Clause 33 (*Remedial Adviser*) and Exit Management rights; or
 - (f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement,
- and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 25.

- 25.7 Nothing in this Clause 25 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

26 TRANSPARENCY AND FREEDOM OF INFORMATION

- 26.1 The Parties acknowledge that
- (a) the Transparency Reports; and
 - (b) the content of this Agreement, including any changes to this Agreement agreed from time to time, except for –
 - (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and
 - (ii) Commercially Sensitive Information;
- (together the "Transparency Information") are not Confidential Information.

- 26.2 Notwithstanding any other provision of this Agreement, the Supplier hereby gives its consent for the Authority to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). The Authority shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 26.3 The Supplier shall assist and co-operate with the Authority to enable the Authority to publish the Transparency Information, including the preparation of the Transparency Reports in accordance with Schedule 8.4 (*Reports and Records Provisions*).
- 26.4 If the Authority believes that publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Supplier.
- 26.5 The Authority shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Agreement is being performed, having regard to the context of the wider commercial relationship with the Supplier.
- 26.6 The Supplier agrees that any Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Authority may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to Clause 25.6(c)) and Open Book Data) publish such Information. The Supplier shall provide to the Authority within 5 working days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.
- 26.7 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA, the EIRs and the RPSIR. The Supplier shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA, EIRs and RPSIR;
 - (b) transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Authority with a copy of all Information held on behalf of

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

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

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

27 DATA PROTECTION

27.1 With respect to the Parties' rights and obligations under this Agreement, the Parties acknowledge that the Authority is a Data Controller as defined in Schedule 1 (*Definitions*) and that the Supplier is a Data Processor.

27.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is determined by the Authority and may not be determined by the Supplier.

27.3 The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

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

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations 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.

27.5 The Supplier shall, in relation to any Personal Data processed in connection with its

obligations under this Agreement:

- (a) process that Personal Data only in accordance with the instructions of the Authority, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate, to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Supplier Personnel do not process Personal Data except in accordance with this Agreement;
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - A. are aware of and comply with the Supplier's duties under this Clause;
 - B. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - C. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Agreement; and
 - D. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier 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 Authority in meeting its obligations); and
 - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal

Data (and any copies of it) to the Authority on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.

- 27.6 Subject to Clause 27.7, the Supplier shall notify the Authority immediately if 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 this Agreement;
 - (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 Data Loss Event.
- 27.7 The Supplier's obligation to notify under Clause 27.6 shall include the provision of further information to the Authority in phases, as details become available.
- 27.8 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 27.6 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
- (a) the Authority with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Authority following any Data Loss Event;
 - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- 27.9 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- (a) the Authority determines that the processing is not occasional;
 - (b) the Authority 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; and
 - (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 27.10 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- 27.11 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- 27.12 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
 - (a) notify the Authority in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Authority;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 27 such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 27.13 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 27.14 The Authority may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 27.15 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 27.16 The Supplier shall indemnify the Authority on a continuing basis against any and all Losses incurred by the Authority arising from the Supplier's Default under this Clause 27 and/or any failure by the Supplier or any Sub-contractor to comply with their respective obligations under Data Protection Laws.
- 27.17 Nothing in this Clause 27 shall be construed as requiring the Supplier or any relevant Sub-contractor to be in breach of any Data Protection Laws.

28 PUBLICITY AND BRANDING

- 28.1 The Supplier shall not:
 - (a) make any press announcements or publicise this Agreement or its contents in any way; or
 - (b) use the Authority's name or brand in any promotion or marketing or

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

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

SECTION G - LIABILITY, INDEMNITIES AND INSURANCE

29 LIMITATIONS ON LIABILITY

Unlimited liability

- 29.1 Neither Party limits its liability for:
- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors (as applicable);
 - (b) fraud or fraudulent misrepresentation by it or its employees;
 - (c) breach of any obligation as to title implied by section 2 of the Supply of Goods and Services Act 1982; or
 - (d) any liability to the extent it cannot be limited or excluded by Law.
- 29.2 The Supplier's liability in respect of the indemnities in Clause 10.5 (*VAT*), Clause 14.7 (*Employment Indemnity*), Clause 14.8 (*Income Tax and National Insurance Contributions*), Clause 20 (*IPRs Indemnity*) and Schedule 9.1 (*Staff Transfer*) shall be unlimited.
- 29.3 The Authority's liability in respect of the indemnities in Clause 14.7 (*Employment Indemnity*) and Schedule 9.1 (*Staff Transfer*) shall be unlimited.

Financial and other limits

- 29.4 Subject to Clauses 29.1 and 29.2 (*Unlimited Liability*) and Clauses 29.7 and 29.8 (*Consequential losses*):
- (a) the Supplier's aggregate liability in respect of loss of or damage to the Authority Premises or other property or assets of the Authority (including technical infrastructure, assets or equipment but excluding any loss or damage to the Authority's Data or any other data) that is caused by Defaults of the Supplier occurring in each and any Contract Year shall in no event exceed **Text Redacted**;
 - (b) the Supplier's aggregate liability in respect of all:
 - (i) Service Credits; and
 - (ii) Compensation for Unacceptable KPI Failure; incurred in any rolling period of 12 months shall be subject to the Service Credit Cap; and
 - (c) the Supplier's aggregate liability in respect of all other Losses incurred by the Authority under or in connection with this Agreement as a result of Defaults by the Supplier shall in no event exceed:
 - (i) in relation to Defaults occurring in the first Contract Year, an amount equal to 150% of the Estimated Year 1 Charges;
 - (ii) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to 150% of the Charges paid and/or due to be paid to the Supplier under this Agreement in the Contract Year immediately preceding the occurrence of the Default; and
 - (iii) in relation to Defaults occurring after the end of the Term, an

amount equal to 150% of the Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term,

provided that where any Losses referred to in Clause 29.4(c) have been incurred by the Authority as a result of the Supplier's abandonment of this Agreement or the Supplier's wilful default, wilful breach of a fundamental term of this Agreement or wilful repudiatory breach of this Agreement, the references in such Clause to 150% shall be deemed to be references to 200%.

- 29.5 Deductions from Charges shall not be taken into consideration when calculating the Supplier's liability under Clause 29.4(c).
- 29.6 Subject to Clauses 29.1 and 29.3 (*Unlimited Liability*) and Clause 29.7 (*Consequential Losses*) and without prejudice to the Authority's obligation to pay the Charges as and when they fall due for payment:
- (a) the Authority's total aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of early termination of this Agreement by the Authority pursuant to Clause 37.1(a) (*Termination by the Authority*) shall in no event exceed the following amounts:
 - (i) in relation to the Unrecovered Payment, the amount set out in Paragraph 4 of Schedule 7.2 (*Payments on Termination*);
 - (ii) in relation to the Breakage Costs Payment, the amount set out in Paragraph 3.2 of Schedule 7.2 (*Payments on Termination*); and
 - (iii) in relation to the Compensation Payment, the amount set out in Paragraph 6 of Schedule 7.2 (*Payments on Termination*); and
 - (b) the Authority's aggregate liability in respect of all Losses incurred by the Supplier under or in connection with this Agreement as a result of Defaults of the Authority shall in no event exceed:
 - (i) in relation to Defaults occurring in the first Contract Year, an amount equal to the Estimated Year 1 Charges;
 - (ii) in relation to Defaults occurring during any subsequent Contract Year, an amount equal to the total Charges paid and/or due to be paid under this Agreement in the Contract Year immediately preceding the occurrence of the Default; and
 - (iii) in relation to Defaults occurring after the end of the Term, an amount equal to the total Charges paid and/or due to be paid to the Supplier in the 12 month period immediately prior to the last day of the Term.

Consequential Losses

- 29.7 Subject to Clauses 29.1, 29.2 and 29.3 (*Unlimited Liability*) and Clause 29.8, neither Party shall be liable to the other Party for:
- (a) any indirect, special or consequential Loss; or
 - (b) any loss of profits, turnover, business opportunities or damage to

goodwill (in each case whether direct or indirect).

29.8 Notwithstanding Clause 29.7 but subject to Clause 29.4, the Supplier acknowledges that the Authority may, amongst other things, recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Services for the remainder of the Term and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Agreement;
- (d) any compensation or interest paid to a third party by the Authority;
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; and
- (f) any anticipated savings identified in Schedule 8.4 (*Anticipated Savings*).

Conduct of indemnity claims

29.9 Where under this Agreement one Party indemnifies the other Party, the Parties shall comply with the provisions of Schedule 8.7 (*Conduct of Claims*) in relation to the conduct of claims made by a third person against the Party having (or claiming to have) the benefit of the indemnity.

Mitigation

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

30 INSURANCE

30.1 The Supplier shall comply with the provisions of Schedule 2.5 (*Insurance Requirements*) in relation to obtaining and maintaining insurance.

SECTION H – REMEDIES AND RELIEF

31 RECTIFICATION PLAN PROCESS

31.1 In the event that:

- (a) there is, or is reasonably likely to be, a Delay;
- (b) in any Service Period there has been a Material KPI Failure; and/or;
- (c) the Supplier commits a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default),

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

Notification

31.2 If:

- (a) the Supplier notifies the Authority pursuant to Clause 31.1 that a Notifiable Default has occurred; or
- (b) the Authority notifies the Supplier that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Supplier has to rectify),

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

31.3 The “**Rectification Plan Process**” shall be as set out in Clauses 31.4 (*Submission of the draft Rectification Plan*) to 31.9 (*Agreement of the Rectification Plan*) inclusive.

Submission of the draft Rectification Plan

31.4 The Supplier shall submit a draft Rectification Plan to the Authority for it to review as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) after the original notification pursuant to Clause 31.2 (*Notification*). The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Notifiable Default.

31.5 The draft Rectification Plan shall set out:

- (a) full details of the Notifiable Default that has occurred, including a root cause analysis;
- (b) the actual or anticipated effect of the Notifiable Default; and

- (c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable).
- 31.6 The Supplier shall promptly provide to the Authority any further documentation that the Authority reasonably requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Paragraph 6 of Schedule 8.3 (*Dispute Resolution Procedure*).

Agreement of the Rectification Plan

- 31.7 The Authority may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
 - (a) is insufficiently detailed to be capable of proper evaluation;
 - (b) will take too long to complete;
 - (c) will not prevent reoccurrence of the Notifiable Default; and/or
 - (d) will rectify the Notifiable Default but in a manner which is unacceptable to the Authority.
- 31.8 The Authority shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Authority rejects the draft Rectification Plan, the Authority shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Authority for review within 5 Working Days (or such other period as agreed between the Parties) of the Authority's notice rejecting the first draft.
- 31.9 If the Authority consents to the Rectification Plan:
 - (a) the Supplier shall immediately start work on the actions set out in the Rectification Plan; and
 - (b) the Authority may no longer terminate this Agreement in whole or in part on the grounds of the relevant Notifiable Event.

32 DELAY PAYMENTS

- 32.1 If a Key Milestone has not been Achieved by its relevant Milestone Date, the provisions of Paragraph 1 of Part C of Schedule 7.1 (*Charges and Invoicing*) shall apply in relation to the payment of Delay Payments.
- 32.2 Delay Payments shall be the Authority's exclusive financial remedy for the Supplier's failure to Achieve a Key Milestone by its Milestone Date except where:
 - (a) the Authority is entitled to or does terminate this Agreement pursuant to Clause 37.1(b) (*Termination by the Authority*); or
 - (b) the Delay exceeds the Delay Deduction Period.

33 REMEDIAL ADVISER

33.1 If:

- (a) any of the Intervention Trigger Events occur; or
- (b) the Authority reasonably believes that any of the Intervention Trigger Events are likely to occur,

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

- (i) a meeting between the Authority Representative and the Supplier Representative to discuss the Intervention Cause; and/or
- (ii) the appointment as soon as practicable by the Supplier of a Remedial Adviser, as further described in this Clause 33.

For the avoidance of doubt, if the Intervention Cause is also a Supplier Termination Event, the Authority has no obligation to exercise its rights under this Clause 33.1 prior to or instead of exercising its right to terminate this Agreement.

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

- (a) the Remedial Adviser shall be:
 - (i) a person selected by the Supplier and approved by the Authority; or
 - (ii) if none of the persons selected by the Supplier have been approved by the Authority (or no person has been selected by the Supplier) within 10 Working Days following the date on which the Intervention Notice is given, a person identified by the Authority;
- (b) the terms of engagement and start date agreed with the Remedial Adviser must be approved by the Authority; and
- (c) any right of the Authority to terminate this Agreement pursuant to Clause 37.1(b) (*Termination by the Authority*) for the occurrence of that Intervention Cause shall be suspended for 60 Working Days from (and including) the date of the Intervention Notice (or such other period as may be agreed between the Parties) (the “**Intervention Period**”).

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

- (a) observe the conduct of and work alongside the Supplier Personnel to the extent that the Remedial Adviser considers reasonable and proportionate having regard to the Intervention Cause;
- (b) gather any information the Remedial Adviser considers relevant in the furtherance of its objective;

- (c) write reports and provide information to the Authority in connection with the steps being taken by the Supplier to remedy the Intervention Cause;
- (d) make recommendations to the Authority and/or the Supplier as to how the Intervention Cause might be mitigated or avoided in the future; and/or
- (e) take any other steps that the Authority and/or the Remedial Adviser reasonably considers necessary or expedient in order to mitigate or rectify the Intervention Cause.

33.4 The Supplier shall:

- (a) work alongside, provide information to, co-operate in good faith with and adopt any reasonable methodology in providing the Services recommended by the Remedial Adviser;
- (b) ensure that the Remedial Adviser has all the access it may require in order to carry out its objective, including access to the Assets;
- (c) submit to such monitoring as the Authority and/or the Remedial Adviser considers reasonable and proportionate in respect of the Intervention Cause;
- (d) implement any reasonable recommendations made by the Remedial Adviser that have been approved by the Authority within the timescales given by the Remedial Adviser; and
- (e) not terminate the appointment of the Remedial Adviser prior to the end of the Intervention Period without the prior consent of the Authority (such consent not to be unreasonably withheld).

33.5 The Supplier shall be responsible for:

- (a) the costs of appointing, and the fees charged by, the Remedial Adviser; and
- (b) its own costs in connection with any action required by the Authority and/or the Remedial Adviser pursuant to this Clause 33.

33.6 If:

- (a) the Supplier:
 - (i) fails to perform any of the steps required by the Authority in an Intervention Notice; and/or
 - (ii) is in Default of any of its obligations under Clause 33.4; and/or
- (b) the relevant Intervention Trigger Event is not rectified by the end of the Intervention Period,

(each a **“Remedial Adviser Failure”**), the Authority shall be entitled to terminate this Agreement pursuant to Clause 37.1(b) (*Termination by the Authority*).

34 **STEP-IN RIGHTS**

- 34.1 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Supplier (a **“Step-In Notice”**) that it will be taking action under this Clause 34 (*Step-in Rights*), either itself or with the assistance of a third party (provided that the Supplier

may require any third parties to comply with a confidentiality undertaking equivalent to Clause 25 (*Confidentiality*). The Step-In Notice shall set out the following:

- (a) the action the Authority wishes to take and in particular the Services that it wishes to control (the “**Required Action**”);
- (b) the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Supplier's Default;
- (c) the date on which it wishes to commence the Required Action;
- (d) the time period which it believes will be necessary for the Required Action;
- (e) whether the Authority will require access to the Supplier's premises and/or the Sites; and
- (f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Supplier's obligations to provide the Services during the period that the Required Action is being taken.

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

- (a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
- (b) keep records of the Required Action taken and provide information about the Required Action to the Supplier;
- (c) co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide the Services in relation to which the Authority is not assuming control; and
- (d) act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of the Authority's rights under this Clause 34.

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

- (a) the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;
- (b) no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Clause 34.3(b) shall apply to Deductions from Charges in respect of other Services; and
- (c) the Authority shall pay to the Supplier the Charges after subtracting any applicable Deductions and the Authority's costs of taking the Required Action.

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

- (a) the degradation of any Services not subject to the Required Action; or
- (b) the non-Achievement of a Milestone,

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

34.5 Before ceasing to exercise its step in rights under this Clause 34 the Authority shall

deliver a written notice to the Supplier (a “**Step-Out Notice**”), specifying:

- (a) the Required Action it has actually taken; and
- (b) the date on which the Authority plans to end the Required Action (the “Step-Out Date”) subject to the Authority being satisfied with the Supplier's ability to resume the provision of the Services and the Supplier's plan developed in accordance with Clause 34.6.

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

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

34.8 The Supplier shall bear its own costs in connection with any step-in by the Authority under this Clause 34, provided that the Authority shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:

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

35 **AUTHORITY CAUSE**

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

- (a) Achieve a Milestone by its Milestone Date;
- (b) provide the Operational Services in accordance with the Target Performance Levels; and/or
- (c) comply with its obligations under this Agreement,

(each a “**Supplier Non-Performance**”), and can demonstrate that the Supplier Non-Performance would not have occurred but for an Authority Cause, then (subject to the Supplier fulfilling its obligations in this Clause 35):

- (i) the Supplier shall not be treated as being in breach of this Agreement to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Authority Cause;
- (ii) the Authority shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance:
 - A. to terminate this Agreement pursuant to Clause 37.1(b) (*Termination by the Authority*); or
 - B. to take action pursuant Clause 33 (*Remedial Adviser*) or 34 (*Step-In Rights*);

- (iii) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - A. the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Authority Cause;
 - B. if the Authority, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Authority Cause;
 - C. if the Milestone is a Key Milestone, the Supplier shall have no liability to pay any Delay Payments associated with the Key Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Authority Cause; and
 - D. the Supplier shall be entitled to claim compensation subject to and in accordance with the principles set out in Paragraph 2 of Part C of Schedule 7.1 (*Charges and Invoicing*); and/or
- (iv) where the Supplier Non-Performance constitutes a Performance Failure:
 - A. the Supplier shall not be liable to accrue Service Credits;
 - B. the Authority shall not be entitled to withhold any of the Service Charges pursuant to Clause 7.2(b)(ii) (Performance Failures);
 - C. the Authority shall not be entitled to withhold and retain any Compensation for Unacceptable KPI Failure pursuant to Clause 7.4(a) (Unacceptable KPI Failure); and
 - D. the Supplier shall be entitled to invoice for the Service Charges for the relevant Operational Services affected by the Authority Cause,

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

35.2 In order to claim any of the rights and/or relief referred to in Clause 35.1, the Supplier shall as soon as reasonably practicable (and in any event within 10 Working Days) after becoming aware that an Authority Cause has caused, or is reasonably likely to cause, a Supplier Non-Performance, give the Authority notice (a “**Relief Notice**”) setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Authority Cause and its effect, or likely effect, on the Supplier’s ability to meet its obligations under this Agreement;
- (c) any steps which the Authority can take to eliminate or mitigate the consequences and impact of such Authority Cause; and
- (d) the relief and/or compensation claimed by the Supplier.

35.3 Following the receipt of a Relief Notice, the Authority shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Authority Cause and whether it agrees with the Supplier’s assessment set out in the

Relief Notice as to the effect of the relevant Authority Cause and its entitlement to relief and/or compensation, consulting with the Supplier where necessary.

- 35.4 The Supplier shall use all reasonable endeavours to eliminate or mitigate the consequences and impact of an Authority Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.
- 35.5 Without prejudice to Clause 5.9 (*Continuing obligation to provide the Services*), if a Dispute arises as to:
- (a) whether a Supplier Non-Performance would not have occurred but for an Authority Cause; and/or
 - (b) the nature and/or extent of the relief and/or compensation claimed by the Supplier,
- either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.
- 35.6 Any Change that is required to the Implementation Plan or to the Charges pursuant to this Clause 35 shall be implemented in accordance with the Change Control Procedure.

36 FORCE MAJEURE

- 36.1 Subject to the remaining provisions of this Clause 36 (and, in relation to the Supplier, subject to its compliance with its obligations in Schedule 8.6 (*Business Continuity and Disaster Recovery*)), a Party may claim relief under this Clause 36 from liability for failure to meet its obligations under this Agreement for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Agreement which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 36.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 36.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 36 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services including the BCDR Services, but the Supplier has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Agreement.

- 36.4 Subject to Clause 36.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 36.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 36.6 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement.
- 36.7 Relief from liability for the Affected Party under this Clause 36 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Agreement and shall not be dependent on the serving of notice under Clause 36.6.

SECTION I – TERMINATION AND EXIT MANAGEMENT

37 TERMINATION RIGHTS

Termination by the Authority

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

- (a) for convenience at any time, including where the Agreement should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU;
- (b) if a Force Majeure Event endures for a continuous period of more than 90 days; or
- (c) if the Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

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

37.2 Where the Authority has the right to terminate this Agreement under Clause 37; Clause 35.1(b) or Clause 35.1(c), it may, prior to or instead of terminating the whole of this Agreement, serve a Termination Notice requiring the Partial Termination of this Agreement to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances.

38 CONSEQUENCES OF EXPIRY OR TERMINATION

General Provisions on Expiry or Termination

38.1 The provisions of Clauses 5.8 (*Specially Written Software warranty*), 10.4 and 10.5 (VAT), 10.6 and 10.7 (*Set-off and Withholding*), 12 (*Records, Reports, Audits and Open Book Data*), 14.7 (*Employment Indemnity*), 14.8 (*Income Tax and National Insurance Contributions*), 17 (*Intellectual Property Rights*), 25 (*Confidentiality*), 26 (*Transparency and Freedom of Information*), 27 (*Data Protection*), 29 (*Limitations on Liability*), 38 (*Consequences of Expiry or Termination*), 44 (*Severance*), 46 (*Entire Agreement*), 47 (*Third Party Rights*), 49 (*Disputes*) and 50 (*Governing Law and Jurisdiction*), and the provisions of Schedules 1 (*Definitions*), 7.1 (*Charges and Invoicing*), 7.2 (on the occurrence of an Insolvency Event in respect of the Contractor); 7.4 (*Financial Transparency and Audit Rights*), 8.3 (*Dispute Resolution Procedure*), 8.4 (*Reports and Records Provisions*), 8.5 (*Exit Management*), and 9.1 (*Staff Transfer*), shall survive the termination or expiry of this Agreement.

Exit Management

38.2 The Parties shall comply with the provisions of Schedule 8.5 (*Exit Management*) and any current Exit Plan in relation to orderly transition of the Services to the Authority

or a Replacement Supplier.

Payments by the Authority

38.3 If this Agreement is terminated by the Authority pursuant to Clause 37.1(a) (*Termination by the Authority*) the Authority shall pay the Supplier the following payments (which shall be the Supplier's sole remedy for the termination of this Agreement):

- (a) the Termination Payment, as defined in Schedule 7.2 (*Payments on Termination*); and
- (b) the Compensation Payment but only if neither of the following conditions are satisfied:
 - (i) the period from (but excluding) the date that the Termination Notice is given (or, where Paragraph 2.1(a) of Part D of Schedule 7.1 (Charges and Invoicing) applies, deemed given) by the Authority to (and including) the Termination Date is 365 days or more, or
 - (ii) the Termination Date falls within, in relation to Milestone DE2 or Milestone DE4, the period:
 - (A) starting on the earlier of the Milestone Date (as set out in relation to the Milestone in the table in Annex 1 of Schedule 6.1 (Implementation Plan)) or the date the Milestone is Achieved, and
 - (B) ending 20 working days later.

38.4 If this Agreement is terminated (in part or in whole) by the Authority pursuant to Clauses 37.1(b), 37.1(c) and/or 37.2 (*Termination by the Authority*), or the Term expires, the only payments that the Authority shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

- (a) payments in respect of any Assets or apportionments in accordance with Schedule 8.5 (*Exit Management*); and
- (b) payments in respect of unpaid Charges for Services received up until the Termination Date.
- (c) The costs of termination incurred by the Parties shall lie where they fall if:
 - (i) either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event; or
 - (ii) the Authority terminates this Agreement under Clause 37.1(c).

Payments by the Supplier

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

38.6 If this Agreement is terminated (in whole or in part) by the Authority pursuant to Clause 37.1(b) (*Termination by the Authority*) prior to Achievement of one or more

CPP Milestones, the Authority may at any time on or within 12 months of the issue of the relevant Termination Notice by issue to the Supplier of written notice (a **“Milestone Adjustment Payment Notice”**) require the Supplier to repay to the Authority an amount equal to the aggregate Milestone Adjustment Payment Amounts in respect of each CPP Milestone to which the Milestone Adjustment Payment Notice relates.

- 38.7 A Milestone Adjustment Payment Notice shall specify:
- (a) each CPP Milestone to which it relates;
 - (b) in relation to each such CPP Milestone, each Deliverable relating to that CPP Milestone that the Authority wishes to retain, if any (each such Deliverable being a **“Retained Deliverable”**); and
 - (c) those Retained Deliverables, if any, the Allowable Price for which the Authority considers should be subject to deduction of an adjusting payment on the grounds that they do not or will not perform in all material respects in accordance with their specification (such adjusting payment being an **“Allowable Price Adjustment”**),
- and may form part of a Termination Notice.
- 38.8 The Supplier shall within 10 Working Days of receipt of a Milestone Adjustment Payment Notice, in each case as applicable:
- (a) notify the Authority whether it agrees that the Retained Deliverables which the Authority considers should be subject to an Allowable Price Adjustment as specified in the relevant Milestone Adjustment Payment Notice should be so subject; and
 - (b) in relation to each such Retained Deliverable that the Supplier agrees should be subject to an Allowable Price Adjustment, notify the Authority of the Supplier’s proposed amount of the Allowable Price Adjustment and the basis for its approval;
 - (c) provide the Authority with its calculation of the Milestone Adjustment Payment Amount in respect of each CPP Milestone the subject of the relevant Milestone Adjustment Payment Notice including details of all relevant Milestone Payments;
 - (d) provide the Authority with such supporting information as the Authority may require.
- 38.9 If the Parties do not agree the calculation of a Milestone Adjustment Payment Amount within 20 Working Days of the Supplier’s receipt of the relevant Milestone Adjustment Payment Notice, either Party may refer the Dispute to the Dispute Resolution Procedure.
- 38.10 If the Authority issues a Milestone Adjustment Payment Notice pursuant to Clause 38.8:
- (a) the Authority shall:
 - (i) securely destroy or return to the Supplier all Non-retained Deliverables that are in tangible form; and
 - (ii) ensure that all Non-retained Deliverables that are held in

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

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

- (b) all licences granted pursuant to Clause 18 (*Transfers and Licences granted by the Supplier*) in respect of Specially Written Software and Project Specific IPRs and any Supplier Software and/or Supplier Background IPRs shall terminate upon such repayment to the extent that they relate to the Non-retained Deliverables.

SECTION J - MISCELLANEOUS AND GOVERNING LAW

39 COMPLIANCE

Health and Safety

- 39.1 The Supplier shall perform its obligations under this Agreement (including those in relation to the Services) in accordance with:
- (a) all applicable Law regarding health and safety; and
 - (b) the Health and Safety Policy whilst at the Authority Premises.
- 39.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. The Supplier shall instruct the Supplier Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

Equality and Diversity

- 39.3 The Supplier shall:
- (a) perform its obligations under this Agreement (including those in relation to the Services) in accordance with:
 - (i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - (ii) the Authority's equality and diversity policy as provided to the Supplier from time to time; and
 - (iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
 - (b) take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

Official Secrets Act and Finance Act

- 39.4 The Supplier shall comply with the provisions of:
- (a) the Official Secrets Acts 1911 to 1989;
 - (b) section 182 of the Finance Act 1989; and
 - (c) such equivalent legislation in Wales, Scotland and Northern Ireland.

40 ASSIGNMENT AND NOVATION

- 40.1 The Supplier shall not assign, novate or otherwise dispose of or create any trust in

relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of the Authority.

- 40.2 The Authority may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:
- (a) any Government Body; or
 - (b) to a body other than a Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority, including a Partner Organisation;
- and the Supplier shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 40.2.
- 40.3 A change in the legal status of the Authority such that it ceases to be a Government Body shall not (subject to Clause 40.4) affect the validity of this Agreement and this Agreement shall be binding on any Successor Body to the Authority.
- 40.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Agreement to a body which is not a Government Body or if a body which is not a Government Body succeeds the Authority (any such body a "**Successor Body**"), the Supplier shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of the Authority under limb (i) of the definition of Supplier Termination Event (as if references in that limb (i) to the Supplier and the Guarantor and references to a Party in the definition of Insolvency Event were references to the Successor Body).

41 WAIVER AND CUMULATIVE REMEDIES

- 41.1 The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 41.2 Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

42 RELATIONSHIP OF THE PARTIES

- 42.1 Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter

into any commitments for or on behalf of any other Party.

43 PREVENTION OF FRAUD AND BRIBERY

- 43.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Effective Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 43.2 The Supplier shall not during the term of this Agreement:
- (a) commit a Prohibited Act; and/or
 - (b) do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 43.3 The Supplier shall during the term of this Agreement:
- (a) establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
 - (b) keep appropriate records of its compliance with its obligations under Clause 43.3(a) and make such records available to the Authority on request.
- 43.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 43.1 and/or 43.2, or has reason to believe that it has or any of the Supplier Personnel have:
- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.
- 43.5 If the Supplier makes a notification to the Authority pursuant to Clause 43.4, the

Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, Records and/or any other relevant documentation in accordance with Clause 12 (Records, Reports, Audits and Open Book Data).

- 43.6 If the Supplier is in Default under Clauses 43.1 and/or 43.2, the Authority may by notice:
- (a) require the Supplier to remove from performance of this Agreement any Supplier Personnel whose acts or omissions have caused the Default; or
 - (b) immediately terminate this Agreement.
- 43.7 Any notice served by the Authority under Clause 43.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Agreement shall terminate).

44 SEVERANCE

- 44.1 If any provision of this Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Agreement are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Agreement shall not be affected.
- 44.2 In the event that any deemed deletion under Clause 44.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that is reasonably possible, achieves the Parties' original commercial intention.
- 44.3 If the Parties are unable to agree on the revisions to this Agreement within 5 Working Days of the date of the notice given pursuant to Clause 44.2, the matter shall be dealt with in accordance with Paragraph 4 (Commercial Negotiation) of Schedule 8.3 (Dispute Resolution Procedure) except that if the representatives are unable to resolve the dispute within 30 Working Days of the matter being referred to them, this Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Agreement is terminated pursuant to this Clause 44.3.

45 FURTHER ASSURANCES

- 45.1 Each Party undertakes at the request of the other, and at the cost of the requesting

Party to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning of this Agreement.

46 ENTIRE AGREEMENT

- 46.1 This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 46.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.
- 46.3 Nothing in this Clause 46 shall exclude any liability in respect of misrepresentations made fraudulently.

47 THIRD PARTY RIGHTS

- 47.1 The provisions of Clause 20 (*IPRs Indemnity*) and the provisions of Paragraph 6.9 of Schedule 8.5 (*Exit Management*) (together “**Third Party Provisions**”) confer benefits on persons named in such provisions other than the Parties (each such person a “**Third Party Beneficiary**”) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.
- 47.2 Subject to Clause 47.1, a person who is not a Party to this Agreement has no right under the CRTPA to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 47.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Authority, which may, if given, be given on and subject to such terms as the Authority may determine.
- 47.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 47.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

48 NOTICES

- 48.1 Any notices sent under this Agreement must be in writing.
- 48.2 Subject to Clause 48.4, the following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email.	9.00am on the first Working Day after sending.	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message.
Personal delivery.	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt.
Prepaid, Royal Mail Signed For™ 1 st Class or other prepaid, next working day service providing proof of delivery.	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

48.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement: **Text Redacted**

48.4 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in the table in Clause 48.2:

- (a) Step-In Notices;
- (b) Force Majeure Notices;
- (c) Termination Notices; and
- (d) Dispute Notices.

48.5 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 48.4 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 48.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

48.6 This Clause 48 does not apply to the service of any proceedings or other documents

49 DISPUTES

- ## 50 GOVERNING LAW AND JURISDICTION

SIGNED for and on behalf of
The National Archives

Signature:

Name (block capitals):

Position: Chief Executive and Keeper of The
National Archives, Queen's Printer and
Queen's Printer for Scotland

Date:

SCHEDULE 1: DEFINITIONS

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below. Where a definition which appears in this Schedule 1 and appears as duplicated in another Schedule, then within that Schedule only:

- (a) the definition within that Schedule shall apply; and
- (b) the definition within that Schedule shall take precedence over the definition within this Schedule 1.

“Achieve”	(a) in respect of a Test, to successfully pass a Test without any Test Issues; and (b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Schedule 6.2 (<i>Testing Procedures</i>), and “Achieved” and “Achievement” shall be construed accordingly;
“Acquired Rights Directive”	the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
“Affected Party”	the Party seeking to claim relief in respect of a Force Majeure Event;
“Affiliate”	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
“Allowable Price”	in relation to the Retained Deliverables relating to a CPP Milestone, if any, an amount determined in accordance with the formula: $A - B$ where: (a) A is an amount equal to the Costs incurred by the Supplier in providing or developing the relevant Retained Deliverables as reflected in the Financial Model together with an amount equal to the Anticipated Contract Life Profit Margin thereon; (b) B is an amount equal to the Allowable Price Adjustment relating to the relevant Retained Deliverables, if any, or if there is no such Allowable Price Adjustment, zero, provided that the Allowable Price for any Retained Deliverables shall in no circumstances exceed the aggregate amount of the Milestone Payments paid to the Supplier in respect of the Milestones (or in the case of Partial Termination, the Milestones for the parts of the Services terminated) relating to that CPP Milestone;
“Allowable Price Adjustment”	has the meaning given in Clause 38.7(c) (Payments by the Supplier);
“Agreement”	means this contract between the Authority and the Supplier;

“Anticipated Contract Life Profit Margin”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Assets”	all assets and rights used by the Supplier to provide the Services in accordance with this Agreement but excluding the Authority Assets;
“Audit”	any exercise by the Authority of its Audit Rights pursuant to Clause 12 (<i>Records, Reports, Audits and Open Book Data</i>) and Schedule 7.4 (<i>Financial Transparency and Audit Rights</i>);
“Audit Agents”	<ul style="list-style-type: none"> (a) the Authority’s internal and external auditors; (b) the Authority’s statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Authority to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
“Audit Rights”	the audit and access rights referred to in Schedule 7.4 (<i>Financial Transparency and Audit Rights</i>);
“Australian Business Hours”	8am until 6pm Monday to Friday, excluding Victorian Public Holidays;
“Authority Assets”	the Authority Materials, the Authority infrastructure and any other data, software, assets, equipment or other property owned by and/or licensed or leased to the Authority and which is or may be used in connection with the provision or receipt of the Services;
“Authority Background IPRs”	<p>IPRs owned by the Authority before the Effective Date, including IPRs contained in any of the Authority’s Know-How, documentation, processes and procedures;</p> <p>IPRs created by the Authority independently of this Agreement; and/or</p> <p>Crown Copyright which is not available to the Supplier otherwise than under this Agreement;</p> <p>but excluding IPRs owned by the Authority subsisting in the Authority Software;</p>
“Authority Cause”	<p>any material breach by the Authority of any of the Authority Responsibilities, except to the extent that such breach is:</p> <p>the result of any act or omission by the Authority to which the Supplier has given its prior consent; or</p> <p>caused by the Supplier, any Sub-contractor or any Supplier Personnel;</p>
“Authority 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, and which are:</p> <ul style="list-style-type: none"> a) supplied to the Supplier by or on behalf of the Authority;

	<ul style="list-style-type: none"> b) supplied to the Supplier by End Users and/or by or on behalf of Partner Organisations or any other body; c) which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or d) any Personal Data for which the Authority is a Data Controller;
“Authority IT and Digital Strategies”	the Authority's IT and Digital policies in force as at the Effective Date;
“Authority Materials”	<p>the Authority Data together with any materials, documentation, information, programs and codes supplied by the Authority to the Supplier, the IPRs in which:</p> <ul style="list-style-type: none"> (a) are owned or used by or on behalf of the Authority; (b) are owned, or used by or on behalf of an End User and/or Partner Organisation; and/or (c) are or may be used in connection with the provision or receipt of the Services, <p>but excluding any Project Specific IPRs, Specially Written Software, Supplier Software, Third Party Software and Documentation relating to Supplier Software or Third Party Software;</p>
“Authority Premises”	premises owned, controlled or occupied by the Authority and/or a Partner Organisation which are made available for use by the Supplier or its Sub-contractors for provision of the Services (or any of them);
“Authority Representative”	the representative appointed by the Authority pursuant to Clause 11.4 (<i>Representatives</i>);
“Authority Requirements”	the requirements of the Authority set out in Schedules 2 (<i>Services Requirements</i>), 6 (<i>Implementation and Testing</i>), 8.4 (<i>Reports and Records Provisions</i>), 8.5 (<i>Exit Management</i>) and 8.6 (<i>Business Continuity and Disaster Recovery</i>);
“Authority Responsibilities”	the responsibilities of the Authority specified in Schedule 3 (<i>Authority Responsibilities</i>);
“Authority Software”	software which is owned by or licensed to the Authority (other than under or pursuant to this Agreement) and which is or will be used by the Supplier for the purposes of providing the Services;
“Authority System”	the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Agreement which is owned by the Authority or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services;
“Balanced Scorecard Report”	has the meaning given in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);

“Baseline Security Requirements”	the Authority's baseline security requirements, the current copy of which is contained in Annex 1 of Schedule 2.4 (<i>Security Management</i>), as updated from time to time by the Authority and notified to the Supplier;
“BCDR Plan”	any plan prepared pursuant to Paragraph 2 of Schedule 8.6 (<i>Business Continuity and Disaster Recovery</i>), as may be amended from time to time;
“BCDR Services”	the business continuity and disaster recovery services set out in the BCDR Plan;
“Change”	any change to this Agreement;
“Change Control Procedure”	the procedure for changing this Agreement set out in Schedule 8.2 (<i>Change Control Procedure</i>);
“Change in Law”	any change in Law which impacts on the performance of the Services which comes into force after the Effective Date;
“Change Request”	a written request for a Contract Change as specified in Schedule 8.2 (<i>Change Control Procedure</i>);
“Charges”	the charges for the provision of the Services set out in or otherwise calculated in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>), including any Milestone Payment or Service Charge;
“Clause”	unless specifically stated otherwise, shall mean a clause, paragraph or section (and, where applicable, its sub-clauses, paragraphs or sections) within the terms and conditions section of the Agreement signed by the Parties. For the avoidance of doubt see the definition “Paragraph”;
“Commercially Sensitive Information”	the information listed in Schedule 4.2 (<i>Commercially Sensitive Information</i>) or notified to the Authority in writing (prior to the commencement of this contract, which has been clearly marked as Commercially Sensitive Information, comprised of information: <ul style="list-style-type: none"> a) which is provided to the Supplier to the Authority in confidence for the period set out in that Schedule; and/or b) that constitutes a trade secret;
“Comparable Supply”	the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
“Compensation for Unacceptable KPI Failure”	has the meaning given in Clause 7.4 (<i>Unacceptable KPI Failure</i>);
“Condition Precedent”	has the meaning given in Clause 4.2 (<i>Condition Precedent</i>);
“Confidential Information”	any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential

(however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and Know-How of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Laws. Confidential Information will not include information which:

- (a) was public knowledge at the time of disclosure (otherwise than by breach of Clause 25(*Confidentiality*));
- (b) was in the possession of the receiving Party without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“Contract Change” any change to this Agreement other than an Operational Change;

“Contract Year” (a) a period of 12 months commencing on the Effective Date; or
(b) thereafter a period of 12 months commencing on each anniversary of the Effective Date;
provided that the final Contract Year shall end on the expiry or termination of the Term;

“Control” the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly;

“Controller, Processor, Personal Data Breach, Data Protection Officer” take the meanings given in the GDPR;

“Core Support Hours” 8am until 10.30pm UK time, Monday to Friday, excluding the following public holidays:

- Christmas Day
- Boxing Day
- New Year’s Day
- Good Friday
- Easter Monday

and in addition includes any other hours that fall within Australian Business Hours;

“Critical Performance Failure” the Supplier accruing in aggregate 40 or more Service Points (in terms of the number of points allocated) in any period of 3 months; or the Supplier accruing Service Credits or Compensation for Unacceptable KPI Failure which meet or exceed the Service Credit Cap;

“Crown”	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive 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 Contracts (Rights of Third Parties) Act 1999;
“Data”	means any asset, Document (in whatever format and whether in machine readable or eye-readable form), process or information provided by the Authority, Partner Organisation and/or End User to the Supplier in accordance or pursuant to this Agreement;
“Data Controller”	has the meaning given in the Data Protection Laws;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
“Data Processor”	has the meaning given in the Data Protection Laws;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Legislation”	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy;
“Data Subject”	has the meaning given in the Data Protection Laws;
“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, Compensation for Unacceptable KPI Failure, Delay Payments or any other deduction which is paid or payable to the Authority under this Agreement;
“Default”	any breach of the obligations of the relevant Party (including abandonment of this Agreement in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement: <ul style="list-style-type: none"> (a) in the case of the Authority, of its employees, servants, agents; or (b) in the case of the Supplier, of its Sub-contractors or any Supplier Personnel, in connection with or in relation to the subject-matter of this Agreement and in respect of which such Party is liable to the other;

“Defect” (or “Defective”)	<ul style="list-style-type: none"> (a) any error, damage or defect in the manufacturing of a Deliverable; or (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or (c) any failure of any Deliverable to provide the performance, features and functionality specified in the Authority Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria; or (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the Authority Requirements or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Success Criteria;
“Delay”	a delay in the Achievement of a Milestone by its Milestone Date; or a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
“Delay Deduction Period”	the period of 100 days commencing on the relevant Milestone Date;
“Delay Payments”	the amounts payable by the Supplier to the Authority in respect of a Delay in Achieving a Key Milestone as specified in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Deliverable”	an item or feature delivered or to be delivered by the Supplier at or before a Milestone Date or at any other stage during the performance of this Agreement;
“Detailed Implementation Plan”	the plan developed and revised from time to time in accordance with Paragraphs 3 and 4 of Schedule 6.1 (<i>Implementation Plan</i>);
“Development Services”	shall be as described in Schedule 2.1 (<i>Services Description</i>), in particular Paragraph 4 thereof;
“Disclosing Party”	has the meaning given in Clause 25.1 (<i>Confidentiality</i>);
“Dispute”	any dispute, difference or question of interpretation arising out of or in connection with this Agreement, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“Dispute Notice”	a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;

“Dispute Resolution Procedure”	the dispute resolution procedure set out in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Documents”	means any and all works, complete and incomplete including legislative and other data including that: <ul style="list-style-type: none"> (a) held within, generated, and/or exported from the Service; (b) may be published by the relevant Partner Organisation;
“Documentation”	descriptions of the Services and Key Performance Indicators, details of the Supplier System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as: <ul style="list-style-type: none"> (a) is required to be supplied by the Supplier to the Authority under this Agreement; (b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services; (c) is required by the Supplier in order to provide the Services; and/or (d) has been or shall be generated for the purpose of providing the Services;
“DOTAS”	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
“Due Diligence Information”	any information supplied to the Supplier by or on behalf of the Authority prior to the Effective Date;
“Effective Date”	the later of: <ul style="list-style-type: none"> (a) the date on which this Agreement is signed by both Parties; and (b) the date on which the Condition Precedent has been satisfied or waived in accordance with Clause 4.2 (Condition Precedent);
“EIRs”	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or any Government Body in relation to such Regulations;

“Emergency Maintenance”	ad hoc and unplanned maintenance provided by the Supplier where: the Authority reasonably suspects that the IT Environment or the Services, or any part of the IT Environment or the Services, has or may have developed a fault, and notifies the Supplier of the same; or the Supplier reasonably suspects that the IT Environment or the Services, or any part the IT Environment or the Services, has or may have developed a fault;
“Employee Liabilities”	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:</p> <ul style="list-style-type: none"> (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; (b) unfair, wrongful or constructive dismissal compensation; (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay; (d) compensation for less favourable treatment of part-time workers or fixed term employees; (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions; (f) employment claims whether in tort, contract or statute or otherwise; (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
“Employment Regulations”	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;
“End User”	any person authorised by the Authority to use the IT Environment and/or the Services, including those from Partner Organisations and/or Government Bodies;
“Equipment”	means the Supplier’s equipment, plant, materials and such other items supplied and used by the Supplier in the performance of its obligations under this Agreement;
“Estimated Year 1 Charges”	the estimated Charges payable by the Authority during the first Contract Year, as set out in the Financial Model;
“Exit Management”	services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the Services from the Supplier

	to the Authority and/or a Replacement Supplier, as set out or referred to in Schedule 8.5 (<i>Exit Management</i>);
“Exit Plan”	the plan produced and updated by the Supplier during the Term in accordance with Paragraph 4 of Schedule 8.5 (<i>Exit Management</i>);
“Expedited Dispute Timetable”	the reduced timetable for the resolution of Disputes set out in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Expert”	has the meaning given in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Expert Determination”	the process described in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Extension Period”	up to two consecutive periods of 1 year each from the end of the Initial Term;
“Financial Distress Event”	the occurrence of one or more of the events listed in Schedule 7.2 (<i>Financial Distress</i>);
“Financial Distress Service Continuity Plan”	a plan setting out how the Supplier will ensure the continued performance and delivery of the Services in accordance with this Agreement in the event that a Financial Distress Event occurs;
“FOIA”	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or any relevant Government Body in relation to such Act;
“Force Majeure Event”	any event outside the reasonable control of either Party affecting its performance of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel or any other failure in the Supplier’s or a Sub-contractor’s supply chain;
“Force Majeure Notice”	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
“Format”	means any recognisably separate format for the Documents e.g. whether hardback or loose-leaf book, video, postcard, poster, slide, microfiche or electronic format but so that: <ul style="list-style-type: none"> a) different presentations of a book format (e.g. whether paperback, hardback, loose leaf or in different sizes); and b) different electronic formats, will be regarded as separate formats;
“GDPR”	the General Data Protection Regulation (Regulation (EU) 2016/679);

“General Anti-Abuse Rule”	(a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
“General Change in Law”	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
“Good Industry Practice”	at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;
“Government Body”	means a body listed in the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics. For the avoidance of doubt these shall include, but are not limited to, the Partner Organisations;
“Guidance”	means the guidance issued by the Authority relating to the reproduction of United Kingdom, England, Wales and Northern Ireland Primary and Secondary Legislation dated 27 October 1999 (revised 9 May 2005 and from time to time);
“Halifax Abuse Principle”	the principle explained in the CJEU Case C-255/02 Halifax and others;
“Health and Safety Policy”	the health and safety policy of the Authority and/or other relevant Government Body as provided to the Supplier on or before the Effective Date and as subsequently provided to the Supplier from time to time except any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable Law regarding health and safety;
“HMRC”	HM Revenue & Customs;
“Hosting and Infrastructure Management Services”	shall be as described in Schedule 2.1 (<i>Services Description</i>), in particular Paragraph 5 thereof;
“Impact Assessment”	has the meaning given in Schedule 8.2 (<i>Change Control Procedure</i>);
“Implementation Plan”	the Outline Implementation Plan or (if and when approved by the Authority pursuant to Schedule 6.1 (<i>Implementation Plan</i>)) the Detailed Implementation Plan as updated in accordance with Schedule 6.1 (<i>Implementation Plan</i>) from time to time;
“Indemnified Person”	the Authority and each and every person to whom the Authority (or any direct or indirect sub-licensee of the Authority) sub-licenses,

assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with this Agreement;

“Information”

all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

“Initial Term”

50.2.1 the period of 3 years from and including the Effective Date;

“Insolvency Event”

- (a) the other Party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:
 - (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or
 - (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) the other Party commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (c) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (d) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within 14 days;
- (e) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where the other Party is a company, a LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;

- (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over the other Party;
- (iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver; or
- (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that other Party has become entitled to appoint or has appointed an agricultural receiver; or
- (g) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;

“Intellectual Property Rights” or “IPRs” (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;

(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and

(c) all other rights having equivalent or similar effect in any country or jurisdiction;

“Intervention Cause” has the meaning given in Clause 33.1 (Remedial Adviser);

“Intervention Notice” has the meaning given in Clause 33.1 (*Remedial Adviser*);

“Intervention Period” has the meaning given in Clause 33.2 (c) (*Remedial Adviser*);

“Intervention Trigger Event” (a) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services;

(b) the Supplier accruing in aggregate 30 or more Service Points (in terms of the number of points allocated) in any period of 3 months;

(c) the Supplier accruing Service Credits which meet or exceed 75% of the Service Credit Cap; and/or

(d) the Supplier not Achieving a Key Milestone within 75 days of its relevant Milestone Date;

“IPRs Claim” any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any Relevant IPRs save for any such claim to the extent that it is caused by any use by or on behalf of that Indemnified Person of any Relevant IPRs, or the use of the Authority Software by

	or on behalf of the Supplier, in either case in combination with any item not supplied or recommended by the Supplier pursuant to this Agreement or for a purpose not reasonably to be inferred from the Services Description or the provisions of this Agreement;
“IT”	information and communications technology;
“IT Environment”	the Authority System and the Supplier System;
“IT Health Check”	shall take the meaning given in Paragraph 8.1.1 of Schedule 2.4 (<i>Security Management</i>);
“Keeper of Public Records”	means the Chief Executive of The National Archives, who is responsible for coordinating and supervising the selection and transfer of records to The National Archives;
“Key Milestone”	the Milestones identified in the Implementation Plan as key milestones and in respect of which Delay Payments may be payable in accordance with Schedule 8.1 (<i>Charges and Invoicing</i>) if the Supplier fails to Achieve the Milestone Date in respect of such Milestone;
“Key Performance Indicator”	the key performance indicators set out in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Key Personnel”	those persons appointed by the Supplier to fulfil the Key Roles, being the persons listed in Schedule 9.2 (<i>Key Personnel</i>) against each Key Role as at the Effective Date or as amended from time to time in accordance with Clauses 14.5 and 14.6 (<i>Key Personnel</i>);
“Key Roles”	a role described as a Key Role in Schedule 9.2 (<i>Key Personnel</i>) and any additional roles added from time to time in accordance with Clause 14.4 (<i>Key Personnel</i>);
“Key Sub-contract”	each Sub-contract with a Key Sub-contractor;
“Key Sub-contractor”	any Sub-contractor: <ul style="list-style-type: none"> (a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Sub-contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Agreement (as set out in the Financial Model);
“Know-How”	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know how already in the other Party’s possession before this Agreement;
“KPI Failure”	a failure to meet the Target Performance Level in respect of a Key Performance Indicator;
“KPI Service Threshold”	shall be as set out against the relevant Key Performance Indicator in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);

“Law”	any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply, including equivalent law in Wales, Scotland and Northern Ireland;
“LDAPP Service”	Means the LDAPP service as described as such in Paragraph 3 of Schedule 2.1 (<i>Services Description</i>);
“LED”	Law Enforcement Directive (Directive (EU) 2016/680);
“Licensed Software”	all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to the Authority for the purposes of or pursuant to this Agreement, including any Supplier Software, Third Party Software and/or any Specially Written Software;
“Losses”	losses, liabilities, damages, costs, fines and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
“Maintenance Schedule”	shall have the meaning set out in Clause 9.4 (<i>Equipment and Maintenance</i>);
“Malicious Software”	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
“Management Information”	the management information specified in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>), Schedule 7.1 (<i>Charges and Invoicing</i>) and Schedule 8.1 (<i>Governance</i>) to be provided by the Supplier to the Authority;
“Material KPI Failure”	(a) a Serious KPI Failure; (b) a Severe KPI Failure; or (c) a failure by the Supplier to meet a KPI Service Threshold;
“Materials”	save where used within the term ‘Time and Materials’, means all materials and Data received, processed, output, used or developed by the Supplier (in whatever format and whether in machine or eye-readable form) for, from or on behalf of the Authority in performing the Services including, but not limited to, the IP Materials, all copy in any format received by the Supplier, all film, set pages, or other materials created by the Supplier in performing the Services, and all computer programs developed by or on behalf of the Supplier for the sole purpose of providing the Services;

“Measurement Period”	in relation to a Key Performance Indicator the period over which the Supplier’s performance is measured (for example, a Service Period if measured monthly or a 12 month period if measured annually);
“Milestone”	an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date;
“Minor KPI Failure”	shall be as set out against the relevant Key Performance Indicator in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Month”	a calendar month and “monthly” shall be interpreted accordingly;
“Multi-Party Dispute Resolution Procedure”	has the meaning given in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Multi-Party Procedure Initiation Notice”	has the meaning given in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“New Releases”	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not Defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
“Non-retained Deliverables”	in relation to a CPP Milestone Payment Notice and each CPP Milestone the subject of that CPP Milestone Payment Notice, Deliverables provided to the Authority which relate to the relevant CPP Milestone(s) and which are not Retained Deliverables;
“Notifiable Default”	shall have the meaning given in Clause 31.1 (<i>Rectification Plan Process</i>);
“Object Code”	software and/or data in machine-readable, compiled object code form;
“Occasion of Tax Non-Compliance”	<p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <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 that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April</p>

2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;

“Open Book Data”	has the meaning given in Schedule 7.4 (<i>Financial Transparency and Audit Rights</i>)
“Open Government Licence”	means the UK Government’s open licence which facilitates the use and reuse of public sector information that is protected by copyright and database rights. The Open Government Licence details of which can be found at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ may be amended and/or revised from time to time;
“Open Source”	Software that is released for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;
“Operating Environment”	the Authority System and the Sites;
“Operational Change”	<p>any change in the Supplier's operational procedures which in all respects, when implemented:</p> <ul style="list-style-type: none">(a) will not affect the Charges and will not result in any other costs to the Authority;(b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services;(c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority's IT infrastructure; and(d) will not require a change to this Agreement;
“Optional Development Services”	The services provided in connection with the optional development of the LDAPP Service as described in paragraph 7 of Schedule 2.1 (<i>Services Description</i>);
“Optional Services”	the services which may be provided by the Supplier if required by the Authority in accordance with Clause 5.10 (<i>Optional Services</i>);
“Optional Services Implementation Plan”	the implementation plan to effect the Optional Services agreed between the Parties prior to the Effective Date and, if not agreed prior to the Effective Date, to be developed by the Supplier and approved by the Authority;
“Other Supplier”	any supplier to the Authority (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
“Out of Hours Support Period”	Includes any time outside of Core Support Hours;
“Outline Implementation Plan”	the outline plan set out in Schedule 6.1 (<i>Implementation Plan</i>);

“Paragraph”	unless specifically stated otherwise, shall mean a clause, paragraph or section (and, where applicable, its sub-clauses, paragraphs or sections) within a Schedule to the Agreement, or Annex to a Schedule, as appropriate. Where the Schedule or Annex is sub-divided into parts, the reference shall be deemed to refer to the Paragraph within that part. For the avoidance of doubt see the definition “Clause”;
“Partner Organisation”	means a body that has entered into separate arrangements with the Authority to develop and deliver the Service to End Users, which includes: the House of Commons, the House of Lords, the Office of the Parliamentary Counsel (part of the Cabinet Office), Parliamentary Counsel Office (part of the Scottish Government), The National Archives and the Scottish Parliament. The Partner Organisations may increase or decrease in number over the Term, and may also be different to the Partner Organisations who entered into arrangements with the Authority on commencement of this Agreement;
“Partial Termination”	the partial termination of this Agreement to the extent that it relates to the provision of any part of the Services as further provided for in Clause 37.2 (<i>Termination by the Authority</i>).
“Parties” and “Party”	have the meanings respectively given on page 1 of this Agreement;
“Performance Failure”	a KPI Failure;
“Permitted Maintenance”	has the meaning given in Clause 9.4 (<i>Equipment and Maintenance</i>);
“Performance Monitoring Report”	has the meaning given in Schedule 2.2 (<i>Performance Management and Service Levels</i>);
“Performance Review Meetings”	the regular monthly meetings between the Supplier and the Authority to manage and review the Supplier’s performance under this Agreement;
“Personal Data”	personal data (as defined in the Data Protection Laws) which is Processed by the Supplier or any Sub-contractor on behalf of the Authority, a Government Body (which may be a Partner Organisation) or other body, pursuant to or in connection with this Agreement;
“Print-ready PDFs”	means a PDF that as a minimum meets the requirements of ISO 15930-1:2001: PDF/X-Aa:2001 or its successor;
“Process”	has the meaning given to it under the Data Protection Laws and “ Processed ” and “ Processing ” shall be construed accordingly;
“Prohibited Act”	(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to: <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 this Agreement;
- (c) an offence:
 - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - (ii) under legislation or common law concerning fraudulent acts; or
 - (iii) defrauding, attempting to defraud or conspiring to defraud the Authority; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

“Project Board”	the body described in Schedule 8.1 (<i>Governance</i>);
“Property”	means the property, other than real property, issued or made available to the Supplier by the Authority in connection with this Agreement;
“Project Specific IPRs”	<ul style="list-style-type: none"> (a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Agreement and updates and amendments of these items including (but not limited to) database schema; and/or (b) Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under this Agreement; but shall not include the Supplier Background IPRs or the Specially Written Software;
“Protective Measures”	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
“Quality Plans”	has the meaning given in Clause 6.1 (<i>Quality Plans</i>);
“Quarter”	the first three Service Periods and each subsequent three Service Periods (save that the final Quarter shall end on the date of termination or expiry of this Agreement);
“Recipient”	has the meaning given in Clause 25.1 (<i>Confidentiality</i>);
“Records”	has the meaning given in Schedule 8.4 (<i>Reports and Records Provisions</i>);

“Rectification Plan”	a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default;
“Rectification Plan Failure”	<ul style="list-style-type: none"> (a) the Supplier failing to submit or resubmit a draft Rectification Plan to the Authority within the timescales specified in Clauses 31.4 (<i>Submission of the draft Rectification Plan</i>) or 31.8 (<i>Agreement of the Rectification Plan</i>); (b) the Authority, acting reasonably, rejecting a revised draft of the Rectification Plan submitted by the Supplier pursuant to Clause 31.7 (<i>Agreement of the Rectification Plan</i>); (c) the Supplier failing to rectify a material Default within the later of: <ul style="list-style-type: none"> (i) 30 Working Days of a notification made pursuant to Clause 31.2 (<i>Notification</i>); and (ii) where the Parties have agreed a Rectification Plan in respect of that material Default and the Supplier can demonstrate that it is implementing the Rectification Plan in good faith, the date specified in the Rectification Plan by which the Supplier must rectify the material Default; (d) a Material KPI Failure re-occurring in respect of the same Key Performance Indicator for the same (or substantially the same) root cause in any of the 3 Measurement Periods subsequent to the Measurement Period in which the initial Material KPI Failure occurred; (e) the Supplier not Achieving a Key Milestone by the expiry of the Delay Deduction Period; and/or (f) following the successful implementation of a Rectification Plan, the same Notifiable Default recurring within a period of 6 months for the same (or substantially the same) root cause as that of the original Notifiable Default;
“Rectification Plan Process”	the process set out in Clauses 31.4 (<i>Submission of the Rectification Plan</i>) to 31.9 (<i>Agreement of the Rectification Plan</i>);
“Regulator Correspondence”	any correspondence from the Information Commissioner's Office, or any successor body, in relation to the Processing of Personal Data under this Agreement;
“Registers”	has the meaning given in Schedule 8.5 (<i>Exit Management</i>);
“Reimbursable Expenses”	has the meaning given in Schedule 7.1 (<i>Charges and Invoicing</i>);
“Relevant IPRs”	IPRs used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Authority or a third party in the fulfilment of the Supplier's obligations under this Agreement including IPRs in the Specially Written Software, the Supplier Software, the Supplier Background IPRs, the Third Party Software and the Third Party IPRs

	but excluding any IPRs in the Authority Software and the Authority Background IPRs;
“Relevant Requirements”	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
“Relevant Tax Authority”	HMRC, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
“Relief Notice”	has the meaning given in Clause 35.2 (<i>Authority Cause</i>);
“Remedial Adviser”	the person appointed pursuant to Clause 33.2 (<i>Remedial Adviser</i>);
“Remedial Adviser Failure”	has the meaning given in Clause 33.6 (<i>Remedial Adviser</i>);
“Replacement Services”	any services which are the same as or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or Partial Termination of this Agreement, whether those services are provided by the Authority internally and/or by any third party;
“Replacement Supplier”	any third party service provider of Replacement Services appointed by the Authority from time to time (or where the Authority is providing replacement Services for its own account, the Authority);
“Request For Information”	a Request for Information under FOIA, the EIRs or the RPSIR as relevant (where the meaning set out for the term ‘request’ will apply) and shall include a request for re-use of information;
“Required Action”	has the meaning given in Clause 34.1(a) (<i>Step-In Rights</i>);
“Restricted Country”	(a) any country outside the European Economic Area, and (b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;
“Retained Deliverables”	has the meaning given in Clause 38.6(b) (<i>Payments by the Supplier</i>);
“RPSIR”	means the Re-use of Public Sector Information Regulations 2015 together with any guidance issued by a relevant government department in relation to such legislation;
“Schedule”	means a Schedule to this Agreement;
“Service” (or “Services”)	means any and all of the services provided by the Supplier to the Authority under this Agreement including those set out in Schedule 2 (<i>Service Requirements</i>);
“Service Downtime”	any period during which a Service and/or system is not available;
“Security Management Plan”	the Supplier's security plan as attached to Schedule 2.4 (<i>Security Management</i>) and as subsequently developed and revised pursuant to Schedule 2.4 (<i>Security Management</i>);

“Serious KPI Failure”	shall be as set out against the relevant Key Performance Indicator in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Service Charges”	the periodic payments made in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>) in respect of the supply of the Operational Services;
“Service Credit Cap”	20% of the Service Charges paid and/or due to be paid to the Supplier under this Agreement in the period of 12 months immediately preceding the Service Period in respect of which Service Credits are accrued;
“Service Credits”	credits payable by the Supplier due to the occurrence of 1 or more KPI Failures, calculated in accordance Schedule 7.1 (<i>Charges and Invoicing</i>);
“Service Levels”	means the performance targets in respect of the Services set out Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>), as modified, amended or updated from time to time
“Service Management”	the services provided in connection with service management, maintenance and support of the LDAPP Service as described in paragraph 6 of Schedule 2.1 (<i>Services Description</i>);
“Service Period”	a calendar month, save that: <ul style="list-style-type: none"> (a) the first service period shall begin on the first Operational Service Commencement Date and shall expire at the end of the calendar month in which the first Operational Service Commencement Date falls; and (b) the final service period shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term;
“Service Points”	in relation to a KPI Failure, the points that are set out against the relevant Key Performance Indicator Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Services Description”	the services description set out in Schedule 2.1 (<i>Services Description</i>);
“Severe KPI Failure”	shall be as set out against the relevant Key Performance Indicator in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Sites”	any premises (including the Authority Premises, the Supplier’s premises or third party premises): <ul style="list-style-type: none"> (a) from, to or at which: <ul style="list-style-type: none"> (i) the Services are (or are to be) provided; or (ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or (b) where: <ul style="list-style-type: none"> (i) any part of the Supplier System is situated; or (ii) any physical interface with the Authority System takes place;

“Software”	Specially Written Software, Supplier Software and Third Party Software;
“Software Supporting Materials”	has the meaning given in Clause 18.1(b) (<i>Specially Written Software and Project Specific IPRs</i>);
“Source Code”	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
“Specially Written Software”	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-contractor or other third party on behalf of the Supplier) specifically for the purposes of this Agreement, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Agreement;
“Specific Change in Law”	a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
“Sprint”	means a set period of time (usually no more than 4 weeks), with a regular, repeatable work cycle in Agile methodology, during which development work is completed and made ready for review by the Authority.
“Staffing Information”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“Standards”	the standards, policies and/or procedures identified in Schedule 2.3 (<i>Standards</i>);
“Step-In Notice”	has the meaning given in Clause 34.1 (<i>Step-In Rights</i>);
“Step-In Trigger Event”	<ul style="list-style-type: none"> (a) a Default by the Supplier that is materially preventing or materially delaying the performance of the Services or any material part of the Services; (b) the Authority considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this Agreement; (c) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under Clause 34 (Step-In Rights) is necessary; (d) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; (e) a need by the Authority to take action to discharge a statutory duty; (f) there is a Force Majeure event which materially prevents or materially delays the performance of the Services or any part of the Services; and

	(g) on the occurrence of an Insolvency Event in respect of the Supplier;
“Step-Out Date”	has the meaning given in Clause 34.5(b) (<i>Step-In Rights</i>);
“Step-Out Notice”	has the meaning given in Clause 34.5 (<i>Step-In Rights</i>);
“Step-Out Plan”	has the meaning given in Clause 34.6 (<i>Step-In Rights</i>);
“Sub-contract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Supplier (or the Sub-contractor) all or any part of the Services or facilities or services which are material for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof, but in all cases excluding any third party supplier of unmodified commercial off the shelf product or software including licences;
“Sub-contractor”	any third party with whom: (a) the Supplier enters into a Sub-contract; or (b) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party;
“Sub-processor”	any third Party appointed to process Personal Data on behalf of the Supplier related to this Agreement;
“Successor Body”	has the meaning given in Clause 40.4 (<i>Assignment and Novation</i>);
“Supplier Background IPR”	(a) IPRs owned by the Supplier before the Effective Date, including IPRs contained in any of the Supplier's Know-How, documentation, processes and procedures; and (b) IPRs created by the Supplier independently of this Agreement; but excluding IPRs owned by the Supplier subsisting in the Supplier Software;
“Supplier Equipment”	the hardware, computer and telecoms devices and equipment used by the Supplier or its Sub-contractors (but not hired, leased or loaned from the Authority) for the provision of the Services;
“Supplier Non-Performance”	has the meaning given in Clause 35.1 (<i>Authority Cause</i>);
“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under this Agreement;
“Supplier Representative”	the representative appointed by the Supplier pursuant to Clause 11.3 (<i>Representatives</i>);
“Supplier Solution”	means the Supplier's solution as more particularly detailed in Schedule 4.1 (<i>Supplier Solution</i>);
“Supplier Termination Event”	(a) the Supplier's level of performance constituting a Critical Performance Failure;

- (b) the Supplier committing a material Default which is irremediable;
- (c) as a result of the Supplier's Default, the Authority incurring Losses in any Contract Year which exceed 80% of the value of the aggregate annual liability cap for that Contract Year as set out in Clause 29.6(a) (*Financial Limits*);
- (d) there is a Delay that has or the Authority reasonably anticipates will result in the Supplier's failure to provide the Services by Milestone Dates;
- (e) there is a Force Majeure event which materially prevents or materially delays the performance of the Services or any part of the Services;
- (f) because a serious risk exists to the health of safety of persons, property or to the environment;
- (g) to discharge a statutory duty;
- (h) on the occurrence of an Insolvency Event in respect of the Supplier;
- (i) because a Regulatory Body has advised the Authority that the exercise by the Authority of its Step-in Rights is necessary;
- (j) a Remedial Adviser Failure;
- (k) a Rectification Plan Failure;
- (l) where a right of termination is expressly reserved in this Agreement, including pursuant to Clause 43.6(b) (*Prevention of Fraud and Bribery*); and/or Schedule 7.3 (*Financial Distress*);
- (m) the representation and warranty given by the Supplier pursuant to Clause 3.2(i) (*Warranties*) being materially untrue or misleading;
- (n) the Supplier committing a material Default under Clause 10.9 (*Promoting Tax Compliance*) or failing to provide details of steps being taken and mitigating factors pursuant to Clause 10.9 (*Promoting Tax Compliance*) which in the reasonable opinion of the Authority are acceptable;
- (o) the Supplier committing a material Default under any of the following Clauses:
 - (i) Clause 5.5(j) (*Services*);
 - (ii) Clause 27 (*Protection of Personal Data*);
 - (iii) Clause 26 (*Transparency and Freedom of Information*);
 - (iv) Clause 25 (*Confidentiality*); and
 - (v) Clause 39 (*Compliance*); and/or
in respect of any security requirements set out in Schedule 2.1 (*Services Description*), Schedule 2.4 (*Security Management*) or the Baseline Security Requirements; and/or
in respect of any requirements set out in Schedule 9.1 (*Staff Transfer*);
- (p) an Insolvency Event occurring in respect of the Supplier or the Guarantor;

- (q) the Guarantee ceasing to be valid or enforceable for any reason (without the Guarantee being replaced with a comparable guarantee to the satisfaction of the Authority with the Guarantor or with another guarantor which is acceptable to the Authority);
- (r) a change of Control of the Supplier or a Guarantor unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Authority has not served its notice of objection within 6 months of the later of the date on which the Change of Control took place or the date on which the Authority was given notice of the Change of Control;
- (s) a change of Control of a Key Sub-contractor unless, within 6 months of being notified by the Authority that it objects to such change of Control, the Supplier terminates the relevant Key Sub-contract and replaces it with a comparable Key Sub-contract which is approved by the Authority pursuant to Clause 15.6 (*Appointment of Key Sub-contractors*);
- (t) any failure by the Supplier to enter into or to comply with an Admission Agreement under Schedule 9.1 (*Staff Transfer*);
- (u) the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Agreement; or
- (v) a failure by the Supplier to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law;

“Supplier System”	the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);
“Support Services”	shall be as described in Schedule 2.1 (<i>Services Description</i>);
“Target Performance Level”	the minimum level of performance for a Key Performance Indicator which is required by the Authority, as set out against the relevant Key Performance Indicator in Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Term”	the period commencing on the Effective Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Agreement;
“Termination Assistance Notice”	has the meaning given in Schedule 8.5 (<i>Exit Management</i>);
“Termination Assistance Period”	in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required

	to provide the Termination Services as such period may be extended pursuant Schedule 8.5 (<i>Exit Management</i>);
“Termination Date”	the date set out in a Termination Notice on which this Agreement (or a part of it as the case may be) is to terminate;
“Termination Notice”	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Agreement on a specified date and setting out the grounds for termination;
“Termination Services”	the services and activities to be performed by the Supplier pursuant to the Exit Plan, including those activities listed in Schedule 8.5 (<i>Exit Management</i>), and any other services required pursuant to the Termination Assistance Notice;
“Tests” and “Testing”	any tests required to be carried out under this Agreement, as further described in Schedule 6.2 (<i>Testing Procedure</i>) and “Tested” shall be construed accordingly;
“Transferring Assets”	has the meaning given in Schedule 8.5 (<i>Exit Management</i>);
“Transferring Supplier Employees”	has the meaning given in Schedule 9.1 (<i>Staff Transfer</i>);
“UK”	the United Kingdom;
“Unacceptable KPI Failure”	the Supplier failing to achieve the KPI Service Threshold in respect of more than 50% of the Key Performance Indicators that are measured in that Service Period;
“Updates”	in relation to any Software and/or any Deliverable means a version of such item which has been produced primarily to overcome Defects in, or to improve the operation of, that item;
“Upgrades”	any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third party software supplier (or any Affiliate of the Supplier or any third party) releases during the Term;
“User Story”	the Authority’s description of a specific requirement that includes: the person using the service (the actor), what the user needs the service to do (the narrative), and why the user needs it (the goal). A user story also includes the acceptance criteria and other relevant information to inform the developer;
“User Support Service”	the Supplier’s technical support service that provides technical support to the Authority and End Users;
“Value Added Format”	means where the official text has had value added to it by compilation with other related text, analysis, commentary, annotation, indexing or

cross-referencing (this may be taken as covering both commercially published and in-house databases);

“VAT”

value added tax as provided for in the Value Added Tax Act 1994;

“Victorian Public Holiday”

Public holidays in the State of Victoria, Australia, as follows:

- (a) New Year’s Day
- (b) Australia Day (26th January)
- (c) Labour Day (second Monday in March)
- (d) Good Friday
- (e) Easter Monday
- (f) ANZAC Day (25th April)
- (g) Queen’s Birthday (second Monday in June)
- (h) Grand Final Parade Day (last Friday in September)
- (i) Melbourne Cup Day (first Tuesday in November)
- (j) Christmas Day
- (k) Boxing Day;

“Working Day”

any day other than a Saturday, Sunday, public holiday in England and Wales or a Victorian Public Holiday.

SCHEDULE 2

SERVICE REQUIREMENTS

SCHEDULE 2.1

SERVICES DESCRIPTION

SERVICES DESCRIPTION

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"Finance Bill Resolutions"	means a set of motions which are submitted to, and passed by, the House of Commons before the introduction of a Finance Bill. They authorise the production of a Bill dealing with the subject matter described in the resolutions. Some resolutions have legal effect and these will set out in full the text of the provisions which will be included in the Finance Bill.
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2 INTRODUCTION AND GENERAL REQUIREMENTS

- 2.1 The Supplier shall develop, operate and maintain a browser-based drafting and amending legislation service (the "LDAPP Service" as described in this Schedule) that supports the drafting, amending, management and exporting of legislative documents and data for Bills, Parliamentary amendments to Bills and Statutory Instruments for the UK, Scotland (and potentially for other legislatures, jurisdictions and languages; if required, such works will be treated as Optional Services) during the Term, as set out in Paragraph 3 of this Schedule 2.1 (Services Description).
- 2.2 The Supplier shall provide Development Services, as set out in Paragraph 4 of this Schedule 2.1 (Services Description).
- 2.3 The Supplier shall provide Hosting and Infrastructure Management Services as set out in Paragraph 5 of this Schedule 2.1 (Services Description).
- 2.4 The Supplier shall providing Service Management and Support Services as set out in Paragraph 6 of this Schedule 2.1 (Services Description).
- 2.5 This Schedule 2.1 (Services Description) sets out the Authority's high level requirements for the LDAPP Service, Development Services, Hosting and Infrastructure Management Services and Service Management and Support Services. The Supplier Solution is detailed in Schedule 4.1 (Supplier Solution).
- 2.6 The LDAPP Service developed by the Supplier shall, at a minimum, enable End Users to:
- (a) Create and draft UK Parliament Bills and Scottish Parliament Bills.
 - (b) Create and draft parliamentary amendments to those Bills.
 - (c) Manage the amendatory cycle including managing the submission of amendments, the production of amendment lists and recording of decisions.
 - (d) Manage the legislative lifecycle of Bills, including sharing documents among Partner Organisations, applying parliamentary amendments to

- Bills and producing enacted versions for publication.
- (e) Create and draft Statutory Instruments (“**SIs**”) and integrate with the Statutory Instrument Publishing System maintained by the Authority.
 - (f) Create and draft other key legislative documents, and agreed with the Authority, such as Church Measures and Finance Bill Resolutions.
- 2.7 The Supplier recognises and accepts that most Bills are drafted by specialist government lawyers (parliamentary counsel) who work with over government lawyers and policy officials to turn government policy into legal text. Once a Bill has been introduced into the parliament, control passes to clerks who manage the legislation as it goes through parliamentary process. Amendments to Bills are tabled by both the government and also by other members of the parliament concerned. Government amendments are drafted by parliamentary counsel; the clerks provide drafting assistance to other members. Members of the parliament decide on the amendments and those which are agreed are included in an updated version of the text. In the UK Parliament, the two Houses (Commons and Lords) usually need to agree the text of the Bill between them. Once a Bill has been approved by the parliament it receives Royal Assent, becoming an Act. In limited circumstances, it is possible that a Bill that has been approved by the Scottish Parliament to be referred back for further amendment before it is submitted for Royal Assent.
- 2.8 The Supplier recognises and accepts that Statutory Instruments (SIs), including Scottish Statutory Instruments (SSIs) are subordinate legislation, mostly using powers conferred on the government by an Act. They vary enormously in size and complexity. SIs and SSIs are drafted by a wider group of lawyers, mostly operating in the Government Legal Service and the Scottish Government Legal Directorate, some of whom specialise in drafting legislation, others who draft legislation from time to time as well as providing legal advice.
- 2.9 The Supplier recognises and accepts that Acts and SIs are published in print and online at legislation.gov.uk. The editorial team at The National Archives identifies any changes a new Act makes to existing legislation and includes those changes in revised point in time versions of the legislation, also published on legislation.gov.uk.
- 2.10 The Supplier recognises and accepts that legislative documents will be predominantly in English but may include other languages, and that the LDAPP Service may need to be developed to handle documents in other languages.
- 2.11 The Supplier recognises and accepts that legislative documents may contain special characters such as em-dashes, currency symbols and mathematical symbols and that the LDAPP Service shall be developed by the Supplier, as agreed with and approved by the Authority, to handle these requirements.
- 2.12 The Supplier recognises and accepts that the Authority anticipates that there will be approximately 2,500 End Users, with around 100 of those End Users using the LDAPP Service on a daily basis. The remaining End Users will use the LDAPP Service on a sporadic basis and it is expected that there will be no more than 250

concurrent End Users.

- 2.13 The Supplier recognises and accepts that a Beta version of the LDAPP Service has been developed and that the IPRs in code developed so far are held by the Crown and that code will be made available to the Supplier if they are required by the Supplier.
- 2.14 The Supplier recognises and accepts that the LDAPP Service will be deployed to instances of a commercial cloud hosting service under an account maintained by the Authority.
- 2.15 The Supplier shall ensure that the LDAPP Service is maintained to the Standards set out in Schedule 2.3 (Standards) or as otherwise approved by the Authority.
- 2.16 The Supplier shall ensure that all documentation relating to the development of the LDAPP Service is fully up-to-date and kept up-to-date for the duration of this Agreement.
- 2.17 The Supplier shall operate change control and release management processes for all changes to the LDAPP Service, as set out in Schedule 8.2 (Change Control Procedure).
- 2.18 The Supplier shall introduce and operate testing processes, as set out in Schedule 6.2 (Testing Procedures).
- 2.19 The Supplier shall operate and maintain the LDAPP Service securely, as set out in Schedule 2.4 (Security Management).
- 2.20 The Supplier shall manage the LDAPP Service under the governance structures set out in Schedule 8.1 (Governance).
- 2.21 The Supplier shall ensure that it provides and deploys a development team with the skills and experience required to develop the LDAPP Service, provide Development Services, Hosting and Infrastructure Management Services and Service Management and Support Services, as set out in this Schedule 2.1 (Services Description) and in Schedule 4.1 (Supplier Solution).
- 2.22 The Supplier shall attend such onsite meetings in the UK as are reasonably required subject to prior cost approval by the Authority as set out in Schedule 7.1 (Charges and Invoicing).
- 2.23 Working with the Authority, the Supplier shall use its best endeavours to aid the portability of the LDAPP Service, and shall minimise lock-in and any dependency on any one proprietary piece of software, for example ensuring that the configuration code produced when customising the web authoring tool could be adapted for use with competitor products.

- 2.24 The Supplier shall ensure it develops for portability, ensuring that the components of the LDAPP Service are developed and integrated in order to minimise the risk and cost of component replacement after the end of the contract Term.
- 2.25 The Supplier shall use its best endeavours to ensure the LDAPP Service is reasonably portable between cloud hosting providers and ensuring the LDAPP Service is not overly reliant on any particular product or component, for example through identifying alternatives or replacements for key components, enabling the potential transition of the LDAPP Service to the Authority or to another supplier at the end of this Agreement.
- 2.26 Subject to the provisions of Clause 18.4, the Supplier may use proprietary software if agreed with and approved by the Authority in advance, and can demonstrate how it will subsequently ensure portability, minimising lock in and dependence on any one proprietary piece of software.
- 2.27 The Supplier shall ensure that decisions made that affect the portability of the LDAPP Service are agreed with and approved by the Authority before development commences.
- 2.28 The Supplier shall ensure the Authority approves all licensing terms and costs, where the open source products is not possible, before development requiring proprietary licences (either the Supplier's or that of a third party) is commenced.
- 2.29 The Supplier shall facilitate the transfer of knowledge about the Services to the Authority's staff, as required by the Authority. This shall include, but is not limited to, administrator and developer training on the Supplier Solution as set out in Schedule 4.1 (Supplier Solution), in particular focusing on the configuration of the LDAPP Service and environments, for the operational management of the LDAPP Service, train the trainer user sessions and providing technical documentation.
- 2.30 The Supplier shall operate the LDAPP Service within the UK's legislatures' and government's broader processes for managing legislation. In order to operate effectively the Supplier shall understand these broader processes.
- 2.31 For the avoidance of doubt, the Supplier recognises and accepts that adherence to the provisions of Paragraph 2 of this Schedule 2.1 (Services Description) are conditions of this Agreement.

3 REQUIREMENTS FOR THE LDAPP SERVICE

- 3.1 The Supplier shall ensure that its technical solution for the LDAPP Service supports a browser-based authoring tool that can be used to draft, from a blank template onwards, and edit, legislative documents from the UK and Scotland to quality standards as agreed with and approved by the Authority.
- 3.2 The Supplier's technical solution for the LDAPP Service must:

- (a) Be accessible to End Users via a web browser, as described in Paragraph 3.9;
- (b) Enable the authoring and editing of legislation and associated documents as Akoma Ntoso XML;
- (c) Be capable of being hosted in the cloud.

3.3 The LDAPP Service developed by the Supplier must be capable of handling the following common characteristics and features of legislative documents and the drafting process as follows:

- (a) The documents contain highly structured, mixed content, often consisting of multiple nested levels (for example, Parts, Chapters, cross-headings, sections, subsections, paragraphs and sub-paragraphs). Elements may appear at arbitrary points in the document, for example a table may be included in a schedule, section or subsection, and the content does not have a uniform repeating structure.
- (b) The documents vary in size but can be very large, for example hundreds of pages and over a thousand clauses.
- (c) The documents commonly refer to and quote from other pieces of legislation, for example to textually amend that legislation) so it is possible for the same element to be repeated in a single hierarchical structure, for example a Part containing a section containing a textual amendment which itself contains a Part.
- (d) The documents make heavy use of hierarchical numbering schemes and cross-referencing between provisions which need to be dynamic so they can be updated automatically as a document is modified and provisions reorganised.
- (e) A document is drafted iteratively, sometimes by more than one person (with different people working on different portions of the document at the same time), with regular internal drafts being produced.

3.4 The LDAPP Service developed by the Supplier shall enable users to carry out the inline amending of Bills as follows:

- (a) Mark proposed changes (amendments) on a version of a Bill, for example using tracked changes-type functionality, from which amendment instructions in the currently parliamentary form (for example 'Clause 5, page 3, line 2, leave out "the"') will be generated automatically.
- (b) Apply specific amendments generated in the manner as set out in Paragraph 3.4(a) to a version of the Bill in an automated or semi-automated manner to show what the text would look like if selected proposed changes were accepted and to incorporate all accepted changes into the text.

- 3.5 The Supplier shall ensure that the LDAPP Service can produce print ready documents as required by the Authority, to render Akoma Ntoso XML documents as Print-ready PDFs.
- 3.6 Unless otherwise agreed with and approved by the Authority, the LDAPP Service shall support offline working so that End Users can access and use some functionality and some data in circumstances where there is no available connection to the internet or where the sensitivity of the data means that a cloud-hosted solution is not appropriate.
- 3.7 The Supplier shall ensure that the provision for offline working, from an architecture and design perspective, ensure the availability, integrity and confidentiality of the system and the design shall take into account National Cyber Security Centre (NCSC) principles as set out in Schedule 2.4 (Security Management).
- 3.8 The Supplier shall ensure the system is capable of securely managing documents classified as Official and Official-sensitive according to government security classifications and as set out in Schedule 2.4 (Security Management).
- 3.9 The Supplier shall ensure that the LDAPP Service it develops is capable of being used in a range of modern browsers, with specific browser compatibility to be approved by the Authority during the development of the LDAPP Service.
- 3.10 The specific functional requirements for the LDAPP Service to be developed by the Supplier (unless otherwise agreed with and approved by the Authority) are set out in Annex A to this Schedule 2.1 (Services Description). The Supplier shall deliver this functionality to the quality standards required by the Authority, as generally laid out in Schedule 2.3 (Standards) or as stipulate by the Authority from time to time.
- 3.11 The Supplier recognises and accepts that additional functionality may be required by the Authority over the Term and that the Supplier shall use its best endeavours to develop any additional functionality required.
- 3.12 The Supplier shall develop and manage the LDAPP Service's data and document formats including:
- (a) to enable the authoring, editing and management of legislative documents in XML using the Akoma Ntoso markup language. Change control to the XML model will rest with a working group established by the Authority, which the Supplier shall participate in as required by the Authority;
 - (b) to enable the production of a document as a print-ready PDF derived from the XML version. The format of the print output will meet such parliamentary guidelines/practices as exist at that time, and include features such as page numbers, line numbers, tables of contents, running headers, footnotes and covers as appropriate. The formatting may be subject to change over the lifetime of the LDAPP Service;

- (c) enable the production of the document in other formats (e.g. HTML, Word or Open Document Format) as required by the Authority;
- (d) provide legislative XML data via a persistent RESTful API, in particular to parliamentary systems maintained by the UK Parliament and Scottish Parliament; and
- (e) provide legislative XML data and Print-ready PDFs via a persistent RESTful API, in relation to enacted primary legislation (i.e. Acts) and statutory instruments to publishing systems maintained by the Authority. The Supplier recognises and accepts that the specification of the API and the future development of it will be at the direction of the Authority.

3.13 The Supplier shall develop, maintain and monitor the LDAPP Service's interfaces with external systems including:

- (a) Legislation publishing systems: The Supplier recognises and accepts that the Authority currently operates systems for publishing and distributing SIs, Scottish Statutory Instruments and Acts. The Supplier shall ensure that the LDAPP Service is capable of providing the Authority's systems with XML and print-ready PDF documents for publication, to the specifications of the Authority. The Supplier shall also ensure that the transformations used by the LDAPP Service generate PDFs from the XML base format to be reused in the Authority's publishing system. The Supplier recognises and accepts that this is to ensure consistency of layout following the re-generation of Print-ready PDFs following minor changes that are made to the XML within the Authority's systems as part of the publication process, for example the addition of parliamentary laying dates for secondary legislation.
- (b) Parliamentary data systems: The Supplier recognises and accepts that the LDAPP Service will rely on data obtained from data services operated by the UK Parliament and the Scottish Parliament. In particular, it will obtain Member name information from the UK Parliament's Members Names Information Service (MNIS) (<http://data.parliament.uk/membersdataplatfrom/>) and the Scottish Parliament's Members Names dataset (<https://data.parliament.scot/#/datasets>).

3.14 The Supplier's solution for the LDAPP Service shall ensure access control as specified by the Authority. This shall include creating custom user interface screens to manage user groups and passwords to support the user management requirements including pages for authorised users to create new accounts and assign different roles within their authority, users to manage their own passwords and administrator rights limited to the Authority and Partner Organisations.

3.15 The LDAPP Service shall be configured to ensure that all data is encrypted at rest.

- 3.16 The Supplier shall ensure that the LDAPP Service it develops meets (so far as practicable and as approved by the Authority) Level AA of the Web Content Accessibility Guidelines (WCAG) 2.0 and shall provide evidence to the Authority of this during the development and release lifecycle, as requested by the Authority.
- 3.17 In developing the LDAPP Service, the Supplier shall ensure it complies so far as is reasonably practicable and as approved by the Authority, with the Government Digital Service's guidance on making a service accessible.
- 3.18 The Supplier Solution for the LDAPP Service is set out in Schedule 4.1. The Supplier recognises and accepts that this technical solution may be subject to change, as agreed with and approved by the Authority.
- 3.19 The Supplier shall, as detailed within the Implementation Plan, provide the Authority's staff, and those of other Partner Organisations, with information and training on the technologies, interfaces, standards and other aspects of the Service.

4 REQUIREMENTS FOR DEVELOPMENT SERVICES

- 4.1 The Supplier shall ensure that it provides the Development Services required by the Authority to develop the LDAPP Service. This shall include the iterative development of the LDAPP Service, as set out in Schedule 6.1 (Implementation Plan).
- 4.2 The Supplier shall ensure that its development methodology is iterative and enables End Users' needs to be met responsively, quickly and to a high level of quality, as agreed with and approved by the Authority.
- 4.3 The Supplier shall use tools for managing Agile projects, which can be used by the Authority and the Partner Organisations, at no extra cost.
- 4.4 Unless otherwise agreed and approved by the Authority, the provisions of Paragraph 4.1 shall require the use of Agile project methodology, as agreed and approved by the Authority.
- 4.5 Within 20 Working Days of the Effective Date the Supplier shall propose a backlog for the LDAPP Service, including high-level estimates of effort for all items in the backlog, for agreement with the Authority.
- 4.6 Within 20 Working Days of the Effective Date the Supplier shall propose a system architecture and design specification for agreement with the Authority.
- 4.7 The Supplier shall work closely with the Authority's Product Manager to ensure development Sprints are well planned, focused and Sprint goals are achievable and agreed with the Authority. For this avoidance of doubt, this shall include the Supplier flagging potential and actual impediments to work during the Sprint to minimise their impact on delivery.

- 4.8 The Supplier shall accurately estimate the effort required to deliver any particular piece of work, phase, Sprint or User Story, as required by the Authority and as set out in Schedule 7.1 (Charges and Invoicing).
- 4.9 Without prejudice and in addition to the provisions of Clause 6.6, the Supplier shall highlight to the Authority actual and potential indications of late delivery and/or additional cost and shall take action as required by the Authority.
- 4.10 The Supplier shall ensure that user stories meet the acceptance criteria agreed with the Authority.
- 4.11 The Supplier shall provide collaboration tools for capturing and managing User Stories and that are able to be used by the Authority, Partner Organisations and the Supplier to work on related documents. All data held in the collaboration tools will be owned by the Authority. The Supplier shall ensure the Authority retains access to the data even if the tools are changed in any event.
- 4.12 The Supplier shall produce regular and accurate reports of work done and effort expended, as set out in Schedule 2.6 (Reporting), and commit to a cycle of continuous improvement (retrospectives) throughout the development phase to ensure processes remain efficient and create high quality outputs.
- 4.13 The Supplier shall develop and manage a persistent URI scheme within the LDAPP Service, modelled on the scheme used for enacted legislation in legislation.gov.uk and as agreed with and approved by the Authority, to enable the consistent identification of documents and arbitrary hierarchical portions of those documents.
- 4.14 The Supplier shall develop, document and manage the Service's XML model as agreed with and approved by the Authority.
- 4.15 The Supplier recognises and accepts that the provision of the LDAPP Service shall include using Akoma Ntoso (standardised as LegalDocML by OASIS) to represent legislative documents, and that special provision shall be made, where agreed with the Authority, for example in relation to:
- (a) Tables;
 - (b) Formulae, which shall be represented using MathML; and
 - (c) Images, which shall be capable of being incorporated into the LDAPP Service as agreed and approved by the Authority.
- 4.16 The Supplier shall produce code of consistently high quality which meets the standards as set out in Schedule 2.3 (Standards), or as agreed with and approved by the Authority from time to time.
- 4.17 Where there is a published coding standard for a framework used in the LDAPP Service, the Supplier shall use this standard for those elements of the code. Where the Government Digital Service ("GDS") has published a coding standard for the language in use, the Supplier shall adopt the GDS standard.

- 4.18 The Supplier shall use secure coding techniques such as OWASP Proactive Controls (<https://www.owasp.org/>).
- 4.19 The Supplier shall manage software configuration, for example by using software configuration tools and build scripts and where appropriate. The Supplier shall use automated deployment and configuration where practicable.
- 4.20 The Supplier shall actively manage dependencies between software components and libraries, using a dependency management tool.
- 4.21 The Supplier shall write, maintain and run appropriate tests as a routine part of developing the LDAPP Service, for developments using the XML technology stack (including XQuery and XSLT).
- 4.22 The Supplier shall write, maintain and run appropriate tests as a routine part of developing the LDAPP Service, for developments using the XML technology stack (including XQuery and XSLT). The development team will write and run unit tests in a format expected for the language in which the code is written.
- 4.23 In order to promote code re-use the Supplier shall identify where individual components can be maintained as separate projects in repositories to allow for standalone release, use and re-use.
- 4.24 The Supplier shall document code, including by describing the responsibility of different components and their interactions, for example through code comments, tests, README files and version control commit messages, so that the LDAPP Service can be supported (including by third parties) and to facilitate further development of the LDAPP Service by the Supplier, the Authority or by other developers as approved by the Authority.
- 4.25 The Supplier shall store all Source Code produced for the Authority and manage version control of that code in a code repository appointed by, and accessible to, the Authority.
- 4.26 The Supplier shall ensure that version control facilitates rapid roll-back of the production environment to a previous stable version in the event that issues are found with a new release.
- 4.27 The Supplier must develop, manage and maintain the LDAPP Service's system architecture to enable access by users and to provide all the functionality required to draft, manage and produce legislative documents. In addition, the system must allow data held within it to be accessible by users/systems outside the LDAPP Service e.g. the Authority's and parliamentary systems.
- 4.28 The architecture must be developed in accordance with NCSC's security design principles - <https://www.ncsc.gov.uk/guidance/security-design-principles-digital->

- 4.29 The Supplier shall, as agreed with and approved by the Authority, obtain all licences for any software applications or services required to develop the LDAPP Service or for the LDAPP Service to function, and secure support and maintenance contracts for those applications and services as appropriate.
- 4.30 The Supplier shall actively engage with and support any code reviews that may be reasonably required out by the Authority or by a third party appointed to act on the Authority's behalf.

5 REQUIREMENTS FOR HOSTING AND INFRASTRUCTURE MANAGEMENT SERVICES

- 5.1 The Supplier shall manage the LDAPP Service's virtual service infrastructure within the IaaS account(s) provided to them by the Authority.
- 5.2 Within 20 Working Days of the Effective Date the Supplier shall propose a Cloud hosting architecture and specification for agreement with the Authority.
- 5.3 The Supplier shall:
- (a) set up, configure and maintain the necessary environments to enable effective development of the Services;
 - (b) set up, configure and maintain the production environment; and
 - (c) maintain documentation on all environments.
- 5.4 As part of maintaining environments, the Supplier must maintain operating systems and other software by deploying upgrades, patches and fixes as necessary.
- 5.5 As a minimum the Supplier must provide:
- (a) sufficient environments to enable the development and testing of the LDAPP Service; and
 - (b) a production environment.
- 5.6 The Supplier recognises and accepts that the LDAPP Service primarily operates in the cloud using an Infrastructure as a Service approach and for the avoidance of doubt recognises that adherence to this approach is a condition of this Agreement.
- 5.7 The Supplier recognises and accepts that the Authority shall procure cloud hosting provision, and that the Supplier shall be provided with accounts details to manage the hosting of the LDAPP Service in the cloud.
- 5.8 The Supplier recognises and accepts that the commodity cloud hosting provider may change during the term of this Agreement term; such change will be dealt with as a Contract Change pursuant to the provisions of Schedule 8.2 (*Change Control Procedure*).

- 5.9 The Supplier shall help the Authority to procure the services of a commodity cloud hosting provider by providing technical details about the needs of the LDAPP Service in terms of its cloud hosting provisioning.
- 5.10 The Supplier shall automate the configuration, deployment and operation of the LDAPP Service in the cloud and fully maintain automated scripts for managing the LDAPP Service.
- 5.11 The Supplier shall provision the infrastructure to enable continuous integration with automated deployment of new releases.
- 5.12 The Supplier shall provide and maintain a hosting solution that enables the routine development and testing of the Services. This shall include:
- (a) a secure Test environment in the cloud for function testing and regression testing;
 - (b) a secure environment to host documentation, Source Code and project management tools;
 - (c) a secure Staging environment in the cloud for operational acceptance testing, user acceptance testing, regression, and performance and penetration testing; and
 - (d) Additional testing environments in the cloud as required to deliver the LDAPP Service, as agreed with the Authority.
- 5.13 The Supplier shall provision the production environment to ensure that it performs consistently well with high reliability, availability and resilience within a set of hosting cost thresholds that shall be approved by the Authority.
- 5.14 The Supplier shall routinely, securely and rigorously backup all data, LDAPP Service builds, code, configurations and scripts. Including, but not restricted to:
- (a) a retention policy, to be approved by the Authority, and deleting backups no longer required.
 - (b) proposing an appropriate location, for agreement with and approval by the Authority, for holding backups outside of the cloud environment.
- 5.15 The Supplier's Business Continuity and Disaster Recovery Plan, as required in Schedule 8.6 (Business Continuity and Disaster Recovery) shall include provision for virtual infrastructure hosting as approved by the Authority.
- 5.16 The Supplier shall ensure that it provides at least one resource for remote access to secured systems with a clearance of up to SC level.
- 5.17 The Supplier shall deploy multiple layers of protection within the Cloud environment and this shall include as appropriate, as agreed with the Authority:
- (a) Creating hardened Linux (or Windows) operating system images to meet the Authority's security standards and using them to base virtual

- machines for hosting workloads;
 - (b) Creating logically isolated virtual networks from which to host and launch computing resources, allowing custom IP ranges, multiple subnets and configuration of route tables, network gateways and security settings, as agreed with and approved by the Authority;
 - (c) Extensive logging, monitoring, alerting, reporting and automated actions to track and detect both operational behavior and potential undesirable activity.
- 5.18 In the event that the Cloud environment is rendered completely unavailable, the Supplier shall initiate a recovery process to launch the platform with another hosting provider, using backups the Supplier has saved outside of the environment.
- 5.19 The Supplier shall ensure that the Authority has full access to the billing console, has view/read access to all environment infrastructure within the Cloud (including but not limited to server deployment scripts, running instances, data stores).
- 5.20 The Supplier shall secure access to the cloud accounts/infrastructure ensuring that minimum levels of necessary access are given to authorised personnel only.
- 5.21 The Supplier shall secure access to the cloud accounts/infrastructure, ensuring that minimum levels of necessary access are given to authorised personnel only.
- 5.22 The Supplier will provide the Authority, for the Authority's approval, a list of individuals to have access to the console.
- 5.23 When further access to the system is required (for example releasing code, making changes to the environment or system inspection) the Supplier shall operate a Request for Access procedure, giving the user short term access to a more elevated permission set.
- 5.24 The Supplier and the Authority shall follow an internal leavers' process to revoke console accounts when individuals leave the organisations.
- 5.25 The Supplier shall use appropriate authentication methods to access the virtual environment.
- 5.26 The Supplier shall optimise the virtual service infrastructure working with the Authority to manage costs.
- 5.27 The Supplier shall use approved credential storage software where credentials need to be stored electronically.

6 REQUIREMENTS FOR SERVICE MANAGEMENT AND SUPPORT SERVICES

- 6.1 The Supplier shall undertake service management, maintenance and support,

running and maintaining the LDAPP Service, by:

- (a) Managing the transition from the initial release to running and maintaining the LDAPP Service, including any potential milestones, as agreed with and approved by the Authority, as set out in Schedule 6.1 (Implementation Plan).
- (b) Managing service support processes, including managing service requests, incident and change control, as set out in Schedule 2.2 (Performance Management) and Schedule 8.2 (Change Control Procedure).
- (c) Providing a User Support Service as set out in this Schedule 2.1 (Services Description).
- (d) Providing End User training on the LDAPP Service in flexible formats, as requested by the Authority, and ensuring that any classroom-based training is carried out at a location within the UK as approved by the Authority.
- (e) Providing documentation to support any training, and review and update the training and documentation regularly.
- (f) Tracking, measuring and responding to user satisfaction levels, as set out in Schedule 2.2 (Performance Management).
- (g) Maintaining the service levels and delivering against the Key Performance Indicators set out in Schedule 2.2 (Performance Management).
- (h) Identifying and rectifying poor performance as set out in Schedule 2.2 (Performance Management).
- (i) Managing change control as set out in Schedule 8.2 (Change Control Procedure).
- (j) Release management as set out in Schedule 6.2 (Testing Procedures).
- (k) Configuring and maintaining the production environment and all other environments required to run and maintain the Services.
- (l) Maintaining operating systems and other software by deploying upgrades, patches and fixes.
- (m) Monitoring the LDAPP Service and its external interfaces with other systems and alerting the Authority to any issues.
- (n) Continually improving the LDAPP Service, as approved by the Authority, in line with new and emergent standards.
- (o) Maintaining and updating a risk register as required by the Authority, for the Authority's approval.
- (p) Monitoring the data services consumed by the Services and operated by the UK and Scottish Parliaments, and The National Archives.

6.2 Within 20 Working Days of the Effective Date the Supplier shall propose an initial Service Management plan, for agreement with the Authority and to be updated and maintained in accordance with the Implementation Plan.

6.3 The Supplier shall manage service requests and incident reporting using ITIL processes and procedures.

- 6.4 The Supplier shall provide a User Support Service during Core Support Hours. This shall include deploying a UK resource as required to ensure that the User Support Service is delivered.
- 6.5 The Supplier shall also provide a User Support Service during Out of Hours Support Periods.
- 6.6 For critical issues at all times, and support during the Out of Hours Support Period, the Supplier shall provide a UK telephone number to ring to contact for immediate support.

7 OPTIONAL DEVELOPMENT SERVICES

- 7.1 The Supplier shall provide on-going development of the LDAPP Service as may be required by the Authority.
- 7.2 The provisions of Paragraph 7.1 could include, for example, adding new or enhancing existing functionality as agreed with and approved by the Authority, or extending or adapting the LDAPP Service so that it can be used for new purposes or users relating to legislative documents and lifecycles, as agreed with and approved by the Authority.
- 7.3 At a minimum the provisions of Paragraphs 7.1 and 7.2 shall include the Supplier:
- (a) Managing the iterative development lifecycle including testing, code quality management and documentation.
 - (b) Working to the standards agreed with and approved by the Authority in accordance with Schedule 2.3 (Standards).
 - (c) Supporting the Authority to ensure that developments are delivered in line with the UK Government's Digital Service Technology Code of Practice, as may be amended from time to time.
 - (d) Ensuring that it provides sufficient, and sufficiently skilled and experienced, resources required to deliver further development without impacting negatively on the performance of the LDAPP Service.

8 GOVERNMENT REVIEWS

- 8.1 The Supplier recognizes and accepts that the Services may be subject to Government review at key stages of the development of the LDAPP Service and subsequently. The Supplier shall cooperate with any bodies undertaking such review and shall allow for such reasonable assistance as may be required for this purpose within the Charges set out in Schedule 7.1 (Charges and Invoicing).

Annex A

1 The Supplier recognises and accepts that, under this Agreement, it shall develop the following functionality, unless otherwise agreed with and approved by the Authority.

1.1 Core editor features

- (i) Modify (including undo and redo) content and structure in editor view and structure – insert/delete provisions, reorder provisions, promote/demote provision within hierarchy, wrap provisions in higher level provision and unwrap, split and merge provisions, cut/copy and paste provisions
- i. Set up stylesheets for editor
- ii. Adjust formatting of text in the editor - bold, italic and underline, left/right/centre alignment
- iii. Edit document in tracked change mode including accepting/rejecting changes
- iv. Optionally reveal the underlying structure and relationships between elements and see the full context of an element in the editor through the breadcrumb trail as well as structure view
- v. Highlight spelling errors and suggest alternatives
- vi. Automatically number provisions including quoted structures and manually force renumbering specifying the extent as required: at specific level, within a quoted structure only or everything in the editor incl. or excl. quoted structures
- vii. Automatically assign numbers according to the auto-assign numbering rule (1A, A1 etc.)
- viii. Insert tables with pre-formatted styles, add/remove rows and columns; header row print settings; column width, shrink fit, format cell text and insert lists
- ix. Optionally view line numbers in the editor for versions that have been copied from published versions
- x. Insert symbols (including em-dash)
- xi. Insert quoted text and quoted structures including elements from other document types (inserted text/textual amendments) as well as nested quoted structures
- xii. Context sensitive insertion of text templates including into quoted structures and tables
- xiii. Search legislation.gov.uk and view result in editor
- xiv. Find and replace text
- xv. Paste and manually format unstructured text from other sources (PDF, Word, emails, websites etc..) into structured text in the editor
- xvi. View complete element hierarchy in structure view
- xvii. Preview one provision while editing another
- xviii. Control form of citation when inserting cross-references (full context or numbers only options), automatically update them when provisions numbers change and highlight broken cross-references when provisions are removed or no longer recognised
- xix. Lock a document or a portion of a document for editing, allowing others to see who is editing the document/provision.

- xx. Edit portions of a document at the same time as other users editing different portions
- xxi. Merge documents within a project which would allow for the drafting of separate provisions in separate documents (by separate users with separate permission settings if required) within a project
- xxii. Display elements according to defined stylistic rules and formatting and suggest the appropriate next element, based on context, from a limited selection of elements using the agreed catalogue of elements
- xxiii. Create and manage table notes
- xxiv. Insert cross-references to enacted legislation via legislation.gov.uk
- xxv. Insert cross-references to provisions in other Projects
- xxvi. Create, view, update and delete drafter's notes
- xxvii. Check spelling using other system dictionaries and toggle visibility of spelling errors
- xxviii. Split document into multiple volumes
- xxix. Enhance PDF to optionally include drafter's notes
- xxx. Expand and collapse view of elements in Editor
- xxxi. Compare differences between two versions of a provision or document within a project
- xxxii. View and restore previous document and provision versions
- xxxiii. Display an audit history for a document showing who and at what date/time a change was made
- xxxiv. Handle landscape tables and the formatting of borders
- xxxv. Create and insert forms Insert and edit equations Merge documents from different projects into one document within a separate project

1.2 Bill editor features

- i. Create a new project with the appropriate jurisdiction's Bill template for a Government or Member's Bill/Private Member's Bill
- ii. Add and edit Bill metadata (bill number, session number and year and member information accessed from Scottish Parliament and UK Parliament)
- iii. Insert relevant rubric elements into the bill and its covers (status, stage and amendment notes, front cover notes, explanatory note rubric e.g. standing order 50, Prince of Wales Consent, privilege amendment etc...)
- iv. View and modify copyright and publishing rubric on the bill back cover
- v. Control order of members as they appear on the bill's back cover
- vi. Insert upper level elements into the body (Group of Parts, Parts, Chapters, Cross-headings, sections, subsections, schedules (incl. introducing reference notes/shoulder notes), schedule paragraphs)
- vii. Insert lower level elements into the body (paragraphs, subparagraphs, sub-sub-paragraphs, closing words, numbered lists, unnumbered lists, schedule sub-paragraphs, subheading and stepped calculations)
- viii. Convert schedule paragraphs or schedules into one or more sections and vice versa also convert a block of lower level elements (from subsection and below or Schedule Paragraph and below) into a different block of lower level elements e.g. paragraphs into sub-paragraphs and vice versa – including lists (unnumbered and

- numbered) and fullouts
- ix. Create and manage user defined identifiers (J-refs) against sections and schedules
- x. Produce PDF of a portion, table of contents only or the whole of bill including track change, side-lining, page and line numbers, allow selection of non-contiguous provisions, header/footer notes, user defined identifiers (J-refs), table of contents and front/back cover options
- xi. Create a new project with the appropriate jurisdiction's Bill template for a Private Bill and manage Private Bill specific features
- xii. Create a new project with the appropriate jurisdiction's Bill template for a Committee Bill and manage Committee Bill specific features
- xiii. Create a new project with the appropriate jurisdiction's Bill template for a Committee Bill and manage Committee Bill specific features
- xiv. Create a new project with the appropriate jurisdiction's Bill template for a Hybrid Bill and manage Hybrid Bill specific features
- xv. Create a new project with the appropriate jurisdiction's Bill template for a Consolidation Bill and manage Consolidation Bill specific features
- xvi. Create, view, update and delete origin information against provisions
- xvii. Create Tables of origins and destinations
- xviii. Create Finance Bill Resolutions and Finance Bill Resolution Books allowing users to insert text from the Finance Bill within Finance Bill Resolutions which will keep synced to Finance Bill version.
- xix. Create a new project with the appropriate template for a Church Measure (although secondary legislation, it reuses bill format and elements) and manage Church Measure specific features
- xx. Insert 'subheading' elements for higher level elements (under part headings, chapter headings and schedule headings) allowing flexible formatting and alignment
- xxi. Insert multi-purpose html-based elements to handle the inserted text of other legislative documents not modelled in LDAPP e.g. European Instruments or International Conventions
- xxii. Stylesheets for displaying and printing inserted HTML
- xxiii. Create and manage alternative versions of sections and schedules (or schedule paragraphs) inside a document

1.3 SI/SSI editor features

- i. Run validation check which ensures SI/SSI conforms to The National Archives Publishing Tool standards
- ii. Create a new project with the appropriate SI or SSI template for a set of Regulations, Orders, Orders in Council, Orders of Council and Rules
- iii. Create a new project with a generic SI or SSI template for a set of Schemes, Byelaws, Approval Instruments, Warrants, Directions and 'other' with ministerial signatures and explanatory notes
- iv. Add and edit SI/SSI metadata (SI number and year)
- v. Insert relevant procedural and correction rubric elements into the SI/SSI
- vi. Create and manage footnotes
- vii. Manage subject, sub-subject, extent and date information in title block

- viii. Add subject/sub-subject from data provided by SI registrar
- ix. Insert upper level elements into the body (Group of Parts, Parts, Chapters, Cross-headings, SI Sections, SI Subsections, Regulations, Articles, Rules, Byelaws, Schemes, Directions, Approval Instruments, Schedules (including shoulder notes), Schedule Paragraphs)
- x. Insert lower level elements into the body (SI Paragraphs, SI Subparagraphs, SI Sub-sub-paragraphs, SI Sub-sub-sub paragraphs, Closing words, Numbered lists, Unnumbered lists, Schedule sub-paragraphs, paragraphs, sub-paragraphs, sub-sub-paragraphs, subheading, stepped calculations including combined numbering with the em-dash rule)
- xi. Insert images including validation of format type, size and quality
- xii. Produce PDF of a portion, the table of contents only or the whole SI/SSI including track changes, running headers, footnotes, side-lining, page numbers, allow selection of non-contiguous provisions, header/footer notes and table of contents
- xiii. Enhance PDF to include user defined identifiers (J-refs)
- xiv. Create and manage user defined identifiers (J-refs) against schedules and regulations (articles etc.)

1.4 Document workflow features

- i. Create different versions of a bill in the same stage or at different stages – including tracked change versions
- ii. Restrict edit rights to individual documents within a project to specific users within own organisation and restrict read-only access (share a version) at user/org level outside of own organisation
- iii. Edit and prepare a Bill “as introduced” or “as amended” or enactment versions by making editable copies/new versions from shared copies by Counsel (or the other House) or from previously published versions
- iv. Produce a proof for Royal Assent, including royal crest
- v. Turn on/off tracked changes and allow users to record ‘silent’ printing changes in the Bill
- vi. Filter list of amendments (whether already debated or not) to apply to a version of a bill and allow users to select one or more to be automatically applied to the Bill as tracked changes, highlighting to the user any amendments that could not be auto-inserted
- vii. Optionally apply amendments to the bill in one go or in batches for stages that take place over more than one day
- viii. Provide a mechanism for checking the application of amendments one-by-one in an ‘as amended’ version of the bill, allowing users to undo or make changes to an applied amendment as required
- ix. Review a read-only proof of the bill in the system shared by Parliament users, with the option to make a copy and suggest printing changes to share back to Parliament users
- x. Generate a PDF amended version of the Bill with tracked change and side-lining options
- xi. Publish PDFs and the XML document to the API at each appropriate stage making that version of the document read-only
- xii. Download a PDF for sending to official printer
- xiii. Send to (email attachment)

1.5 Amendment drafting features

- i. Create one or more sets of draft amendments in the traditional form for all types of amendments against a bill version at different stages (and different Houses) and optionally reveal the underlying structure of the elements in the inserted text from within the structure view and see the full context of an element in the editor through the breadcrumb trail
- ii. Add, edit, remove, manually reorder, renumber, view one or all of a subset of draft amendments in a list
- iii. Arrange draft sets of amendments according to a specified order of consideration
- iv. Add, edit, remove and reorder proposers and supporters against an amendment (accessing member name data from Scottish and UK Parliament) and allow users to expand and collapse view of supporters for draft amendments in a list when in traditional form
- v. Produce a PDF of one, all or a subset of non-contiguous amendments within a draft set of amendments in traditional form (reflecting the order in the Editor view)
- vi. Create set of draft amendments inline as tracked changes to a Bill version
- vii. Create inline amendments in Bill version displayed as tracked change, indicating when necessary where two back-to-back amendments should be treated as separate amendments
- viii. Add, edit and remove inline amendments in the Bill version by rejecting tracked changes or making further additions/modifications - including changes to the proposers and supporters for the inline set of amendments (accessing member name data from Scottish and UK Parliament)
- ix. Produce a PDF of the inline amendments shown as tracked changes within the Bill version
- x. Generate a set of draft amendments in the traditional form from the inline version (insert, leave out, insert & leave out (substitute), long & short titles and preamble)
- xi. Consolidate two or more lists of amendments drafted by the same drafter or different drafters (depending on edit rights) into a single set
- xii. Submit set of draft amendments to appropriate Parliament
- xiii. Restrict edit rights to specific users within own organisation and/or share read-only versions to specific users within or outside of own organisation
- xiv. Search, filter and sort a list of draft amendment lists
- xv. Create amendments to amendments including display of line numbers on the amendment being amended
- xvi. Generate a set of draft amendments in the traditional form from the following inline amendment types: text in tables, transposing/moving text and splitting text
- xvii. Generate inline amendments as tracked changes to a bill version from the set in traditional form, highlighting to the user any amendments unable to be converted through overlaps or not being recognised
- xviii. Drafting motions in relation to Ping Pong
- xix. Create and manage user-defined identifiers against draft amendments in traditional form
- xx. Insert automatic cross reference to text already in the Bill
- xxi. Insert automatic cross reference to other text within the same amendment

- xxii. Maintain automatic cross references when amendment is applied to the Bill and highlight any cross references used in amendments that do not automatically update
 - xxiii. Insert automatic cross-reference to other text in other amendments (in same or different set)
- 1.6 Commons motion drafting features
- i. Create draft sets of motions
 - ii. Add, edit and remove motions from a list of motions including changes to the proposers and supporters (accessing member name data from UK Parliament)
- 1.7 Specific UK Parliament amendment features
- i. Convert amendments for one House into amendments for another House including converting amendments in the same House to formats for a different stage
 - ii. Insert automatic cross references in explanatory statements to the amendment numbers of other amendments
- 1.8 Amendment and motion workflow features
- i. Display notification when there are newly submitted amendments, visible only to the appropriate Parliament users from any screen
 - ii. Receive submitted set of draft amendments split out into individual amendments – recording the date/time they were submitted and from whom
 - iii. Specify actual submission date/time if different from the system date/time at point of copying up the amendments
 - iv. View, update and delete amendments including editing/deleting their metadata at any stage in the process (proposers, supporters and lifecycle event details)
 - v. Search, filter and sort amendments in a list, with 'select all' option to produce ad hoc lists based on filtered list of amendments
 - vi. Create separate marshalled lists containing a subset of amendments e.g. for different committees reviewing the same bill, by allowing users to manually override the automatic generation of amendment lists
 - vii. Review submitted amendments and mark them as tabled or rejected
 - viii. Withdraw amendments before debate
 - ix. Record decisions against amendments, clause/schedule stand part, including 'agreed en bloc'
 - x. Mark when an amendment has been tabled in substitution and recording the number of the amendment that it supersedes
 - xi. View list of amendments in the structure view when editing a list of amendments (in traditional format) in the editor and allow user to show/hide the structure of any quoted structures within an amendment
 - xii. Highlight submitted and tabled amendments which overlap and help users provide information to help sort these amendments in official amendment lists
 - xiii. Allow users to record additional information against individual amendments to support their workflow including comments and who has checked an amendment
- 1.9 Specific Commons motion features
- i. Record decisions against motions

- ii. View and update motions at any stage in the process
 - iii. Allow users to search, filter and sort motions in a list
- 1.10 Core amendment list features
- i. Produce an ad hoc list of amendments
 - ii. Edit a generated amendment list in the Editor (adding/editing or deleting amendments, including proposers and supporters, reordering amendments, adding/editing or removing general notes to amendments or to the amendment list, adding/editing or removing interstitial headings and updating title block information) and optionally save those changes back to the source amendment(s)
 - iii. Edit amendment list information including amendment list name, list date and list number as required
 - iv. Search, filter and sort list of amendment lists
 - v. Control edit rights and read only access to an amendment list based on user and organisation
 - vi. Produce PDF of all amendment list
 - vii. Publish official amendment lists, allowing users to delete published versions in order to produce revised versions as required
 - viii. Identify government amendments and apply the 'government precedence' sort logic accordingly in applicable amendment lists
 - ix. Produce a revised version of an official amendment list if a version was published with a mistake
 - x. Create a copy of another amendment list, including draft sets of amendments and ad hoc amendments lists
- 1.11 Specific Scottish amendment list features
- i. Produce a Daily list of amendments and assign numbers to amendments
 - ii. Produce a Marshalled list of amendments, numbering any amendments without official numbers and display according to a specified order of consideration and also a sort order based on amendment type and whether it is a Government amendment
 - iii. Produce a Groupings list of amendments according to defined groupings
 - iv. Show on a Daily list when an amendment has been withdrawn or when an amendment has been lodged in substitution
 - v. Produce Scottish Scripted Marshalled List (as long as you can export the Marshalled List to Word)
 - vi. Produce Scottish Supplementary Sheets
- 1.12 Specific Commons amendment list features
- i. Produce House of Commons Rolling Marshalled list, listing amendments and motions, assigning amendment numbers and displaying notices of any withdrawn amendments. Sort by an order of consideration or grouping by topics and for all amendments to be further sorted by amendment type and whether it is a Government amendment
 - ii. Produce a rolling House of Commons Proceedings list and a Proceedings List for a specific date, listing any relevant amendments and motions with decisions recorded against them

- 1.13 Specific Lords amendment list features
 - i. Produce House of Lords Daily Amendment sheet
 - ii. Produce House of Lords Marshalled list, assign amendment numbers according to the House of Lords numbering rule and display according to a specified order of consideration and also a sort order based on amendment type and whether it is a Government amendment
 - iii. Produce House of Lords Supplementary Sheets and manuscript amendments
 - iv. Produce House of Lords Scripted Marshalled List
 - v. Produce rolling House of Lords Authority and an Authority for a specific date, detailing any relevant amendments with decisions recorded against them
- 1.14 Specific Ping Pong features
 - i. Produce Ping Pong Daily Sheets for Commons and Lords
 - ii. Produce 'Ping pong' documents (Paper A/Composite lists of amendments/Lords amendments/Commons amendments, Paper B/Ping Pong motions/To and fro motions and amendments in lieu etc... and Paper Back/Lords or Commons messages)
 - iii. Record ping pong decisions
- 1.15 Specific project management features (dashboard)
 - i. Log on using username and password
 - ii. View all available projects based on user permissions in tile or list format
 - iii. Filter projects so only user selected favourites are visible
 - iv. Search (by title, stage, session, type and number), filter (by closed/inactive) and sort (by alphabetical, number, current House, current stage, type and subtype) projects
 - v. Create new project
 - vi. Log on using "Single sign on" for OPC, PCO, Scottish Parliament and UK Parliament
- 1.16 System administration features
 - i. Create, view, update and delete users at organisation admin level
 - ii. Create, view, update and delete organisations at super user level
 - iii. Delete projects (Super User functionality)
 - iv. Create and amend text templates, including insertion of placeholders within the templates
 - v. Create, and amend amendment text templates, including insertion of placeholders within the templates
 - vi. Force update of member data from UK parliament
 - vii. Force update of member data from Scottish Parliament
 - viii. Release document lock if document is locked accidentally
 - ix. Implement retention, archive and deletion policy
 - x. Maintain reference data used in the system including amendment decision outcome descriptions
- 1.17 Inputs to and from the browser based drafting and amending tool
 - i. Export Scottish Bills to Scottish Word Bill Template (excluding tracked changes)

- ii. Export Scottish Amendment Lists to Scottish Word Amendment List Template
 - iii. Export UK Bills to FrameMaker, including ping pong documentation (correctly structured in Framemaker Bill books and their component files)
 - iv. Export UK Amendment Lists to FrameMaker, including ping pong documentation (correctly structured in the appropriate Framemaker amendment file)
 - v. Export SIs and SSIs into the SI/SSI Word Template (excluding tracked changes)
 - vi. Import and automatically refresh Scottish Members' names
 - vii. Import and automatically refresh Commons and Lords Members' names
 - viii. Send SI/SSIs to the Authority's publishing system
 - ix. Send Acts to the Authority's publishing system
 - x. Download XML of a Bill version
 - xi. Produce an API which will return a list of what documents and amendment lists that are newly available
 - xii. Produce an API which will return a published bill or portion of that Bill as XML
 - xiii. Produce an API which will return a published Amendment List as XML
 - xiv. Produce an API which will return a published amendment as XML
 - xv. Obtain a published SI/SSI as XML from the API
 - xvi. Import legislative documents and text from legislation.gov.uk's API
 - xvii. Produce an API which will assist in the search for specific legislative documents, returning either a list of matching documents or a single document depending on the specificity of the search criteria
 - xviii. Produce an API which will assist in the search for amendment lists, returning either a list of matching lists or a single list depending on the specificity of the search criteria
 - xix. Produce an API which will assist in the search for individual amendments, returning either a list of matching amendments or a single amendment depending on the specificity of the search criteria
 - xx. Import Members' Amendments from Lords Amendment System, sending a success message back to the Portal to confirm that the amendment was successfully delivered
- 1.18 Stability and usability features
- i. Validate insertion of elements according to the structural hierarchy defined in the catalogue of elements
 - ii. Produce help documentation and quick reference guides
 - iii. Use keyboard shortcuts to insert provisions and quoted structures into the editor
 - iv. Suggest the appropriate next element, based on context, from a limited selection of elements using the agreed catalogue of elements
 - v. Change view of the Editor, to Editor view only or Editor and structure view and allow user to change the size of the Structure view
 - vi. Keep a local copy of documents in the editor (bills, SIs, SSIs, amendment lists) to be restored in case of network interruption
 - vii. Work offline in an area with no internet access or in an area with intermittent internet access
 - viii. Highlight where the document has broken structural hierarchy validation rules according to the catalogue of elements

SCHEDULE 2.2

PERFORMANCE MONITORING AND SERVICE LEVELS

Performance Monitoring and Service Levels

1 **DEFINITIONS**

1.1 In this Schedule, the following definitions shall apply:

“Available”	has the meaning given in Paragraph 2 of Part II of Annex 1;
“Call”	Means an email, telephone call or other contact from an End User to the Supplier regarding Help Desk support;
“KPI Failure”	means a Minor KPI Failure, Serious KPI Failure, Severe KPI Failure, or below the KPI Service Threshold, as defined in Annex 1 of this Schedule;
“Non-Available”	Means in relation to the IT Environment and/or the Services, that the IT Environment and/or the Services are not Available;
“Performance Monitoring Report”	has the meaning given in Paragraph 1.1(a) of Part B;
“Performance Review Meeting”	a monthly meeting between the Supplier and the Authority to manage and review the Supplier's performance under this Agreement, as further described in Paragraph 1.5 of Part B;
“Repeat KPI Failure”	has the meaning given in Paragraph 2.1 of Part A;
“Service Availability”	has the meaning given in Paragraph 3 of Part II of Annex 1
“Services Downtime”	any period of time during which any or all of the Services are not Available;
“Service Incident”	a reported occurrence of a failure to deliver any part of the Services in accordance with the Authority Requirements or the Performance Indicators;
“Service Period”	a calendar month, save that: (a) the first service period shall begin on the Effective Date; (b) the final service period shall commence on the first day of the last calendar month in which the Term expires or terminates and shall

“Severity 1 Service Incident”

end on the expiry or termination of the Term;

a Service Incident which, in the reasonable opinion of the Authority:

- (a) constitutes a loss of the Service which prevents a large group of End Users from working;
- (b) has a critical impact on the activities of any of the Authority, Government Body or Bodies, Partner Organisation(s) and/or End Users;
- (c) causes significant financial loss and/or disruption to any of the Authority, Government Body or Bodies, Partner Organisation(s), and/or End Users; or
- (d) results in any material loss or corruption of Authority Data;

Non-exhaustive examples:

- a serious security breach; or
- a failure of Service to provide user authentication service;

“Severity 2 Service Incident”

a Service Incident which, in the reasonable opinion of the Authority has the potential to:

- (a) have a major (but not critical) adverse impact on the activities of any of the Authority, Government Body or Bodies, Partner Organisation(s) and/or End Users; and no workaround acceptable to the Authority and/or is available; or
- (b) cause a financial loss and/or disruption to any of the Authority, Government Body or Bodies, Partner Organisation(s) and/or End Users which is more than trivial but less severe than the significant financial loss described in the definition of a Severity 1 Service Failure;

Non-exhaustive examples:

- corruption of organisational database tables; or
- loss of ability to update Authority Data.

“Severity 3 Service Incident”

a Service Incident which, in the reasonable opinion of the Authority has the potential to:

- (a) have a major adverse impact on the activities of any of the Authority, Government Bodies, Partner Organisation(s) and/or End User(s) which can be reduced to a moderate adverse impact due to the availability of

	<p>a workaround acceptable to the Authority; or</p> <p>(b) have a moderate adverse impact on the activities of any of the Authority, Government Bodies, Partner Organisation(s) and/or End Users;</p> <p><i>Non-exhaustive example:</i></p> <ul style="list-style-type: none"> • inability to access data for a class of End Users;
“Severity 4 Service Incident”	<p>a Service Incident which, in the reasonable opinion of the Authority has the potential to have a minor adverse impact on the provision of the Services to End Users;</p> <p><i>Non-exhaustive example:</i></p> <ul style="list-style-type: none"> • inability to access data for a single End User; and
“Severity 5 Service Incident”	<p>a Service Incident comprising a flaw which is cosmetic and, as such, does not undermine the End User’s confidence in the information being displayed;</p> <p><i>Non-exhaustive examples:</i></p> <ul style="list-style-type: none"> • spelling error; or • misalignment of data on screen display.
“System Response Time”	<p>has the meaning given in Paragraph 2.1 of Part II of Annex 1;</p>

PART A: PERFORMANCE INDICATORS AND SERVICE CREDITS

1 PERFORMANCE INDICATORS

- 1.1 Annex 1 sets out the Key Performance Indicators which the Parties have agreed shall be used to measure the performance of the Services by the Supplier.
- 1.2 The Supplier shall monitor its performance against each Key Performance Indicator and shall send the Authority a report detailing the level of service actually achieved in accordance with Part B, along with the supporting evidence, or access to monitoring systems, sufficient that the Authority can independently verify performance against each Key Performance Indicator.
- 1.3 Service Points, and therefore Service Credits, shall accrue for any KPI Failure and shall be calculated in accordance with Paragraphs 2, 3 and 5 of this Schedule 2.2 (Performance Management).

2 SERVICE POINTS

- 2.1 If the level of performance of the Supplier during a Service Period achieves the Target Performance Level in respect of a Key Performance Indicator, no Service Points shall accrue to the Supplier in respect of that Key Performance Indicator.
- 2.2 If the level of performance of the Supplier during a Service Period is below the Target Performance Level in respect of a Key Performance Indicator, Service Points shall accrue to the Supplier in respect of that Key Performance Indicator as set out in Paragraph 2.3.
- 2.3 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure shall be the applicable number as set out in Annex 1 depending on whether the KPI Failure is a Minor KPI Failure, a Serious KPI Failure or a Severe KPI Failure, unless the KPI Failure is a Repeat KPI Failure when the provisions of Paragraph 3.2 shall apply.

3 REPEAT KPI FAILURES AND RELATED KPI FAILURES

Repeat KPI Failures

- 3.1 If a KPI Failure occurs in respect of the same Key Performance Indicator in any two consecutive Measurement Periods, the second and any subsequent such KPI Failure shall be a “**Repeat KPI Failure**”.
- 3.2 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure that is a Repeat KPI Failure shall be calculated as follows:

$$SP = P \times 2$$

where:

SP = the number of Service Points that shall accrue for the Repeat KPI Failure; and

P = the applicable number of Service Points for that KPI Failure as set out in Annex 1 depending on whether the Repeat KPI Failure is a Minor KPI Failure, a Serious KPI Failure, a Severe KPI Failure or a failure to meet the KPI Service Threshold.

3.3 Worked example based on the following Service Point regime for the Service Availability:

Service Availability Severity Levels	Service Points
Target Performance Level: 99%	0
Minor KPI Failure: 98.0% - 98.9%	1
Serious KPI Failure: 97.0% - 97.9%	2
Severe KPI Failure: 96.0 – 96.9%	3
KPI Service Threshold: below 96%	4

3.4 For example:

- (a) if the Supplier achieves Service Availability of 98.5% in a given Measurement Period, it will incur a Minor KPI Failure for Service Availability in that Measurement Period and accordingly accrue 1 Service Point. If in the next Measurement Period, it achieves a Service Availability of 96.5%, it will incur a Severe KPI Failure, and accordingly accrue 3 Service Points, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 6 Service Points for the failure (i.e. $SP = 3 \times 2$). If in the next Measurement Period it achieves a Service Availability of 96.5% the Supplier will again incur 6 Service Points;
- (b) If the Supplier achieves Service Availability of 96.5% in a given Measurement Period, it will incur a Severe KPI Failure for Service Availability in that Measurement Period and accordingly accrue 3 Service Points. If, in the next Measurement Period, it achieves a Service Availability of 95.8%, it will incur a Minor KPI Failure and accordingly accrue 1 Service Point, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 2 Service Points for the failure (i.e. $SP = 1 \times 2$). If in the next Measurement Period it achieves Service Availability of 96.5%, the Supplier will incur 6 Service Points.

4 PERMITTED MAINTENANCE

4.1 The Supplier shall be allowed to book a maximum of 1 hour Service Downtime for

Permitted Maintenance in any one Service Period which shall take place between the hours and on the day specified in the Maintenance Schedule unless otherwise agreed in writing with the Authority.

- 4.2 The Authority shall exclude Service Downtime for Permitted Maintenance when assessing the Supplier's performance against the Key Performance Indicators.

5 SERVICE CREDITS

- 5.1 Schedule 7.1 (Charges and Invoicing) sets out the mechanism by which Service Points shall be converted into Service Credits.
- 5.2 The Authority shall use the Performance Monitoring Reports provided pursuant to Part B, among other things, to verify the calculation and accuracy of the Service Credits (if any) to each Service Period.

PART B: PERFORMANCE MONITORING

1 PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 1.1 Within 10 Working Days of the end of each Service Period, the Supplier shall provide:
- (a) a report to the Authority Representative which summarises the performance by the Supplier against each of the Key Performance Indicators as more particularly described in Paragraph 6.2 (the **“Performance Monitoring Report”**); and
 - (b) a report to the Authority Representative which summarises the Supplier’s performance over the relevant Service Period as more particularly described on Paragraph 1.3 (the **“Balanced Scorecard Report”**).

Performance Monitoring Report

- 1.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and contain, as a minimum, the following information:

Information in respect of the Service Period just ended

- (a) for each Key Performance Indicator, the actual performance achieved over the Service Period, and that achieved over the previous 3 Measurement Periods;
- (b) a summary of all KPI Failures that occurred during the Service Period;
- (c) the severity level of each KPI Failure which occurred during the Service Period and whether each KPI Failure which occurred during the Service Period fell below the KPI Service Threshold;
- (d) which KPI Failures remain outstanding and progress in resolving them;
- (e) for any Material KPI Failures occurring during the Service Period, the cause of the relevant KPI Failure and the action being taken to reduce the likelihood of recurrence;
- (f) the status of any outstanding Rectification Plan processes, including:
 - (i) whether or not a Rectification Plan has been agreed; and
 - (ii) where a Rectification Plan has been agreed, a summary of the Supplier’s progress in implementing that Rectification Plan;
- (g) for any Repeat KPI Failure(s), actions taken and actions to be taken to resolve the underlying cause and prevent recurrence;
- (h) the number of Service Points awarded in respect of each KPI Failure;
- (i) the Service Credits to be applied, indicating the KPI Failure(s) to which the Service Credits relate;
- (j) the conduct and performance of any agreed periodic tests that have occurred, such as the annual failover test in the BCDR Plan;
- (k) relevant particulars of any aspect of the Supplier’s performance which fail to meet requirements of this Agreement;
- (l) such other details as the Authority may reasonably require from time to time; and

Information in respect of previous Service Periods

- (m) a rolling total of the number of Performance Failures that have occurred over the past six months;
- (n) the amount of Service Credits that have been incurred by the Supplier over the past six Service Periods;
- (o) the conduct and performance of any agreed periodic tests that have occurred such as the annual failover test of the BCDR Plan; and

Information in respect of the next Quarter

- (p) any scheduled Service Downtime for Permitted Maintenance and Updates that has been agreed between the Authority and the Supplier for the next Quarter.

Balanced Scorecard Report

- 1.3 The Balanced Scorecard Report, as a minimum, shall contain a high level summary of the Supplier's performance, over the relevant Service Period, including details of the following:
- (a) Financial indicators, in relation to payments and charges under this Agreement;
 - (b) Financial indicators relating to cloud hosting costs;
 - (c) A snapshot of KPI achievement;
 - (d) Service Points and Service Credits accrued in the relevant month, and year to date;
 - (e) Metrics covering the Availability of the Services;
 - (f) Matrix covering the key skills needed to deliver the Services, mapped to the number of staff available in that key area of competence.
- 1.4 The Performance Monitoring Report and Balanced Scorecard Report shall be reviewed and their contents agreed by the Parties at the next Performance Review Meeting held in accordance with Paragraph 1.5.
- 1.5 The Parties shall discuss (unless otherwise agreed) the Performance Monitoring Reports on a monthly basis. The Performance Review Meetings shall (unless otherwise agreed):
- (a) take place within 5 Working Days of the Performance Monitoring Report being issued by the Supplier, or as otherwise agreed with and approved by the Authority;
 - (b) take place at such location and time as the Authority shall reasonably require; and
 - (c) be attended, either physically or remotely as agreed, by the Supplier Representative and the Authority Representative.
- 1.6 The Authority shall be entitled to raise any additional questions and/or request any further information from the Supplier regarding any KPI Failure.

2 PERFORMANCE RECORDS

- 2.1 The Supplier shall keep appropriate documents and records (including User Support Service records, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received etc.) in relation to the Services being delivered. Without prejudice to the generality of the foregoing, the Supplier shall maintain accurate records of call histories for a minimum of 12 calendar months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Supplier shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.
- 2.2 In addition to the requirement in Paragraph 2.1 to maintain appropriate documents and records, the Supplier shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Supplier and the calculations of the amount of Service Credits for any specified period.
- 2.3 The Supplier shall ensure that the Performance Monitoring Report and any variations or amendments thereto, any reports and summaries produced in accordance with this Schedule and any other document or record reasonably required by the Authority are available to the Authority on-line and are capable of being printed.

3 PERFORMANCE VERIFICATION

- 3.1 The Authority reserves the right to verify the Availability of the IT Environment and/or the Services and the Supplier's performance under this Agreement against the Performance Indicators including by sending test transactions through the IT Environment or otherwise.

PART C: APPLICATION

1 APPLICATION OF KEY PERFORMANCE INDICATORS

- 1.1 None of the Supplier's obligations under this Schedule shall apply until the Achievement of Milestone CD1.
- 1.2 The Supplier's obligations in Part B of this Schedule shall apply to the KPIs set out in the following table during the periods specified in column "relevant period" in relation to those KPIs:

KPIs	Relevant Period
1 (Development Quality)	From the Achievement of Milestone CD1 until the Achievement of Milestone DE4, and During any period during which the Supplier is carrying out Optional Service Development
10 (Reporting)	From the Achievement of Milestone CD1 until the end of Term
8 (Software patching) 9 (Security breach)	From the Achievement of Milestone DE2 until the end of Term
2 (Service Availability - Total) 3 (Service Availability – concurrent hours of outage)	From the Achievement of Milestone DE2 until the end of Term
4A & 4B (Incident Response Times) 5 (Fix Times for critical incidents (severity 1-2)) 6 (Fix times for non-critical incidents (severity 3-4)) 7 (Fix times for minor incidents)	From the Achievement of Milestone DE3 until the end of Term

- 1.3 Despite Part A of this Schedule, Service Points shall only accrue in relation to the KPIs set out in the following table during the periods specified in column "relevant period" in relation to those KPIs:

KPIs	Relevant Period
1 (Development Quality)	From the Achievement of Milestone DE1 until the Achievement of Milestone DE4, and During any period during which the Supplier is carrying out Optional Service Development
10 (Reporting)	From the Achievement of Milestone CD1 until the end of Term

8 (Software patching) 9 (Security breach)	From the Achievement of Milestone DE2 until the end of Term
2 (Service Availability - Total) 3 (Service Availability – concurrent hours of outage)	From the Achievement of Milestone DE3 until the end of Term
4A & 4B (Incident Response Times) 5 (Fix Times for critical incidents (severity 1-2)) 6 (Fix times for non-critical incidents (severity 3-4)) 7 (Fix times for minor incidents)	From the Achievement of Milestone DE4 until the end of Term

ANNEX 1: KEY PERFORMANCE INDICATORS

PART I: KEY PERFORMANCE INDICATORS

1 SERVICES

The Key Performance Indicators that shall apply to the Services are set out below:

KEY PERFORMANCE INDICATORS (KPIs)					
No	KPI Title Indicator Title	Definition <i>(fuller definition in Part II)</i>	Frequency of measurement (Measurement Period)	Target Levels	Service points
DEVELOPMENT					
KPI 1	Development quality	This represents the number of User Stories that meet their acceptance criteria by the end of the Sprint as a proportion of the number of stories in that Sprint.	per Sprint	Target Performance Level: 90–100% Minor KPI Failure: 80.0%-89.9% Serious KPI Failure: 70.0%-79.9% Severe KPI Failure: 60.0%-69.9% KPI Service Threshold: below 60%	0 1 2 3 4
SERVICE MANAGEMENT AND MAINTENANCE					
KPI 2	Service Availability (Total)	System up time, measured as a percentage of the total time in each Service Period.	Monthly	Target Performance Level: 99.9–100% Minor KPI Failure: 98.0% - 99.8% Serious KPI Failure: 97.0% - 97.9% Severe KPI Failure: 96.0% - 96.9% KPI Service Threshold: below 96%	0 1 2 3 4
KPI 3	Service Availability (concurrent hours of outage)	System up time, measured according to concurrent hours of unarranged outage in each service period during Core Support Hours.	Monthly	Target Performance Level: 0-0.5 hours Minor KPI Failure: 0.5-1 hours Serious KPI Failure: 1-2 hours Severe KPI Failure: 2 - 3 hours KPI Service Threshold: above 3 hours	0 1 2 3 4

KEY PERFORMANCE INDICATORS (KPIs)					
No	KPI Title Indicator Title	Definition <i>(fuller definition in Part II)</i>	Frequency of measurement (Measurement Period)	Target Levels	Service points
KPI 4A	Incident Response Times (Core Support Hours)	It is the measurement from the time an incident record is created during Core Support Hours, either by the End User or by the User Support Service, until the time that the End User and is advised their problem has been received and is being addressed.	Monthly	Target Performance Level: less than 0.5 hours Minor KPI Failure: 0.5 -1 hour Serious KPI Failure: 1 - 2 hours Severe KPI Failure: 2 - 3 hours KPI Service Threshold: above 3 hours	0 1 2 3 4
KPI 4B	Incident Response Times (Out of Hours Support Period)	It is the measurement from the time an incident record is created during the Out of Hours Support Period, either by the End User or by the User Support Service, until the time that the End User and is advised their problem has been received and is being addressed.	Monthly	Target performance level: less than 1 hour Minor KPI Failure: 1 – 2 hours Serious KPI Failure: 2 – 3 hours Severe KPI Failure: 3 – 4 hours KPI Service Threshold: over 4 hours	0 1 2 3 4
KPI 5	Fix Times for critical incidents (Severity 1 & 2 Service Incidents)	The time from when a Severity 1 or 2 Service Incident is received by the Supplier to the time that a resolution or work-around is agreed with and approved by the Authority.	Monthly	Target Performance Level: 0.5 hours Minor KPI Failure: 0.5 - 1 hour Serious KPI Failure: 1 - 2 hours Severe KPI Failure: 2 - 3 hours KPI Service Threshold: above 3 hours	0 1 2 3 4

KEY PERFORMANCE INDICATORS (KPIs)					
No	KPI Title Indicator Title	Definition <i>(fuller definition in Part II)</i>	Frequency of measurement (Measurement Period)	Target Levels	Service points
KPI 6	Fix times for non-critical incidents (Severity 3 & 4 Service Incidents)	The time from when a Severity 3 or 4 Service Incident is received to the time of the satisfactory resolution or work-around as agreed by the Authority.	Monthly	Target Performance Level: 8 hrs Minor KPI Failure: 8 -16 hrs Serious KPI Failure: 16 - 24 hrs Severe KPI Failure: 24 - 28 hrs KPI Service Threshold: above 48 hrs	0 1 2 3 4
KPI 7	Fix times for minor incidents (Severity 5 Service Incidents)	The time from when a Severity 5 Service Incident is received to the time of the satisfactory resolution or work-around as agreed by the Authority.	Monthly	Target Performance Level: 40 hrs Minor KPI Failure: 40 - 80 hrs Serious KPI Failure: 80 - 120 hrs Severe KPI Failure: 120 - 160 hrs KPI Service Threshold: above 160 hrs	0 1 2 3 4
KPI 8	Software patching	The number of patches to vulnerabilities in COTS components applied outside the following periods after their public release: Critical patches – 7 days Important patches – 30 days Other patches – 60 days	Monthly	Target Performance Level: 0 Minor KPI Failure: 1 - 2 Serious KPI Failure: 3 - 5 Severe KPI Failure: 6 - 10 KPI Service Threshold: more than 10	0 1 2 3 4
KPI 9	Security breach	The number of breaches of security and attempted breaches of security which are not: a) reported to the Authority within 2 working days following the breach or attempted breach, or b) remediated within 5 working days	Monthly	Target Performance Level: 0 Minor KPI Failure: 1 - 2 Serious KPI Failure: 3 - 5 Severe KPI Failure: 6 - 10 KPI Service Threshold: more than 10	0 1 2 3 4

KEY PERFORMANCE INDICATORS (KPIs)					
No	KPI Title Indicator Title	Definition <i>(fuller definition in Part II)</i>	Frequency of measurement (Measurement Period)	Target Levels	Service points
KPI 10	Reporting	The proportion of reports provided to the Authority at the frequency, and level of detail, as agreed between the Supplier and the Authority	Quarterly	Target Performance Level: 95 -100%	0
				Minor KPI Failure: 90 - 99.9%	1
				Serious KPI Failure: 85 - 89.9%	2
				Severe KPI Failure: 80 - 84.9%	3
				KPI Service Threshold: below 80%	4

PART II: DEFINITIONS AND METHODS OF MEASUREMENT

1 DEVELOPMENT QUALITY

- 1.1 A User Story is accepted when the Authority determines that it has met its acceptance criteria.
- 1.2 The Supplier shall monitor the number of User Stories that have met their acceptance criteria by the end of each Sprint and shall provide the results to the Authority in accordance with Part A of this Schedule.

2 AVAILABLE

- 2.1 The IT Environment and/or the Services shall be Available when:
- (a) End Users are able to access and utilise all the functions of the Services; and
 - (b) the Supplier System is able to process the Authority Data and to provide any required reports within the timescales set out in the Services Description (as measured on a 24 x 7 basis); and
 - (c) all applicable Key Performance Indicators other than Service Availability are above the KPI Service Threshold.

3 SERVICE AVAILABILITY

- 3.1 Service Availability shall be measured as a percentage of the total time in a Service Period, in accordance with the following formula:

$$\text{Service Availability \%} = \frac{(MP - SD) \times 100}{MP}$$

where:

MP = total number of minutes, excluding Permitted Maintenance, within the relevant Service Period; and

SD = total number of minutes of Service Downtime, excluding Permitted Maintenance, in the relevant Service Period.

- 3.2 When calculating Service Availability in accordance with this Paragraph 2
- (a) Service Downtime arising due to Permitted Maintenance that is carried out by the Supplier in accordance with Clause 9.4 (*Maintenance*) shall be subtracted from the total number of hours in the relevant Service Period; and
 - (b) Service Points shall accrue if:
 - (i) Any Service Downtime occurs as a result of Emergency Maintenance undertaken by the Supplier; or
 - (ii) Where maintenance undertaken by the Supplier exceeds 1 hour in any Service Period.

- 3.3 If the Supplier can demonstrate to the Authority's satisfaction that Services are Non-Available as a result of a failure on the part of the commodity cloud hosting infrastructure provider, that period of non-availability shall be excluded from the measurement of Service Availability for the purposes of KPI 3.

4 SERVICE AVAILABILITY (CONCURRENT HOURS OF OUTAGE)

- 4.1 The Supplier shall ensure that the Service is never unavailable for longer than 30 concurrent minutes during Working Hours.
- 4.2 The Service shall be Available when End Users are able to access and utilise all the functions of the Services.
- 4.3 The Supplier shall monitor the availability of the Service and shall provide the results to the Authority in accordance with Part A of this Schedule.

5 INCIDENT RESPONSE TIMES

- 5.1 The Supplier shall ensure that, within Core Support Hours, incidents receive a personal response within 30 minutes.
- 5.2 Incident response times shall be measured from the time an incident record is created, either by the user or by the User Support Service, until the time that the user is advised their problem has been received and is being addressed.
- 5.3 The Supplier shall monitor the incident response times and shall provide the results to the Authority in accordance with Part A of this Schedule.

6 USER SUPPORT SERVICE RESPONSE TIMES

- 6.1 Measurement of User Support Service response times will be based on the time take for a User Support Service operative to answer a Call. Calls receiving an automated response or placed into a queuing system shall be deemed not to have been answered.
- 6.2 The Supplier shall monitor the User Support Service response times and shall provide the results of such monitoring to the Authority in accordance with Part B of this Schedule.

7 FIX TIMES

- 7.1 The "Fix Time" of a Service Incident is the period from the time that the Service Incident has been reported to the Supplier to the point of its Resolution and "Resolution" means in relation to a Service Incident either:
- (a) the root cause of the Service Incident has been removed and the Services are being provided in accordance with the Services Description and Service Levels; or

- (b) the Authority has been provided with a workaround in relation to the Service Incident deemed acceptable by the Authority.

- 7.2 Fix Times for Severity 3 Service Incidents, Severity 4 Service Incidents and Severity 5 Service Incidents shall be measured in Australian Business Hours.
- 7.3 Fix times for Severity 1 Service Incidents and Severity 2 Service Incidents shall be measured 24x7.
- 7.4 For the purposes of calculating the Fix Time for an incident, any time the Supplier is waiting on requested input from the Authority is to be left out of account.
- 7.5 The Supplier shall measure Fix Times as part of its Service Management responsibilities and report periodically to the Authority on Fix Times as part of the Performance Monitoring Report.

SCHEDULE 2.3

STANDARDS

Standards

1 DEFINITIONS

1.1 In this Schedule, the following definition shall apply:

“Standards Hub” the Government’s open and transparent standards adoption process as documented at <http://standards.data.gov.uk/>.

2 GENERAL

2.1 Throughout the term of this Agreement, the Parties shall monitor and notify each other of any new, emergent or amended standards which could affect the Supplier’s provision, or the Authority’s receipt, of the Services. Any changes to the Standards, including the adoption of any such new, emergent or amended standard, shall be agreed in accordance with the Change Control Procedure.

2.2 Where a new, emergent or amended standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Supplier’s provision, or the Authority’s receipt, of the Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new, emergent or amended standard.

2.3 Where Standards referenced conflict with each other or with Good Industry Practice, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard(s) shall require the prior written agreement of the Authority and shall be implemented within an agreed timescale.

3 TECHNOLOGY AND DIGITAL SERVICES PRACTICE

3.1 The Supplier must comply, to the extent within its control and as approved by the Authority, with the Digital Service Standard as documented at <https://www.gov.uk/service-manual/service-standard>

3.2 The Supplier shall (when designing, implementing and delivering the Services) adopt the applicable elements of HM Government’s Technology Code of Practice as documented at <https://www.gov.uk/service-manual/technology/code-of-practice.html>.

4 OPEN DATA STANDARDS & STANDARDS HUB

4.1 The Supplier shall support the Authorities commitment to maintaining the LDAPP Service with a strong commitment to the use of Open Standards.

- 4.2 The Supplier shall comply to the extent within its control with UK Government's Open Standards Principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, as they relate to the specification of standards for software interoperability, data and document formats in the IT Environment.
- 4.3 The Supplier shall maintain the use of Open Standards for legislation documents within the LDAPP Service in XML using Akoma Ntoso (LegalDocML), and maintain the Service's data models and supporting documentation.
- 4.4 The Supplier shall document all SPIs within the LDAPP Service, including, in particular, any API accessible by external systems, using the Open API specification (<https://www.openapis.org/>) and ensure any future developments to the LDAPP Service API are consistent with the API design patterns determined by the Authority and as documented at <https://www.gov.uk/guidance/gds-api-technical-and-data-standards>.
- 4.5 Without prejudice to the generality of Paragraph 2, the Supplier shall, when implementing or updating a technical component or part of the Software or Supplier Solution where there is a requirement under this Agreement or opportunity to use a new or emergent standard, submit a Suggested Challenge compliant with the UK Government's Open Standards Principles (using the process detailed on Standards Hub and documented at <http://standards.data.gov.uk/>). Each Suggested Challenge submitted by the Supplier shall detail, subject to the security and confidentiality provisions in this Agreement, an illustration of such requirement or opportunity within the IT Environment, Supplier Solution and Government's IT infrastructure and the suggested open standard
- 4.6 The Supplier shall ensure that all documentation published on behalf of the Authority pursuant to this Agreement is provided in a non-proprietary format (such as PDF or Open Document Format (ISO 26300 or equivalent)) as well as any native file format documentation in accordance with the obligation under Paragraph 4.1 to comply with the UK Government's Open Standards Principles, unless the Authority otherwise agrees in writing.
- 4.7 The Supplier shall publish the LDAPP Service specific data models on GitHub, or other web-based hosting service of the Authority's choice.

5 TECHNOLOGY ARCHITECTURE STANDARDS

- 5.1 The Supplier shall produce full and detailed technical architecture documentation for the LDAPP Service in accordance with Good Industry Practice. If documentation exists that complies with TOGAF 9.1 or its equivalent, then this shall be deemed acceptable.

6 ACCESSIBLE DIGITAL STANDARDS

- 6.1 The Supplier shall comply with (or with equivalents to):
- (a) the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines (WCAG) 2.0 Conformance Level AA; and
 - (b) ISO/IEC 13066-1: 2011 Information Technology – Interoperability with assistive technology (AT) – Part 1: Requirements and recommendations for interoperability.

7 SERVICE MANAGEMENT SOFTWARE & STANDARDS

- 7.1 Subject to Paragraphs 2 to 4 (inclusive), the Supplier shall reference relevant industry and HM Government standards and best practice guidelines in the management of the LDAPP Service, including the following and/or their equivalents:
- (a) ISO/IEC 14764 “Software Engineering – Software Life-cycle Processes – Maintenance”
 - (b) ITIL v3 2011;
 - (c) ISO/IEC 20000-1 2011 “ITSM Specification for Service Management”;
 - (d) ISO/IEC 20000-2 2012 “ITSM Code of Practice for Service Management”;
 - (e) ISO 10007 “Quality management systems – Guidelines for configuration management”;
 - (f) ISO 9001 – Quality Management; and
 - (g) BS25999-1:2006 “Code of Practice for Business Continuity Management” and, ISO/IEC 27031:2011, ISO 22301 and ISO/IEC 24762:2008 in the provision of “IT Service Continuity Strategy” or “Disaster Recovery” plans.
- 7.2 For the purposes of management of the Services and delivery performance the Supplier shall make use of Software that complies with Good Industry Practice including availability, change, incident, knowledge, problem, release & deployment, request fulfilment, service asset and configuration, service catalogue, service level and service portfolio management.

8 ENVIRONMENTAL STANDARDS

- 8.1 The Supplier warrants that it has obtained ISO 14001 (or equivalent) certification for its environmental management and shall comply with and maintain certification requirements throughout the Term. The Supplier shall follow a sound environmental management policy, ensuring that any Goods and the Services are procured, produced, packaged, delivered, and are capable of being used and ultimately disposed of in ways appropriate to such standard.
- 8.2 The Supplier shall comply with relevant obligations under the Waste Electrical and Electronic Equipment Regulations 2006 in compliance with Directive 2002/96/EC and subsequent replacements (including those in compliance with Directive 2012/19/EU).

- 8.3 The Supplier shall (when designing, procuring, implementing and delivering the Service) ensure compliance with Article 6 and Annex III of the Energy Efficiency Directive 2012/27/EU and subsequent replacements.
- 8.4 The Supplier shall comply with the EU Code of Conduct on Data Centres' Energy Efficiency. The Supplier shall ensure that any data centre used in delivering the Services are registered as a Participant under such Code of Conduct.
- 8.5 The Supplier shall comply with the Authority and HM Government's objectives to reduce waste and meet the aims of the Greening Government: IT strategy contained in the document "Greening Government: ICT Strategy issue (March 2011)" at <https://www.gov.uk/government/publications/greening-government-ict-strategy>.

9 HARDWARE SAFETY STANDARDS

- 9.1 The Supplier shall comply with those BS or equivalent standards relevant to the provision of the Services, including the following or their equivalents:
- (a) any new hardware required for the delivery of the Services (including printers), shall conform to BS EN 60950-1:2006+A12:2011 or subsequent replacements. In considering where to site any such hardware, the Supplier shall consider the future working user environment and shall position the hardware sympathetically, wherever possible;
 - (b) any new audio, video and similar electronic apparatus required for the delivery of the Services, shall conform to the following standard: BS EN 60065:2002+A12:2011 or any subsequent replacements;
 - (c) any new laser printers or scanners using lasers, required for the delivery of the Services, shall conform to either of the following safety Standards: BS EN 60825-1:2007 or any subsequent replacements ; and
 - (d) any new apparatus for connection to any telecommunication network, and required for the delivery of the Services, shall conform to the following safety Standard: BS EN 41003:2009 or any subsequent replacements.
- 9.2 Where required to do so as part of the Services, the Supplier shall perform electrical safety checks in relation to all equipment supplied under this Agreement in accordance with the relevant health and safety regulations.

SCHEDULE 2.4

SECURITY MANAGEMENT

1 Definitions

1.1 In this Schedule, the following definitions shall apply:

"LDAPP Risk Management Documentation"	has the meaning given in Paragraph 6.3;
"LDAPP Information Management System"	means the Core Information Management System and the Wider Information Management System;
"Accreditation"	the assessment of the Core Information Management System in accordance with Paragraph 6 by the Authority or an independent information risk manager/professional appointed by the Authority, which results in an Accreditation Decision;
"Accreditation Decision"	is the decision of the Authority, taken in accordance with the process set out in Paragraph 6, to issue the Supplier with a Risk Management Approval Statement or a Risk Management Rejection Notice in respect of the Core Information Management System;
"Accreditation Plan"	the Supplier's plan to attain an Accreditation Approval Statement from the Authority, which is prepared by the Supplier and approved by the Authority in accordance with Paragraph 6.4.1;
"Breach of Security"	<p>the occurrence of:</p> <ul style="list-style-type: none">any unauthorised access to or use of the Services, the Authority Premises, the Sites, the Supplier System, the Authority System and/or any information or data (including the Confidential Information and the Authority Data) used by the Authority, the Supplier or any Sub-contractor in connection with this Agreement;the loss (physical or otherwise) and/or unauthorised disclosure of any information or data (including the Confidential Information and the Authority Data), including copies of such information or data, used by the Authority, the Supplier or any Sub-contractor in connection with this Agreement; and/orany part of the Supplier System ceasing to be compliant with the Certification Requirements,

	in each case as more particularly set out in the security requirements in Schedule 2.1 (<i>Services Description</i>) and the Baseline Security Requirements;
"Certification Requirements"	the requirements set out in Paragraph 7;
"Core Information Management System"	those information assets, ICT systems and/or Sites which will be used by the Supplier and/or its Sub-contractors to Process Authority Data, together with the associated information management system (including organisational structure, controls, policies, practices, procedures, processes and resources, which the Authority has determined in accordance with Paragraph 6 shall be subject to Accreditation;
"Personal Data"	has the meaning given in the Data Protection Legislation;
"Personal Data Breach"	has the meaning given in the Data Protection Legislation;
"Personal Data Processing Statement"	sets out: <ul style="list-style-type: none"> the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; the categories of Data Subjects whose Personal Data the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, the Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach, which shall be prepared by the Supplier in accordance with paragraph 6.4 of this Schedule and included in the LDAPP Risk Management Documentation;
"Process Authority Data"	any operation which is performed on Authority Data, whether or not by automated means, including adapting, altering, collecting, combining, copying, destroying, erasing, organising, publishing retrieving, storing, structuring, transmitting or otherwise using Authority Data;
"Required Changes Register"	is a register which forms part of the LDAPP Risk Management Documentation which records each of the changes that the Supplier has agreed with the Authority shall be made to the Core Information System and/or the LDAPP Risk

	Management Documentation as a consequence of the occurrence of any of the events set out in Paragraph 6.14.1 to 6.14.8 together with the date on which each such change shall be implemented and the date on which each such change was implemented;
"Risk Management Approval Statement"	a notice issued by the Authority which sets out the information risks associated with using the Core Information Management System and confirms that the Authority is satisfied that the identified risks have been adequately and appropriately addressed and that the residual risks are understood and accepted by the Authority;
"Risk Management Reject Notice"	has the meaning given in Paragraph 6.8.2;
"Security Test"	has the meaning given Paragraph 8.1;
"Statement of Information Risk Appetite"	has the meaning given in Paragraph 5.1;.
"Vulnerability Correction Plan"	has the meaning given in Paragraph 0.0.0(a); and
"Wider Information Management System"	those information assets, ICT systems and/or Sites which will be used by the Supplier and/or its Sub-contractors to Process Authority Data which have not been determined by the Authority to form part of the Core Information Management System together with the associated information management system (including organisational structure, controls, policies, practices, procedures, processes and resources.

2 Introduction

2.1 This Schedule sets out:

2.2 the principles which the Supplier shall comply with when performing its obligations under this Agreement in order to ensure the security of the Authority Data, the IT Environment, the Supplier Solution and the LDAPP Information Management System;

2.2.1 the process which shall apply to the Accreditation of the Core Information Management System in Paragraph 6;

2.2.2 the Certification Requirements applicable to the Wider Information Management System in Paragraph 7;

- 2.2.3 the Security Tests which the Supplier shall conduct during the Term in Paragraph 8;
- 2.2.4 the Security Tests which the Authority may conduct during the Term in Paragraph 8.6;
- 2.2.5 the requirements to patch vulnerabilities in the Core Information Management System in Paragraph 9;
- 2.2.6 the obligations on the Supplier to prevent the introduction of Malicious Software into the LDAPP Information Management System and to scan for, contain the spread of, and minimise the impact of Malicious Software which is introduced into the LDAPP Information Management System in Paragraph 10; and
- 2.2.7 each Party's obligations in the event of an actual or attempted Breach of Security in Paragraph 11.

3 Principles of Security

- 3.1 The Supplier acknowledges that the Authority places great emphasis on the confidentiality, integrity and availability of the Authority Data and, consequently on the security of:
 - 3.1.1 the IT Environment;
 - 3.1.2 the Supplier Solution; and
 - 3.1.3 the LDAPP Information Management System.
- 3.2 Notwithstanding the involvement of the Authority in the Accreditation of the Core Information Management System, the Supplier shall be and shall remain responsible for:
 - 3.2.1 the security, confidentiality, integrity and availability of the Authority Data whilst that Authority Data is under the control of the Supplier or any of its Sub-contractors;
 - 3.2.2 the security of the Supplier Solution; and
 - 3.2.3 the security of the LDAPP Information Management System.
- 3.3 The Delivery Board shall, in addition to its responsibilities set out in Schedule 8.1 (Governance), monitor and may also provide recommendations to the Supplier on the Accreditation of the Core Information Management System.
- 3.4 Each Party shall provide access to members of its information assurance personnel to facilitate the Supplier's design, implementation, operation,

management and continual improvement of the LDAPP Risk Management Documentation and the security of the Supplier Solution and LDAPP Information Management System and otherwise at reasonable times on reasonable notice.

4 LDAPP Information Management System

- 4.1 The LDAPP Information Management System comprises the Core Information Management System and the Wider Information Management System.
- 4.2 The Authority shall be responsible for determining the boundary between the Core Information Management System and the Wider Information Management System. In order to enable the Authority to make such determination, the Supplier shall provide the Authority with such documentation and information that the Authority may reasonably require regarding any information assets, ICT systems and/or Sites which will be used by the Supplier or any Sub-contractor to Process Authority Data together with the associated information management system (including organisational structure, controls, policies, practices, procedures, processes and resources). The Authority shall notify the Supplier, as soon as reasonably practical following the receipt of such documentation and information, of its decision regarding the component parts of the Core Information Management System and its boundary with the Wider Information Management System.
- 4.3 Any proposed change to the component parts of and/or boundary of the Core Information Management System shall be notified and processed in accordance with the Change Control Procedure.

5 Statement of Information Risk Appetite and Baseline Security Requirements

- 5.1 The Supplier acknowledges that the Authority has provided and the Supplier has received a statement of information risk appetite for the Supplier System and the Services (the "**Statement of Information Risk Appetite**").
- 5.2 The Authority's Baseline Security Requirements in respect of the Core Information Management System are set out in Annex 1.
- 5.3 The Statement of Information Risk Appetite and the Baseline Security Requirements shall inform the Accreditation of the Core Information Management System.

6 Accreditation of the Core Information Management System

- 6.1 The Core Information Management System shall be subject to Accreditation in accordance with this Paragraph 6.
- 6.2 The Accreditation shall be performed by the Authority or by representatives

appointed by the Authority.

- 6.3 By the end of the Concept Design phase as set out in Schedule 6.1 (*Implementation Plan*), the Supplier shall prepare and submit to the Authority the risk management documentation for the Core Information Management System, which shall comply with, and be subject to approval by the Authority in accordance with this Paragraph 6 (the "**LDAPP Risk Management Documentation**").
- 6.4 The LDAPP Risk Management Documentation shall be structured in accordance with the template as set out in Annex 3 and include:
- 6.4.1 the Accreditation Plan, which shall be approved by the Authority and shall include:
 - () the dates on which each subsequent iteration of the LDAPP Risk Management Documentation will be delivered to the Authority for review and staged approval; and
 - (a) the date by which the Supplier is required to have received a Risk Management Approval Statement from the Authority together with details of each of the tasks which must be completed by the Supplier, Milestones which must be Achieved and the Authority Responsibilities which must be completed in order for the Supplier to receive a Risk Management Approval Statement pursuant to Paragraph 6.7.1;
 - 6.4.2 a formal risk assessment of the Core Information Management System and a risk treatment plan for the Core Information Management System;
 - 6.4.3 a completed ISO 27001:2013 Statement of Applicability for the Core Information Management System; the process for managing any security risks from Sub-contractors and third parties authorised by the Authority with access to the Services, processes associated with the delivery of the Services, the Authority Premises, the Sites, the Supplier System, the Authority System (to extent that it is under the control of the Supplier) and any IT, Information and data (including the Authority Confidential Information and the Authority Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Services;
 - 6.4.4 unless such requirement is waived by the Authority, proposed controls that will be implemented in respect of all aspects of the Services and all processes associated with the delivery of the Services, including the Authority Premises, the Sites, the Supplier System, the Authority System (to the extent that it is under the control of the Supplier) and any IT, Information and data (including the Authority Confidential Information and the Authority Data) to the extent used by the Authority or the Supplier in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;

- 6.4.5 the Required Changes Register;
 - 6.4.6 evidence that the Supplier and each applicable Sub-contractor is compliant with the Certification Requirements; and
 - 6.4.7 a Personal Data Processing Statement.
- 6.5 The Supplier shall ensure that the LDAPP Risk Management Documentation conforms to NCSC's risk management guidance: <https://www.ncsc.gov.uk/guidance/risk-management-and-risk-analysis-practice>
- 6.6 If the LDAPP Risk Management Documentation submitted to the Authority pursuant to Paragraph 6.3 (or Paragraph 6.10, as applicable) is approved by the Authority, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the LDAPP Risk Management Documentation is not approved by the Authority, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Parties shall use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 10 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the LDAPP Risk Management Documentation following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No approval to be given by the Authority pursuant to this Paragraph may be unreasonably withheld or delayed. However, any failure to approve the LDAPP Risk Management Documentation on the grounds that it does not comply with the requirements set out in Paragraph 6.4 shall be deemed to be reasonable.
- 6.7 To facilitate Accreditation of the Core Information Management System, the Supplier shall provide the Authority and its authorised representatives with:
- 6.7.1 access to the Sites, ICT information assets and ICT systems within the Core Information Management System on request or in accordance with the Accreditation Plan; and
 - 6.7.2 such other information and/or documentation that the Authority or its authorised representatives may reasonably require, to enable the Authority to establish that the Core Information Management System is compliant with the LDAPP Risk Management Documentation.
- 6.8 The Authority shall, by the relevant date set out in the Accreditation Plan, review the identified risks to the Core Information Management System and issue to the Supplier either:
- 6.8.1 a Risk Management Approval Statement which will then form part of the LDAPP Risk Management Documentation, confirming that the Authority

is satisfied that the identified risks to the Core Information Management System have been adequately and appropriately addressed and that the residual risks are understood and accepted by the Authority; or

- 6.8.2 a rejection notice stating that the Authority considers that the residual risks to the Core Information Management System have not been reduced to a level acceptable by the Authority and the reasons why ("**Risk Management Rejection Notice**").
- 6.9 If the Authority issues a Risk Management Rejection Notice, the Supplier shall, within 20 Working Days of the date of the Risk Management Rejection Notice:
 - 6.9.1 address all of the issues raised by the Authority in such notice; and
 - 6.9.2 notify the Authority that the Core Information Management System is ready for an Accreditation Decision.
- 6.10 If the Authority determines that the Supplier's actions taken pursuant to the Risk Management Rejection Notice have not reduced the residual risks to the Core Information Management System to an acceptable level and issues a further Risk Management Rejection Notice, the failure to receive a Risk Management Approval Statement shall constitute a material Default and the Authority may by terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 37.
- 6.11 The process set out in Paragraph 6.7 and Paragraph 6.9 shall be repeated until such time as the Authority issues a Risk Management Approval Statement to the Supplier or terminates this Agreement.
- 6.12 The Supplier acknowledges that it shall not be permitted to use the Core Information Management System to Process Authority Data prior to receiving a Risk Management Approval Statement.
- 6.13 The Supplier shall keep the Core Information Management System and LDAPP Risk Management Documentation under review and shall update the LDAPP Risk Management Documentation annually in accordance with this Paragraph and the Authority shall review the Accreditation Decision annually and following the occurrence of any of the events set out in Paragraph 6.14.
- 6.14 From the achievement of the Initial Deployment milestone (set out in Schedule 6.1 (*Implementation Plan*)) onwards, the Supplier shall notify the Authority within 2 Working Days after becoming aware of:
 - 6.14.1 a significant change to the components or architecture of the Core Information Management System;
 - 6.14.2 a new risk or vulnerability is identified to the components or architecture of the Core Information Management System;

- 6.14.3 a change in the threat profile;
- 6.14.4 a Sub-contractor failure to comply with the Core Information Management System code of connection;
- 6.14.5 a significant change to any risk component;
- 6.14.6 a significant change in the quantity of Personal Data held within the Core Information Management System;
- 6.14.7 a proposal to change any of the Sites from which any part of the Services are provided; and/or
- 6.14.8 an ISO27001 audit report produced in connection with the Certification Requirements indicates significant concerns,

and shall update the Required Changes Register and provide the updated Required Changes Register to the Authority for review and approval within 10 Working Days after the initial notification or such other timescale as may be agreed with the Authority.

- 6.15 If the Supplier fails to implement a change which is set out in the Required Changes Register by the date agreed with the Authority, such failure shall constitute a material Default and the Supplier shall:
 - 6.15.1 immediately cease using the Core Information Management System to Process Authority Data until the Default is remedied, unless directed otherwise by the Authority in writing and then it may only continue to Process Authority Data in accordance with the Authority's written directions; and
 - 6.15.2 where such Default is capable of remedy, the Supplier shall remedy such Default within the timescales set by the Authority and, should the Supplier fail to remedy the Default within such timescales, the Authority may terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 37.
- 6.16 The Supplier shall review each Change Request against the LDAPP Risk Management Documentation to establish whether the documentation would need to be amended should such Change Request be agreed and, where a Change Request would require an amendment to the LDAPP Risk Management Documentation, the Supplier shall set out any proposed amendments to the documentation in the Impact Assessment associated with such Change Request for consideration and approval by the Authority.
- 6.17 The Supplier shall be solely responsible for the costs associated with developing and updating the LDAPP Risk Management Documentation and

carrying out any remedial action required by the Authority as part of the Accreditation process.

7 Certification Requirements

7.1 The Supplier shall ensure, at all times during the Term, that the Supplier and any Sub-contractor with access to Authority Data or who will Process Authority Data are certified as compliant with:

7.1.1 ISO/IEC 27001:2013 by a UKAS approved certification body or are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and shall provide the Authority with a copy of each such certificate of compliance before the Supplier or the relevant Sub-contractor (as applicable) shall be permitted to use the Core Information Management System to receive, store or Process any Authority Data. Any exceptions to the flow-down of the certification requirements to third party suppliers and sub-contractors must be agreed with the Authority.

7.2 The Supplier shall ensure, at all times during the Term, that the Supplier and each Sub-contractor who is responsible for the secure destruction of Authority Data:

7.2.1 securely destroys Authority Data only on Sites which are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013; and

7.2.2 are certified as compliant with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard or an alternative standard as agreed by the Authority.

7.3 The Supplier shall provide the Authority with evidence of its and its Sub-contractor's compliance with the requirements set out in this Paragraph before the Supplier or the relevant Sub-contractor (as applicable) shall be permitted to carry out the secure destruction of the Authority Data.

7.4 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier or any Sub-contractor ceases to be compliant with the Certification Requirements and, on request from the Authority, shall or shall procure that the relevant Sub-contractor shall:

7.4.1 immediately ceases using the Authority Data; and

7.4.2 procure that the relevant Sub-contractor promptly returns, destroys and/or erases the Authority Data in accordance with Baseline Security Requirements.

8 Security Testing

8.1 The Supplier shall, at its own cost and expense:

8.1.1 procure a CHECK IT Health Check of the Core Information Management System (an "**IT Health Check**") by a NCSC approved member of the CHECK Scheme:

- (a) prior to it submitting the LDAPP Risk Management Documentation to the Authority for an Accreditation Decision;
- (b) if directed to do so by the Authority; and
- (c) once every 12 months during the Term;

8.1.2 conduct vulnerability scanning and assessments of the Core Information Management System monthly;

8.1.3 conduct an assessment as soon as reasonably practicable following receipt by the Supplier or any of its Sub-contractors of a critical vulnerability alert from a Supplier of any software or other component of the Core Information Management System to determine whether the vulnerability affects the Core Information Management System; and

8.1.4 conduct such other tests as are required by:

- (a) any Vulnerability Correction Plans;
- (b) the ISO27001 certification requirements;
- (c) the LDAPP Risk Management Documentation; and
- (d) the Authority following a Breach of Security or a significant change to the components or architecture of the Core Information Management System,

(each a "**Security Test**").

8.2 The Supplier shall provide the Authority with the results of such Security Tests (in a form approved by the Authority in advance) as soon as practicable after completion of each Security Test.

8.3 In relation to each IT Health Check, the Supplier shall:

8.3.1 agree with the Authority the aim and scope of the IT Health Check;

8.3.2 promptly, following receipt of each IT Health Check report, provide the Authority with a copy of the IT Health Check report;

8.3.3 in the event that the IT Health Check report identifies any vulnerabilities, the Supplier shall:

- (a) prepare a remedial plan for approval by the Authority (each a "**Vulnerability Correction Plan**") which sets out in respect of each vulnerability identified in the IT Health Check report:
 - (i) how the vulnerability will be remedied;

- (ii) the date by which the vulnerability will be remedied;
 - (iii) the tests which the Supplier shall perform or procure to be performed (which may, at the discretion of the Authority, include a further IT Health Check) to confirm that the vulnerability has been remedied;
 - (b) comply with the Vulnerability Correction Plan; and
 - (c) conduct such further Security Tests on the Core Information Management System as are required by the Vulnerability Correction Plan to confirm that the Vulnerability Correction Plan has been complied with.
- 8.4 The Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority. Subject to the Supplier complying with this Paragraph 8.4, if a Security Test causes a Performance Failure in a particular Measurement Period, the Supplier shall be granted relief in respect of such Performance Failure for that Measurement Period.
- 8.5 The Authority shall be entitled to send a representative to witness the conduct of the Security Tests. Without prejudice to the Supplier's obligations under Paragraph 8.3, the Supplier shall provide the Authority with the results of such Security Tests (in a form approved by the Authority in advance) as soon as practicable after completion of each Security Test.
- 8.6 The Authority and/or its authorised representatives shall be entitled, at any time and without giving notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the Service, the LDAPP Information System and/or the Supplier's compliance with the LDAPP Risk Management Documentation ("**Authority Security Tests**"). The Authority shall take reasonable steps to notify the Supplier prior to carrying out such Authority Security Test to the extent that it is reasonably practicable for it to do so taking into account the nature of the Authority Security Test.
- 8.7 The Authority shall notify the Supplier of the results of such Authority Security Tests after completion of each Authority Security Test.
- 8.8 The Authority Security Tests shall be designed and implemented so as to minimise their impact on the delivery of the Services. If an Authority Security Test causes a Performance Failure in a particular Measurement Period, the Supplier shall be granted relief in respect of such Performance Failure for that Measurement Period.
- 8.9 Without prejudice to the provisions of Paragraph 8.3.3, where any Security Test carried out pursuant to this Paragraph 8 reveals any 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 changes to the Core Information Management System and/or the LDAPP Risk Management Documentation (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Authority's prior written approval, the Supplier shall implement such changes to the Core Information Management System and/or the LDAPP Risk Management Documentation and repeat the relevant Security Tests in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible.

8.10 If the Authority unreasonably withholds its approval to the implementation of any changes proposed by the Supplier to the LDAPP Risk Management Documentation in accordance with Paragraph 8.8 above, the Supplier shall not be deemed to be in breach of this Agreement to the extent it can be shown that such breach:

8.10.1 has arisen as a direct result of the Authority unreasonably withholding its approval to the implementation of such proposed changes; and

8.10.2 would have been avoided had the Authority given its approval to the implementation of such proposed changes.

8.11 For the avoidance of doubt, where a change to the Core Information Management System and/or the LDAPP Risk Management Documentation is required to remedy non-compliance with the Risk Management Documentation, the Baseline Security Requirements and/or any obligation in this Agreement, the Supplier shall effect such change at its own cost and expense.

8.12 If any repeat Security Test carried out pursuant to Paragraph 8.9 reveals an actual or potential Breach of Security or weakness exploiting the same root cause failure, such circumstance shall constitute a material Default and the Authority may terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 37.

8.13 The Supplier shall, by the anniversary of the Effective Date of each year during the Term, provide to the Authority a letter from its chief executive officer (or equivalent officer) confirming that having made due and careful enquiry:

8.13.1 the Supplier has in the previous year carried out all tests and has in place all procedures required in relation to security matters under this Agreement; and

8.13.2 the Supplier is confident that its security and risk mitigation procedures with respect to the Services remain effective.

9 Vulnerabilities and Corrective Action

9.1 The Authority and the Supplier acknowledge that from time to time

vulnerabilities in the LDAPP Information System will be discovered which unless mitigated will present an unacceptable risk to the Authority Data.

- 9.2 The severity of vulnerabilities for Supplier COTS Software and Third Party COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the LDAPP Risk Management Documentation and using the appropriate vulnerability scoring systems including:
 - 9.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST at <http://nvd.nist.gov/cvss.cfm>); and
 - 9.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 9.3 Subject to Paragraph 9.4, the Supplier shall procure the application of security patches to vulnerabilities in the Core Information Management System within:
 - 9.3.1 7 days after the public release of patches for those vulnerabilities categorised as 'Critical';
 - 9.3.2 30 days after the public release of patches for those vulnerabilities categorised as 'Important'; and
 - 9.3.3 60 days after the public release of patches for those vulnerabilities categorised as 'Other'.
- 9.4 The timescales for applying patches to vulnerabilities in the Core Information Management System set out in Paragraph 9.3 shall be extended where:
 - 9.4.1 the Supplier can demonstrate that a vulnerability in the Core Information Management System is not exploitable within the context of the Services (e.g. because it resides in a Software component which is not involved in running in the Services) provided such vulnerabilities shall be remedied by the Supplier within the timescales set out in Paragraph 9.3 if the vulnerability becomes exploitable within the context of the Services;
 - 9.4.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Authority; or
 - 9.4.3 the Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the LDAPP Risk Management Documentation.

- 9.5 The LDAPP Risk Management Documentation shall include provisions for major version upgrades of all Supplier COTS Software and Third Party COTS Software to be kept up to date such that all Supplier COTS Software and Third Party COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Authority in writing.
- 9.6 The Supplier shall:
- 9.6.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by NCSC, or any other competent Central Government Body;
 - 9.6.2 promptly notify NCSC of any actual or sustained attempted Breach of Security;
 - 9.6.3 ensure that the Core Information Management System is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
 - 9.6.4 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the Core Information Management System by actively monitoring the threat landscape during the Term;
 - 9.6.5 pro-actively scan the Core Information Management System for vulnerable components and address discovered vulnerabilities through the processes described in the LDAPP Risk Management Documentation;
 - 9.6.6 from the date specified in the Accreditation Plan and within 5 Working Days of the end of each subsequent month during the Term, provide the Authority with a written report which details both patched and outstanding vulnerabilities in the Core Information Management System, the elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report and any failure to comply with the timescales set out in Paragraph 9.3 for applying patches to vulnerabilities in the Core Information Management System;
 - 9.6.7 propose interim mitigation measures to vulnerabilities in the Core Information Management System known to be exploitable where a security patch is not immediately available;
 - 9.6.8 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the Core Information Management System); and
 - 9.6.9 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 Core Information Management System and provide initial indications of possible mitigations.

- 9.7 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 10, the Supplier shall immediately notify the Authority.
- 9.8 If the Supplier fails to patch vulnerabilities in the Core Information Management System in accordance with Paragraph 9.3, such failure shall constitute a material Default and the Authority may by terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 37.

10 Malicious Software

- 10.1 Notwithstanding Clauses 24.13 to 24.15, the Supplier shall install and maintain anti-Malicious Software or procure that anti-Malicious Software is installed and maintained on any part of the LDAPP Information Management System which may Process Authority Data and ensure that such anti-Malicious Software is configured to perform automatic software and definition updates as well as regular scans of the LDAPP Information Management System to check for, prevent the introduction of Malicious Software or where Malicious Software has been introduced into the LDAPP Information Management System, to identify, contain the spread of, and minimise the impact of Malicious Software.
- 10.2 If Malicious Software is found, the Parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.
- 10.3 any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 10.2 shall be borne by the Parties as follows:
- 10.3.1 by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Authority has waived the obligation set out in Clause 24.13) or the Authority Data (whilst the Authority Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority when provided to the Supplier; and
- 10.3.2 otherwise by the Authority.

11 Breach of Security

- 11.1 If either Party becomes aware of a Breach of Security or an attempted Breach of Security it shall notify the other in accordance with the security incident management process as set out in the LDAPP Risk Management Documentation.
- 11.2 The security incident management process set out in the LDAPP Risk Management Documentation shall, as a minimum, require the Supplier upon becoming aware of a Breach of Security or an attempted Breach of Security to:
- 11.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Authority which shall be completed within such timescales as the Authority may reasonably require) necessary to:
- (a) minimise the extent of actual or potential harm caused by such Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the LDAPP Information System against any such potential or attempted Breach of Security;
 - (c) apply a tested mitigation against any such Breach of Security or potential or attempted Breach of Security and, provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to deliver the Services so as to meet any Performance Indicator, the Supplier shall be granted relief against the failure to meet such affected Performance Indicator for such period as the Authority, acting reasonably, may specify by written notice to the Supplier; and
 - (d) prevent a further Breach of Security or attempted Breach of Security in the future exploiting the same root cause failure;
- 11.2.2 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 of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Authority.
- 11.3 In the event that any action is taken in response to a Breach of Security or attempted Breach of Security which occurred as a result of non-compliance of the LDAPP Information System and/or the LDAPP Risk Management Documentation with the Baseline Security Requirements and/or this Agreement, then such action and any required change to the LDAPP Information System and/or LDAPP Risk Management Documentation shall be completed by the Supplier at no cost to the Authority.
- 11.4 If the Supplier fails to comply with its obligations set out in this Paragraph 11, such failure shall constitute a material Default, which if not remedied to the satisfaction of the Authority, shall permit the Authority to terminate this Agreement with immediate effect by issuing a Termination Notice to the Supplier in accordance with Clause 37.

12 Data Processing, Storage, Management and Destruction

- 12.1 In addition to the obligations on the Supplier set out Clause 27 (Protection of Personal Data) in respect of Processing Personal Data and compliance with the DPA, the Supplier shall:
 - 12.1.1 Process Authority Data only at the Sites and such Sites must not located in a Restricted Country except where the Authority has given its consent to a transfer of the Authority Data to such Restricted Country in accordance with Clause 27;
 - 12.1.2 on demand, provide the Authority with all Authority Data in an agreed open format;
 - 12.1.3 have documented processes to guarantee availability of Authority Data in the event of the Supplier ceasing to trade;
 - 12.1.4 securely erase any or all Authority Data held by the Supplier when requested to do so by the Authority; and
 - 12.1.5 securely destroy all media that has held Authority Data at the end of life of that media in accordance with any specific requirements in this Agreement and, in the absence of any such requirements, as directed by the Authority.

Annex 1: Baseline Security Requirements **Text Redacted**

Annex 2: Not used

Annex 3: LDAPP Risk Management Documentation Template
(Template contained in separate Word document)

Author:

Owner:

Date:

Version:

EXECUTIVE SUMMARY

<This section should contain a brief summary of the business context of the system, any key IA controls, the assurance work done, any off-shoring considerations and any significant residual risks that need acceptance.>

Change History

Version Number	Date of Change	Change made by	Nature and reason for change

References, Links and Dependencies

This document is dependent on the supporting information and assurance provided by the following documents.

ID	Document Title	Reference	Date
1.			
2.			
3.			

SYSTEM DESCRIPTION

Background

< A short description of the project/product/system. Describe its purpose, functionality, aim and scope.>

Organisational Ownership/Structure

< Who owns the system and operates the system and the organisational governance structure. This should include how any ongoing security management is integrated into the project governance e.g. how a Security Working Group reports to the project board.>

Information assets and flows

<The information assets processed by the system which should include a simple high level diagram on one page. Include a list of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc.>

System Architecture

<A description of the physical system architecture, to include the system management. A diagram will be needed here.>

Users

<A brief description of the system users, to include HMG users as well as any service provider users and system managers. If relevant, security clearance level requirements should be included.>

Locations

<Where the data assets are stored and managed from. If any locations hold independent security certifications (e.g. ISO27001:2013) these should be noted. Any off-shoring considerations should be detailed.>

Test and Development Systems

<Include information about any test and development systems, their locations and whether they contain live system data.>

Key roles and responsibilities

<A brief description of the lead security roles such as that of the SIRO, IAO, Security manager, Accreditor.>

RISK ASSESSMENT

Accreditation/Assurance Scope

<This section describes the scope of the Accreditation/Assurance for the system. The scope of the assurance assessment should be clearly indicated, with components of the architecture upon which reliance is placed but assurance will not be done clearly shown e.g. a cloud hosting service. A logical diagram should be used along with a brief description of the components.>

Risk appetite

<A risk appetite should be agreed with the SIRO/SRO and included here.>

Business impact assessment

< A description of the information assets and the impact of their loss or corruption (e.g. large amounts of Official Sensitive personal data the loss of which would be severely damaging to individuals, embarrassing to HMG, and make HMG liable to ICO investigations) in business terms should be included. This section should cover the impact on loss of confidentiality, integrity and availability of the assets. The format of this assessment may be dependent on the risk assessment method chosen.>

Risk assessment

<The content of this section will depend on the risk assessment methodology chosen, but should contain the output of the formal information risk assessment in a prioritised list using business language. Experts on the system and business process should have been involved in the risk assessment to ensure the formal risk methodology used has not missed out any risks. The example table below should be used as the format to identify the risks and document the controls used to mitigate those risks.>

Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
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Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
R1	Internet attackers could hack the system.	Medium	The service systems are exposed to the internet via the web portal.	C1: Internet-facing firewalls C2: Internet-facing IP whitelist C3: System hardening C4: Protective monitoring C5: Application access control C16: Anti-virus for incoming files C54: Files deleted when processed C59: Removal of departmental identifier	Very low
R2	Remote attackers could intercept or disrupt information crossing the internet.	Medium	File sharing with organisations across the internet.	C9: TLS communications C10: PGP file-sharing	Very low
R3	Internal users could maliciously or accidentally alter bank details.	Medium-High	Users bank details can be altered as part of the normal business function.	C12. System administrators hold SC clearance. C13. All changes to user information are logged and audited. C14. Letters are automatically sent to users home addresses when bank details are altered. C15. Staff awareness training	Low

Controls

<The controls listed above to mitigate the risks identified should be detailed. There should be a description of each control, further information and configuration details where relevant, and an assessment of the implementation status of, and assurance in, the control. A sample layout is included below.>

ID	Control title	Control description	Further information and assurance status
C1	Internet- facing firewalls	Internet-facing firewalls are in place between the internet and the system', which restrict access from the internet to the required ports only.	Assured via ITHC firewall rule check
C2	Internet- facing IP whitelist	An IP whitelist is in place for all access from the internet.	Assured via ITHC
C15	Staff awareness training	All staff must undertake annual security awareness training and this process is audited and monitored by line managers.	Assured as part of ISO27001 certification

Residual risks and actions

<A summary of the residual risks which are likely to be above the risk appetite stated after all controls have been applied and verified should be listed with actions and timescales included.>

IN-SERVICE CONTROLS

<This section should describe the controls relating to the information lifecycle, including development, testing, in-service, termination and on-going risk management and accreditation assurance. Details of any formal assurance requirements specified in the contract such as security CHECK testing or maintained ISO27001 certification should be included. This section should include at least:

- a) information risk management and timescales and triggers for a review;*
- b) contractual patching requirements and timescales for the different priorities of patch;*
- c) protective monitoring arrangements to include how anomalous behaviour is identified and acted upon as well as how logging and auditing of user*

- activity is done;
- d) configuration and change management;
 - e) incident management;
 - f) vulnerability management;
 - g) user access management; and
 - h) data sanitisation and disposal.>

SECURITY OPERATING PROCEDURES (SYOPS)

<If needed any SyOps requirements should be included and referenced here.>

MAJOR HARDWARE AND SOFTWARE AND END OF SUPPORT DATES

<This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.>

Name	Version	End of mainstream Support/Extended Support	Notes/RAG Status
Server Host	HP XXXX	Feb 2020/ March 2022	

INCIDENT MANAGEMENT PROCESS

<The suppliers' process, as agreed with the Authority/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Authority/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.>

SECURITY REQUIREMENTS FOR USER ORGANISATIONS

<Any security requirements for connecting organisations or departments should be included or referenced here.>

REQUIRED CHANGES REGISTER

<The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.>

Ref	Section	Change	Agreed With	Date agreed	Documentation update	Status

PERSONAL DATA PROCESSING STATEMENT

<This should include: (i) the types of Personal Data which the Supplier and/or its Sub-contractors are Processing on behalf of the Authority; (ii) the categories of Data Subjects whose Personal Data the Supplier and/or its Sub- contractors are Processing on behalf of the Authority; the nature and purpose of such Processing; (iii) the locations at which the Supplier and/or its Subcontractors Process Authority Data; and, (iv) the Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect the Authority Data against a Security Breach including a Personal Data Breach.>

ISO27001 AND/OR CYBER ESSENTIAL PLUS CERTIFICATES

<Any certifications relied upon should have their certificates included>

Cloud Security Principles assessment

<A spreadsheet may be attached>

Protecting Bulk Data assessment if required by the Authority/Customer

<A spreadsheet may be attached>

Latest ITHC report and Vulnerability Correction Plan

SCHEDULE 2.5

INSURANCE REQUIREMENTS

Insurance Requirements

1 OBLIGATION TO MAINTAIN INSURANCES

- 1.1 Without prejudice to its obligations to the Authority under this Agreement, including its indemnity obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 and any other insurances as may be required by applicable Law (together the "Insurances"). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.
- 1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.
- 1.3 The Insurances shall be taken out and maintained with insurers who are:
- (a) of good financial standing;
 - (b) appropriately regulated; and
 - (c) except in the case of any Insurances provided by an Affiliate of the Supplier, of good repute in the international insurance market.
- 1.4 Where any Insurances are provided by an Affiliate of the Supplier, the Supplier shall provide to the Authority on the Effective Date (or inception of the relevant Insurances if later) and thereafter within 10 Working Days of written request from the Authority evidence of good financial standing of the relevant Affiliate in a form satisfactory to the Authority. In the absence of a Financial Distress Event, the Authority shall not make any such request more than annually.
- 1.5 The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Supplier is legally liable.

2 GENERAL OBLIGATIONS

- 2.1 Without limiting the other provisions of this Agreement, the Supplier shall:
- (a) take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - (b) promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - (c) hold all policies in respect of the Insurances and cause any insurance

broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3 FAILURE TO INSURE

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4 EVIDENCE OF INSURANCES

- 4.1 The Supplier shall upon the Effective Date and within 15 Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Supplier of any of its liabilities and obligations under this Agreement.

5 AGGREGATE LIMIT OF INDEMNITY

- 5.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":
- (a) if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall immediately submit to the Authority:
 - (i) details of the policy concerned; and
 - (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and
 - (b) if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Supplier shall:
 - (i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
 - (ii) if the Supplier is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times

the minimum limit of indemnity specified, immediately submit to the Authority full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

6 CANCELLATION

- 6.1 Subject to Paragraph 6.2, the Supplier shall notify the Authority in writing at least 5 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 Without prejudice to the Supplier's obligations under Paragraph 4, Paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

7 INSURANCE CLAIMS

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Agreement for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Services and/or this Agreement, the Supplier shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Authority is the claimant party, the Supplier shall give the Authority notice within 20 Working Days after any insurance claim in excess of [to be determined by the Authority relative to its contract management requirement] relating to or arising out of the provision of the Services or this Agreement on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Agreement or otherwise.

ANNEX 1: Required Insurances

PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1 Insured

- 1.1 The Supplier.

2 Interest

- 2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

- (a) death or bodily injury to or sickness, illness or disease contracted by any person; and
- (b) loss of or damage to property;

happening during the period of insurance (as specified in Paragraph 5.1) and arising out of or in connection with the provision of the Services and in connection with this Agreement.

3 Limit of indemnity

- 3.1 Not less than **Text Redacted** in respect of any one occurrence, the number of occurrences being unlimited, but **Text Redacted** in the aggregate per annum in respect of products and pollution liability.

4 Territorial limits

- 4.1 The World.

5 Period of insurance

- 5.1 From the date of this Agreement for the Term and renewable on an annual basis unless agreed otherwise by the Authority in writing.

6 Cover features and extensions

- 6.1 Indemnity to principals clause.

7 Principal exclusions

- (a) War and related perils.
- (b) Nuclear and radioactive risks.
- (c) Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.

- (d) Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- (e) Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- (f) Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- (g) Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- (h) Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

8 Maximum deductible threshold

- 8.1 Not to exceed £100,000 for each and every third party property damage claim (personal injury claims to be paid in full).

PART B: PROFESSIONAL INDEMNITY INSURANCE

1 Insured

- 1.1 The Supplier.

2 Interest

- 2.1 To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specified in paragraph 5.1) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

3 Limit of indemnity

- 3.1 Not less than **Text Redacted** in respect of any one claim and in the aggregate per annum, exclusive of defence costs which are payable in addition.

4 Territorial Limits

- 4.1 The World.

5 Period of insurance

- 5.1 From the date of this Agreement and renewable on an annual basis unless agreed otherwise by the Authority in writing (a) throughout the Term or until earlier termination of this Agreement and (b) for a period of 6 years thereafter.

6 Cover features and extensions

- 6.1 Retroactive cover to apply to any “claims made policy wording” in respect of this Agreement or retroactive date to be no later than the Effective Date.

7 Principal exclusions

- (a) War and related perils; and
- (b) Nuclear and radioactive risks

8 Maximum deductible threshold

- 8.1 Not to exceed **Text Redacted** for each and every claim.

PART C: UNITED KINGDOM COMPULSORY INSURANCES

- 1.1 The Supplier shall meet its insurance obligations under applicable Law in full, including, UK employers' liability insurance and motor third party liability insurance.

SCHEDULE 2.6

REPORTING

1 REPORTING

- 1.1 The Supplier shall report information to the Authority as required by the Authority.
- 1.2 From time to time the Authority may request the reporting of additional information, information in different formats, and/or information at different intervals.
- 1.3 The Authority may require amendments to the format in which the information is provided subject to giving the Supplier one month's notice, or as otherwise agreed.
- 1.4 Any report required under this Schedule shall be provided to the Authority within 10 working days of it becoming due (unless different provision is made elsewhere in this Agreement, in which case that provision shall apply).

2 STANDARD REPORTS

- 2.1 Unless otherwise approved by the Authority, the Supplier shall report the information specified in each of the following tables to the Authority.
- 2.2 The obligation to provide reports shall start from the date specified in the relevant table and the reports shall be provided thereafter at the frequency specified in the relevant table.
- 2.3 Where the Supplier provides a Service that enables the Authority to generate a report described below at the Authority's convenience (for example, via Jira), that will be treated as meeting its obligation under paragraph 2.1.

Title	Change Control Summary Report
Description	Information detailing all agreed variations to the Agreement.
Information to be included	<ul style="list-style-type: none">• Change Control Notes approved• Brief description of Change Control Notes• Date signed
Frequency	One year after the Start Date and annually thereafter
Start date	Effective Date

Title	Agile Development Report
Description	Information detailing progress of development
Information to be included	<ul style="list-style-type: none">• Burndown chart, showing story point completed against those outstanding in the current Sprint.• Velocity report – showing story points committed against those completed.• Epic, Release and/or Project Burndown – showing amount of work outstanding to complete the release and/or project.• System Test Report, Defects Log

Frequency	At the mid-point in each Sprint and at the end of each Sprint
Start date	Achievement of Milestone CD1

Title	Performance Monitoring Report
Description	Information detailing the Supplier's performance against the Key Performance Indicators over the relevant Service Period
Information to be included	<ul style="list-style-type: none"> The information set out in paragraph 1.2 of Part B of Schedule 2.2 (Performance Management)
Frequency	As provided for in Schedule 2.2
Start Date	Achievement of Milestone CD1

Title	Balanced Scorecard Report
Description	High level summary of the Supplier's performance
Information to be included	<ul style="list-style-type: none"> The information set out in paragraph 1.3 of Part B of Schedule 2.2 (Performance Management)
Frequency	As provided for in Schedule 2.2
Start Date	Achievement of Milestone CD1

Title	Usage and Performance Report
Description	Information showing how much the system is used and by whom
Information to be included	<p>System Usage & Trend Statistics:</p> <ul style="list-style-type: none"> Availability Levels of concurrent usage by number of End Users and body/ Partner Organisation Number of distinct End Users by body/Partner Organisation Responsiveness Server/load-balancer performance. Number of projects created in the last month including numbers of SIs and Bills Total number of projects in the system including numbers of SIs and Bills <p>Website Summary Statistics:</p> <ul style="list-style-type: none"> Volume of server traffic Volume of data stored
Frequency	At the end of each calendar month
Start Date	Achievement of Milestone DE2

Title	Live Service Information Report
Description	Information showing performance and problems identified with the Live Service.
Information to be included	<ul style="list-style-type: none"> Amount of time system unavailable Number of faults reported Date/time fault reported Person identifying fault (e.g. Authority/Supplier) Contact points for fault (Authority contact & Supplier contact) Nature of fault

	<ul style="list-style-type: none"> Severity of fault Reference number (Authority /Supplier) Date/time fault resolved Time taken to resolve fault Status/Action Officer for unresolved faults Comparison of resolution times against relevant KPI
Frequency	At the end of each calendar month
Start Date	Achievement of Milestone DE3

Title	Support Statistics
Description	Information showing service request and incident support activity
Information to be included	<ul style="list-style-type: none"> Number of support Calls received broken down by: enquiry type, Call method (including phone, email, website), and End User identified by body/Partner Organisation. Number of out-of-hours support requests, and any relevant charges. Number of support Calls resolved and pending. Time taken to resolve Calls.
Frequency	At the end of each calendar month
Start Date	Achievement of Milestone DE3

Title	IT Health Check Report
Description	Report of Supplier's IT Health Check
Information to be included	<ul style="list-style-type: none"> An executive overview of the Supplier's IT Health Check with business implications A summary of risks identified, ordered from high to low severity Technical details of each issue found Recommendations for remediating vulnerabilities Full listing of test results tables including background information/evidence to support results
Frequency	One year after the Start Date and annually thereafter
Start Date	Effective Date

Title	Financial Information
Description	Information on charges generated from the provision of Services
Information to be included	<ul style="list-style-type: none"> Hosting management charges incurred under the Agreement by month and year to date in respect of the Authority's financial year (April – March). Service Management charges incurred under the Agreement by month and year to date in respect of the Authority's financial year (April – March). Licence charges incurred under the Agreement by month and year to date in respect of the Authority's financial year (April – March). Development charges to the Authority split by Sprint, spend to date and forecast spend in respect of the Authority's financial year (April – March). Any other charges incurred under the Agreement by month and year

	to date. <ul style="list-style-type: none"> Relevant narrative/commentary to explain all figures provided as agreed between the Parties.
Frequency	At the end of each calendar month
Start Date	Effective Date

Title	Supplier's Annual Report
Description	Standing provision of Annual Reports
Information to be included	A copy of the Annual Report including full Audited Accounts of the Supplier provided no later than one month after the sign off of the accounts.
Frequency	Annual
Start Date	Effective Date

3 ADDITIONAL REPORTS

- 3.1 The Supplier must report such additional information held by the Supplier in relation to the Services as required by the Authority subject to one month's notice of such a requirement, or as otherwise agreed.

- 3.2 The Supplier must report such information as the Authority may request to support Exit Management.

SCHEDULE 3
AUTHORITY RESPONSIBILITIES

Authority Responsibilities

1 INTRODUCTION

- 1.1 The responsibilities specified within this Schedule shall be provided to the Supplier free of charge, unless otherwise agreed between the Parties.

2 GENERAL OBLIGATIONS

- 2.1 The Authority shall:

- (a) perform those obligations of the Authority which are set out in the Clauses of this Agreement and the Paragraphs of the Schedules (except Schedule 2.1 (*Services Description*) and Schedule 4.1 (*Supplier Solution*));
- (b) use its reasonable endeavours to provide the Supplier with access to appropriate members of the Authority's staff, as such access is reasonably requested by the Supplier in order for the Supplier to discharge its obligations throughout the Term and the Termination Assistance Period;
- (c) provide sufficient and suitably qualified staff to fulfil the Authority's roles and duties under this Agreement as defined in the Implementation Plan;
- (d) use its reasonable endeavours to provide such documentation, data and/or other information that the Supplier reasonably requests that is necessary to perform its obligations under the terms of this Agreement provided that such documentation, data and/or information is available to the Authority and is authorised for release by the Authority;
- (e) procure for the Supplier such agreed access and use of the Authority Premises (as a licensee only) and facilities (including relevant IT systems) as is reasonably required for the Supplier to comply with its obligations under this Agreement, such access to be provided during the Authority's normal working hours on each Working Day or as otherwise agreed by the Authority (such agreement not to be unreasonably withheld or delayed); and
- (f) provide such assistance as may be required in the Detailed Implementation Plan, once agreed.

SCHEDULE 4

SUPPLIER MATTERS

SCHEDULE 4.1

SUPPLIER SOLUTION

1 SUPPLIER SOLUTION FOR THE SERVICES

- 1.1 The Supplier Solution for delivering against the requirements in Schedule 2.1 (Services Description) is set out in this Schedule 4.1 (Supplier Solution).

2 THE LDAPP SERVICE

- 2.1 The Supplier Solution comprises of the component parts set out in Table A below.

- 2.2 Table A:

Component	Technology
XML authoring tool	Oxygen Web Author
Repository	TeraText DMS Document Version Manager
Workflow	TeraText DMS Workflow Enactment Service
Automatic amendment and consolidation tools	TeraText for Legislation amendment and consolidation tools
Cross-reference or link management tools	TeraText for Legislation cross-reference library
Print delivery	RenderX with XSL-FO and custom tools for inserting line numbering into XML.

- 2.3 Specifically, the Supplier Solution is to:

- (a) Configure a COTS web-based XML editor (Oxygen) to edit and display Akoma Ntoso legislation, amendments and motions, and augment it with the amendment automation capability that is provided through TeraText for Legislation using the native change-tracking in Oxygen. The Supplier shall ensure that the configuration addresses the requirements set out in Schedule 2.1 and meets the needs of End Users, to the satisfaction of the Authority. The Supplier shall undertake user testing as required by the Authority to ensure that the configuration of the tool addresses End Users' needs;
- (b) Use an XML document NoSQL database: TeraText Database System (DBS) for securely storing and searching XML and other documents;
- (c) Use an XML component version management system (TeraText Document Management System (DMS) to provide a version model

- able to support point in time access to documents and manage branched and threaded versioning, and provide a workflow management process automation platform;
- (d) Use the TeraText for Legislation suite to provide a set of tools to augment the TeraText DMS in order to:
 - (i) Automatically generate amendment wording from change-tracked substantive legislation;
 - (ii) Automatically consolidate legislation by applying amendments to Bills;
 - (iii) Manage and validate cross-referencing integrity and update cross-reference wording after a renumber as required;
 - (iv) Automatically turn reference text in the content of legislation into marked cross-references.
- (e) Use a versioned XML repository, the TeraText DMS Document Version Manager that delivers:
 - (i) Point in time search and retrieval of documents;
 - (ii) Independently versioning fragments as well as whole documents;
 - (iii) Data level security and access control;
 - (iv) Indexing and query support for cross-reference and link management;
 - (v) The ability to store all of the renditions of a particular version together.
- (f) Use RenderX with XSL-FO and custom tools for inserting line numbering into XML to support all the different document renderings. The Supplier shall ensure that its print delivery solution supports generating line numbers and page numbers and inserting line number and page number markup into the XML:
 - (i) The Supplier proposes providing two separate 2 CPU machines in production and testing with a single server in development.
 - (ii) The Supplier proposes using SVG Math or JEuclid, as agreed with and approved by the Authority, to render MathML to an image format.
 - (iii) The Supplier shall ensure that the PDF/A-1a is generated consistently with the web-optimised linearised PDF, as agreed with and approved by the Authority.

2.4 To support offline working, as required in Schedule 2.1 (Services Description), the Supplier Solution will:

- (a) Configure one or two standalone instances of the LDAPP Service and deploying them onto laptops or desktops, as agreed with and approved by the Authority. In this instance, licencing costs for TeraText products shall be provided by the Supplier at no additional cost though licences for third party software need to be agreed with and approved by the Authority prior to any costs being incurred;
- (b) Use the thick client tool with Oxygen and providing a small number of thick client licences at no additional cost to the Authority;
- (c) The Supplier recognises and accepts that any offline solution shall be

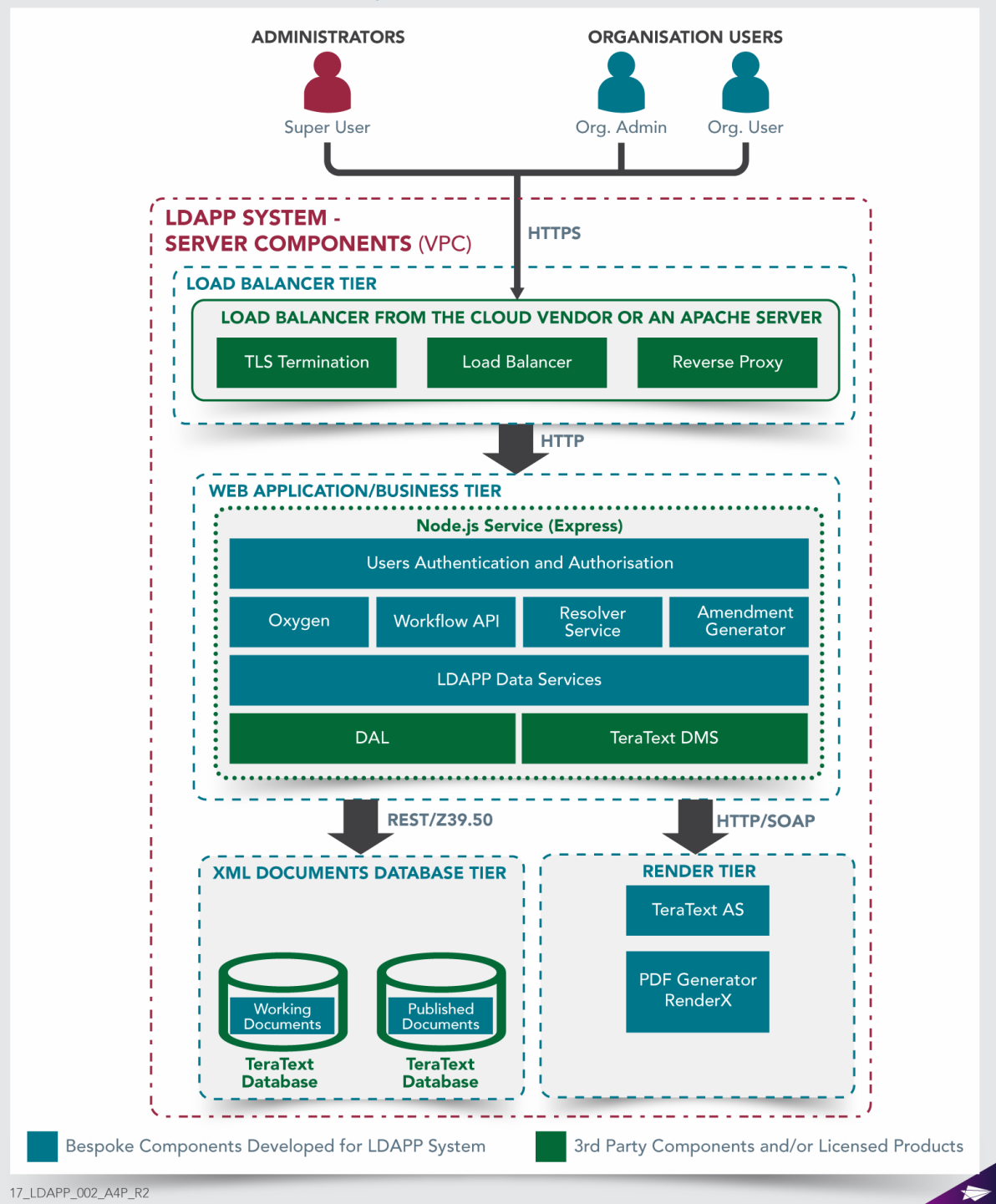
agreed with and approved by the Authority.

- 2.5 The Supplier Solution for the LDAPP Service shall be capable of running on most modern browsers including most mobile devices. The Supplier Solution includes re-skinning the TeraText for Legislation user interface for projects as agreed with and approved by the Authority. For the avoidance of doubt, the Supplier recognises and accepts that adherence to the provisions of this Paragraph 2.5 is a condition of this Agreement.
- 2.6 The Supplier recognises and accepts that the Supplier Solution may be subject to change, as agreed with and approved by the Authority.

The Supplier Solution system architecture

- 2.7 The Supplier Solution is based on functionality being accessed through standard web-browsers (including authoring of XML documents), supporting legislative and related documents as Akoma Ntoso XML and capable of being hosted in the cloud.
- 2.8 The Supplier Solution system architecture is set out in Table B:
- 2.9 Table B:

LDAPP SYSTEM - LOGICAL SERVER COMPONENTS DIAGRAM Option 2 - TeraText + Oxygen



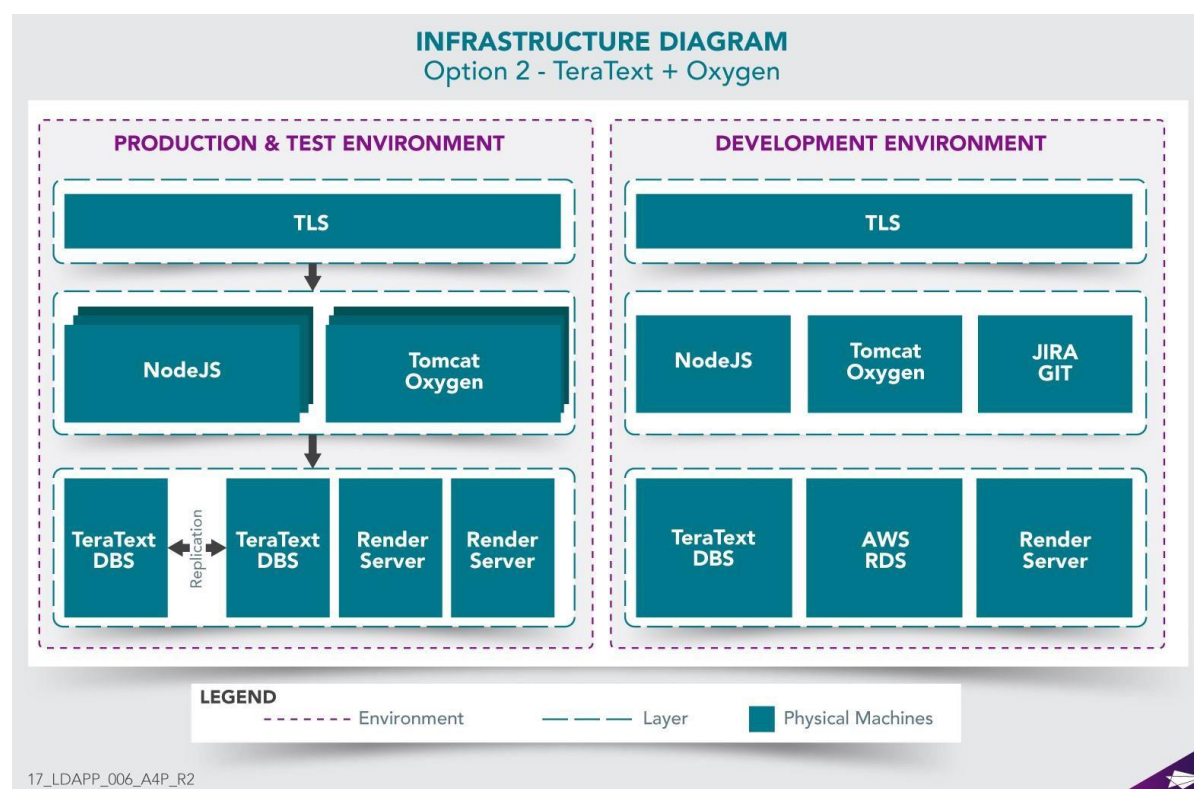
The Supplier Solution infrastructure

- 2.10 The Supplier Solution infrastructure assumes at least three sets of cloud services, one for production, one for testing and one for development.
- 2.11 The Supplier shall provide pairs of servers to provide redundancy and fail over support initially although, as agreed with and approved by the Authority, the Supplier

may temporarily retire the duplicates during periods of low usage or may increase duplication during periods of high load).

2.12 The Supplier Solution infrastructure is set out in Table C.

2.13 Table C:



2.14 For the Web UI infrastructure the Supplier's solution uses ReactJS and NodeJS and the development of RESTful APIs to functionality that changes documents or content.

Licences

2.15 The Supplier Solution uses some proprietary products, which will require licences. These licences shall be negotiated by the Supplier, the terms of which shall be as agreed with and approved by the Authority in advance.

2.16 The Supplier recognises and accepts that the Authority may elect to procure certain licences required for the LDAPP Service through a means other than this Agreement (for example via a Crown Commercial Service Framework).

2.17 The Supplier shall agree with the Authority the number of licences required per item of proprietary software, before costs are incurred.

2.18 The Supplier shall provide perpetual, irrevocable, non-exclusive licences for its TeraText software with an ongoing maintenance charge as set out in Schedule 7.1 (Charges and Invoicing).

- 2.19 RenderX XEP is a proprietary rendering engine and is licenced on a per CPU basis with related client licences. RenderX XEP licences are perpetual with annual support required for upgrades, patches and fixes. The Supplier shall negotiate licence costs for RenderX XEP, if used, as set out in Paragraph 2.15 and as set out in Schedule 7.1 (Charges and Invoicing).
- 2.20 The Supplier Solution uses open source tools and software including but not limited to React.js, Node.js, Apache Tomcat, SVGMath and JEuclid.
- 2.21 The Supplier shall also negotiate any development support tools licences that are required to support Agile processes, as agreed with and approved by the Authority and as set out in Schedule 7.1 (Charges and Invoicing).
- 2.22 The Supplier Solution includes offering additional flexible expansion of TeraText for Legislation servers at no cost to the Authority, assuming that no additional partners are added to the requirements, to enable the Supplier to ensure flexible expansion and contraction for peak loads to ensure responsiveness in the system without incurring additional cost.

Portability

- 2.23 The Supplier Solution involves developing and integrating the components of the LDAPP Service in a way that will minimise the risk and cost of component replacement after the end of the contract Term. This shall include, but is not limited to, the Supplier:
- (a) Performing the automatic amendment and consolidation on the server rather than the client to ensure that an alternative XML authoring tool only requires change tracking;
 - (b) Integrating the automated amendment functionality in a way that exposes and documents the API (for example by providing a Web Service Description Language (WSDL) description of the interface).
 - (c) Ensuring the current cross-reference library is exposed with a clean interface that can easily be provided as a distinct service if separation from the repository and/or workflow solution is required
 - (d) Ensuring the current amendment library is exposed with a clean interface that can easily be provided as a distinct service if separation from the repository and/or workflow solution is required.
- 2.24 The Supplier Solution for the LDAPP Service has the integration points set out in Table D.
- 2.25 Table D:

Source	Target	Integration Approach	Replacement complexity
XML authoring tool	repository (TeraText for Legislation authoring tool interface or DAL)	Leidos has adapted the current TeraText for Legislation SOAP interface to integrate Microsoft Word, WordPerfect, FrameMaker and XMetaL	Low
Web interface	repository and workflow (DAL TeraText for Legislation library)	<p>Documented API – migration would require implementing a DAL interface to the replacement repository and/or workflow solution.</p> <p>Workflows for TeraText DMS are easily converted to and from BPMN so migration of existing process definitions to an alternative workflow solution is limited to integrating the tools to the new solution.</p>	<p>Medium</p> <p>Medium</p>
XML authoring tool and web user interface	cross- reference and link management tool (TeraText for Legislation cross-reference library)	Leidos will ensure the current cross-reference library is exposed with a clean interface that can easily be provided as a distinct service if separation from the repository and/or workflow solution is required	Low
XML authoring tool and web user interface	amendment tool (TeraText for Legislation amendment library)	Leidos will ensure the current amendment library is exposed with a clean interface that can easily be provided as a distinct service if separation from the repository and/or workflow solution is required	Low

API	repository	The standard TeraText for Legislation configuration uses a Published Document Repository (PDR) [distinct from the work in progress repository] and publish web interface to manage publication to the electronic delivery solution. The API will be developed as a custom SOAP/RESTful interface to that repository. Change of repository will probably require re-implementation of much of that interface.	Medium
Web user interface	print delivery	The current TeraText for Legislation print delivery manager is configurable to place XML and job task metadata in a watched directory or to call the rendering engine from the command line – replacement of rendering engine simply requires configuration of the task description metadata for the particular engine (although some changes to the XSLT and generated XSL-FO and configuration of the MathML solution will likely be required.	Medium

3 HOSTING AND INFRASTRUCTURE MANAGEMENT

- 3.1 The Supplier will manage the cloud server deployment engaged by the Authority. The architecture of the cloud services to be managed by the Supplier will be outlined in detail in the Cloud Service Architecture deliverable which will:
- include development (including source code repository and ticket recording infrastructure), testing and production environments;
 - provide redundancy and elasticity in line with the Business Continuity and Disaster Recovery Plan (BCDRP) and the Risk Management Plan;
 - delay the deployment of full redundancy required for production deployment to minimise license and cloud costs in accordance with that documentation.
- 3.2 The Supplier will manage the cloud-based infrastructure based on the Information Technology Infrastructure Library (ITIL) practices for IT service management which is covered in more detail in section 4 (Service Management) below.

- 3.3 The more limited service deployment and less rigorous uptime requirements during the initial Minimum Viable Product support period are reflected in more modest charges for this service. Once the Live Product has been deployed (Milestone DE4), the mode will revert to operational support mode which involves elastically expanding and contracting those services (up to the limits of any COTS licensing restrictions).
- 3.4 The Supplier will configure those services that are restricted by licensing or costs to the maximum available under the relevant license. For those services (including TeraText-based services) that allow for elastic expansion and contraction, the Supplier will configure the appropriate instances and demand-driven activation to ensure the system responds to peak demand but does not end up deploying redundant servers incurring unnecessary cost.
- 3.5 For the development environments, it is assumed that replication for load balancing and redundancy is not required but, in order to test correct functioning of elasticity before production deployment, some replication is necessary in the Test environment (however only one server of each type will likely be running most of the time except when specifically conducting tests that require the replication to be present). This should significantly reduce the cost of cloud services by limiting the number of servers active.
- 3.6 The Supplier will monitor and manage the cloud services to ensure availability of the LDAPP services but also manage optimising the server deployment to manage the cloud service costs. The precise tools will include:
- tools to provision cloud server instances based on templates created by the Supplier or the cloud provider;
 - monitoring the cloud resources and applications running on those services to track up-time and performance, monitor log files, set alarms and automated reactions to changes in the resources; and
 - manage regular backups and activate and de-activate services.

4 SERVICE MANAGEMENT

- 4.1 Continual Service Improvement (CSI) will be a core part of the Supplier's service management approach. The Supplier has an established Continuous Improvement Programme to improve the effectiveness and quality of services that they deliver to their customers. This programme is based on capturing opportunities for improvement to processes, people and tools. Through the application of a well-defined and approved CSI process the Supplier will ensure ongoing identification and implementation of efficiencies over the life of this Agreement. The CSI process will be embedded within the Service Management Plan prior to commencement of the support services (Milestone SU1).
- 4.2 After commencement of the support services, the Supplier's recommendations for improvement will be captured from the following main activities:
- (a) User submission of JIRA tickets with ideas for improvements;
 - (b) Per Sprint reviews with users and developers to prioritise back log;

- (c) Regular Product Reviews and Lessons Learnt to coincide with travel every 6 months to UK for face to face sessions;
- (d) ITIL Maturity Assessments to be conducted annually;
- (e) The Supplier's internal quality audit reports;
- (f) Actions arising from other programme and management meetings; and
- (g) Other ad hoc suggestions provided to the LDAPP team.

4.3 These activities will form the inputs to the CSI Register (a subset of the JIRA repository that the Supplier will maintain) and the Supplier's effective CSI process. The Supplier will adopt the following ISO 20000 Plan-Do-Check-Act (PDCA) aligned methodology to identify and implement CSI improvements which will be documented in the Service Management Plan:

Plan: The plan stage of the CSI process initiatives are; recognise improvement, plan and propose CSI for approval, (initiatives will be identified through a number of methods as outlined above);

Do: Following approval of the CSI initiatives this stage covers the implementation of the CSI initiatives. The implementation is either as a standard service development request using the agreed RFC process, or as a process change within the LDAPP team or both;

Check: This stage monitors and evaluates the implementation of the change to identify if the change has achieved its planned economy and efficiencies. Through testing reviews and analysis this stage will derive and document learnings from the change.

Act: At this stage the LDAPP support team will gather data for input to a future Plan phase. This data may come from lessons learnt activities or analysis of the outcomes of implemented efficiencies, which then provides opportunities to feedback into the CSI Register, which will be visible to the LDAPP team via JIRA in the development environment.

4.4 The model for continuous improvement is aligned to the ITIL V3 lifecycle and will be utilised:

- at the commencement of a new improvement project;
- when developing a new or improved design of a process, product or new service;
- defining a repetitive work process or procedure; and
- when planning data collection and analysis in order to verify and prioritise problems or root causes.

5 **USER SUPPORT SERVICE**

5.1 The User Support Service for the Supplier Solution will be provided in different ways after the initial MVP deployment (Scottish Bills) and after the subsequent UK Bills and Live product deployments.

Deployment	Support approach
Initial Release (DE2)	UK LDAPP project team will provide first level support services to users. Issues in the initial deployment may be related to usage and

Deployment	Support approach
	<p>training so the UK team will be able to manage the issue and determine if it requires additional support.</p> <p>Second level support will be provided to the LDAPP Project team by the Supplier's development team during Australian Business Hours and priorities will be agreed by both teams.</p> <p>Critical issues can be referred to the Australian development team either during Australian Business Support hours or as an out of hours support request for additional action should it be required. Dedicated on call staff will not be allocated at this time.</p>
Subsequent Releases (DE3)	<p>The Supplier will provide first level User Support Services during normal business hours via a local UK phone or Jira with 1 local trained support person.</p> <p>Priorities will be agreed between the LDAPP project team and the Supplier's development team.</p> <p>Second level support services will be provided by the Australian support team during Australian Business hours.</p> <p>For less urgent issues, a ticket will be lodged for the Australian team to deal with during their business hours. In many cases this will lead to a resolution available the next morning for UK users.</p> <p>Critical issues can be referred to the Supplier's Australian development team either during Australian Business Support hours or as an out of hours support request for additional action should it be required. Dedicated on call staff will not be allocated at this time.</p>
Further Releases (DE4)	<p>The Supplier will provide first level User Support Services during Core Support Hours via a local UK phone or Jira ticket with 2 local trained support staff.</p> <p>Second level support services will be provided by the Australian support team during Australian Business Hours and on-call Australian support staff during non-Australian Business hours.</p> <p>For less urgent issues, a ticket will be lodged for the Australian team to deal with during their business hours. In many cases this will lead to a resolution available the next morning for UK users</p>

SCHEDULE 4.2
COMMERCIALLY SENSITIVE INFORMATION

Commercially Sensitive Information Text Redacted

SCHEDULE 4.3

NOTIFIED KEY SUB-CONTRACTORS

NOTIFIED KEY SUB-CONTRACTORS

- 1 In accordance with Clause 15.7 (Appointment of Key Sub-contractors), the Supplier is entitled to sub-contract its obligations under this Agreement to the Key Sub-contractors listed in the table below.
- 2 The Parties agree that they will update this Schedule periodically to record any Key Sub-contractors appointed by the Supplier with the consent of the Authority after the Effective Date for the purposes of the delivery of the Services.

Key Sub-contractor name and address (if not the same as the registered office)	Registered office and company number	Related product/Service description	Key Sub-contract price expressed as a percentage of total projected Charges over the Term	Key role in delivery of the Services	Credit Rating Threshold
					[Level 1]

SCHEDULE 4.4

THIRD PARTY CONTRACTS

THIRD PARTY CONTRACTS

- 1 The contracts listed in the table below constitute Third Party Contracts entered into exclusively for the purposes of delivering the Services.
- 2 The Supplier shall be entitled to update this Schedule in accordance with Clause 15.5 (Appointment of Sub-contractors).

Third party supplier name and address (if not the same as the registered office)	Registered office and company number	Related product/service description

SCHEDULE 5

SOFTWARE

Software

1 THE SOFTWARE

1.1 The Software used for the purposes of the delivery of the Services as described in Schedule 2 (Service Requirements) and in accordance with Clauses 17 (Intellectual Property Rights), 18 (Transfer and Licences Granted by the Supplier) and Clauses 22 (Crown and Parliamentary Copyright).

1.2 The Parties agree that they will update this Schedule periodically to record any Supplier Software or Third Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.

Software	Product Code	Supplier (if an Affiliate of the Supplier)	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)
TeraText DBS development licence	TT-DBS-DEV	Leidos Pty Ltd	–Text Redacted	1	Text Redacted	1	COTS
TeraText DMS development licence	TT-DMS-DEV	Leidos Pty Ltd	Text Redacted	1	Text Redacted	1	COTS
TeraText DBS base licence	TT-DBS-BAS	Leidos Pty Ltd	Text Redacted	1	Text Redacted	1	COTS
TeraText DMS base licence	TT-DMS-BAS	Leidos Pty Ltd	Text Redacted	1	Text Redacted	1	COTS
TeraText DBS CPU licence	TT-DBS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS
TeraText DMS CPU licence	TT-DMS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS
TeraText DBS CPU licence	TT-DBS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS

Software	Product Code	Supplier (if an Affiliate of the Supplier)	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)
TeraText DMS CPU licence	TT-DMS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS
TeraText DBS CPU licence	TT-DBS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS
TeraText DMS CPU licence	TT-DMS-CPU10	Leidos Pty Ltd	Text Redacted	6	Text Redacted	6	COTS

TeraText DBS base annual support	TT-DBS-SUP-BAS	Leidos Pty Ltd	Text Redacted	1	Text Redacted	1	COTS
TeraText DMS base annual support	TT-DMS-SUP-BAS	Leidos Pty Ltd	Text Redacted	1	Text Redacted	1	COTS
TeraText DBS CPU annual support	TT-DBS-SUP-CPU10	Leidos Pty Ltd	Text Redacted	12	Text Redacted	12	COTS
TeraText DMS CPU annual support	TT-DMS-SUP-CPU10	Leidos Pty Ltd	Text Redacted	12	Text Redacted	12	COTS

2 THIRD PARTY SOFTWARE

2.1 The Third Party Software shall include the following items:

Third Party Software	Product Code	Supplier	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)
Oxygen XML Editor 20 Professional Floating with 2 years Support & Maintenance Pack(SMP)	oxy-pmf2	oXygen	Text Redacted	3	Text Redacted	3	COTS
RenderX VisualXSL License (10 Pack)	RX-VXSL-10	RenderX	Text Redacted	10	Text Redacted	1	COTS
RenderX XEP 4x Desktop License (10 Pack)	RX-XEP4-DTP-10	RenderX	Text Redacted	10	Text Redacted	1	COTS
Oxygen XML Web Author 12-month Subscription Business	wat-pfs25	oXygen	Text Redacted	25	Text Redacted	1	COTS
RenderX XEP 4x Server Virtual-Core License	RX-XEP4-VIRT	RenderX	Text Redacted	1	Text Redacted	1	COTS
RenderX XEP 4x Server Virtual-Core License (Test/QA/Dev)	RX-XEP4-VIRT-DEV	RenderX	Text Redacted	2	Text Redacted	2	COTS
Oxygen XML Web Author 12-month Subscription Corporate	wat-pfs100	oXygen	Text Redacted	100	Text Redacted	1	COTS

Third Party Software	Product Code	Supplier	Purpose	Number of Licences	Restrictions	Number of Copies	Type (COTS or Non-COTS)
RenderX XEP 4x Server Virtual-Core License	RX-XEP4-VIRT	RenderX	Text Redacted	1	Text Redacted	1	COTS
RenderX XEP 4x Server Virtual-Core License (Test/QA/Dev)	RX-XEP4-VIRT-DEV	RenderX	Text Redacted	3	Text Redacted	3	COTS
Oxygen XML Web Author 12-month Subscription Corporate Plus	wat-pfs1000	oXygen	Text Redacted	1000	Text Redacted	1	COTS
RenderX XEP 4x Server Virtual-Core License	RX-XEP4-VIRT	RenderX	Text Redacted	2	Text Redacted	2	COTS

1 year Support & Maintenance Pack(SMP) Renewal for Oxygen XML Editor Professional Floating	oxy-mpf	oXygen	Text Redacted	1	Text Redacted	1	COTS
Oxygen XML Web Author 12-month Subscription Corporate Plus	wat-pfs1000	oXygen	Text Redacted	1000	Text Redacted	1	COTS
RenderX Extended Support Agreement	RX-MAINT	RenderX	Text Redacted	1	Text Redacted	1	COTS

**ANNEX 1: FORM OF LETTER RE SUB-LICENSING OF SUPPLIER COTS SOFTWARE
AND SUPPLIER COTS BACKGROUND IPRS**

SUPPLIER LETTERHEAD]

[*INSERT AUTHORITY
NAME AND ADDRESS*]

[*DATE*]

Dear Sirs

**LICENCES FOR SUPPLIER COTS SOFTWARE AND SUPPLIER COTS BACKGROUND
IPRs**

We refer to the agreement between us dated [*insert date*] in respect of [*brief summary of subject of the Agreement*] (the “Agreement”). Capitalised expressions used in this letter have the same meanings as in the Agreement.

In accordance with Clause 17.3(b) of the Agreement we confirm that:

the Authority is licensed by the Supplier to use the Supplier COTS Software and Supplier COTS Background IPRs identified in the first column of the Appendix to this letter (the “Appendix”) on the terms of the licences identified in the second column of the Appendix (the “Licences”); and

notwithstanding any provision to the contrary in the Licences, it is agreed that the Authority may sub-license, assign and novate the Supplier COTS Software and Supplier COTS Background IPRs as referred to in Clause 17.3(b) of the Agreement.

Yours faithfully,

SIGNED:

ON BEHALF OF [*NAME OF THE SUPPLIER*]

ANNEX 2: FORM OF CONFIDENTIALITY UNDERTAKING

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [**date**] 20

BETWEEN:

- (1) [**insert name**] of [**insert address**] (the “**Sub-licensee**”); and
- (2) [**insert name**] of [**insert address**] (the “**Supplier**” and together with the Supplier, the “**Parties**”).

WHEREAS:

- (A) [*insert name of Authority*] (the “**Authority**”) and the Supplier are party to a contract dated [*insert date*] (the “**Contract**”) for the provision by the Supplier of [*insert brief description of services*] to the Authority.
- (B) The Authority wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Authority pursuant to the Contract (the “**Sub-licence**”).
- (C) It is a requirement of the Contract that, before the Authority grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Agreement to protect the Confidential Information of the Supplier.

IT IS AGREED as follows:

1. Interpretation

1.1 In this Agreement, unless the context otherwise requires:

“Confidential Information” means:

(a) Information, including all personal data within the meaning of the Data Protection Act 1998, and however it is conveyed, provided by the Authority to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:

(i) the Supplier; or

- (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Authority pursuant to or in connection with the Sub-licence;
- (c) other Information provided by the Authority pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and
- (d) Information derived from any of the above,
- (e) but not including any Information that:
 - i. was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Authority;
 - ii. the Sub-licensee obtained on a non-confidential basis from a third party who is not, to the Sub-licensee's knowledge or belief, bound by a confidentiality agreement with the Supplier or otherwise prohibited from disclosing the information to the Sub-licensee;

- iii. was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
- iv. was independently developed without access to the Confidential Information;

“Information” means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

“Sub-licence” has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

- (a) a reference to any gender includes a reference to other genders;
- (b) the singular includes the plural and vice versa;
- (c) the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- (d) references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- (e) headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- (f) references to Clauses are to clauses of this Agreement.

2. Confidentiality Obligations

1.1 In consideration of the Authority entering into the Sub-licence, the Sub-licensee shall:

- (a) treat all Confidential Information as secret and confidential;
- (b) have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);

- (c) not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;
- (d) not transfer any of the Confidential Information outside the United Kingdom;
- (e) not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- (f) immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- (g) upon the expiry or termination of the Sub-licence:
 - (i) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - (ii) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and
 - (iii) make no further use of any Confidential Information.

3. Permitted Disclosures

3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:

- (a) reasonably need to receive the Confidential Information in connection with the Sub-licence; and
- (b) have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
- (c) have agreed to terms similar to those in this Agreement.

3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.

3.3 Before making a disclosure pursuant to Clause 3.2, the Sub-licensee shall, if the circumstances permit:

- (a) notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
- (b) ask the court or other public body to treat the Confidential Information as confidential.

4. General

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- (a) to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
 - (b) to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - (c) as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.
- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub-licensee to the Supplier for any breach of this Agreement shall be limited to **Text Redacted**
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 4.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

5. Notices

5.1 Any notice to be given under this Agreement (each a "Notice") shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

5.2 Any Notice:

(i) if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. "The Finance Director"]

(ii) if to be given to the Sub-licensee shall be sent to:

[Name] of [Organisation]
[Address]

Attention: []

6. Governing law

6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of [name of Supplier]

Signature:

Date:

Name:

Position:

For and on behalf of [*name of Sub-licensee*]

Signature:

Date:

Name:

Position:

SCHEDULE 6
IMPLEMENTATION AND TESTING

SCHEDULE 6.1
IMPLEMENTATION PLAN

Implementation Plan

1 INTRODUCTION

- 1.1 This Schedule:
- (a) defines the process for the preparation and implementation of the Outline Implementation Plan and Detailed Implementation Plan; and
 - (b) identifies the Milestones (and associated Deliverables) including estimated development costs where relevant.

2 OUTLINE IMPLEMENTATION PLAN

- 2.1 The Outline Implementation Plan is set out in Annex 1.
- 2.2 All changes to the Outline Implementation Plan shall be subject to the Change Control Procedure provided that the Supplier shall not attempt to postpone any of the Milestones using the Change Control Procedure or otherwise (except in accordance with Clause 35 (Authority Cause)).

3 APPROVAL OF THE DETAILED IMPLEMENTATION PLAN

- 3.1 The Supplier shall submit a draft of the Detailed Implementation Plan to the Authority for approval within 20 Working Days of the Effective Date.
- 3.2 The Supplier shall ensure that the draft Detailed Implementation Plan:
- (a) incorporates (as a minimum) all of the Milestones and Milestone Dates set out in the Outline Implementation Plan;
 - (b) includes the Supplier's proposed timescales in respect of the completion of any Testing to be undertaken in accordance with Schedule 6.2 (*Testing Procedures*) following for each of the Milestones;
 - (c) clearly outlines all the steps required to implement the Milestones to be achieved in the next 15 months, together with a high level plan for the rest of the programme, in conformity with the Authority Requirements;
 - (d) clearly outlines the required roles and responsibilities of both Parties, including staffing requirements; and
 - (e) is produced using a software tool as specified, or agreed by the Authority.
- 3.3 Prior to the submission of the draft Detailed Implementation Plan to the Authority in accordance with Paragraph 3.1, the Authority shall have the right:
- (a) to review any documentation produced by the Supplier in relation to the development of the Detailed Implementation Plan, including:
 - (i) details of the Supplier's intended approach to the Detailed Implementation Plan and its development;
 - (ii) copies of any drafts of the Detailed Implementation Plan

- produced by the Supplier; and
 - (iii) any other work in progress in relation to the Detailed Implementation Plan; and
- (b) to require the Supplier to include any reasonable changes or provisions in the Detailed Implementation Plan.

3.4 Following receipt of the draft Detailed Implementation Plan from the Supplier, the Authority shall:

- (a) review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable; and
- (b) notify the Supplier in writing that it approves or rejects the draft Detailed Implementation Plan no later than 20 Working Days after the date on which the draft Detailed Implementation Plan is first delivered to the Authority.

3.5 If the Authority rejects the draft Detailed Implementation Plan:

- (a) the Authority shall inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Detailed Implementation Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 3.4 and this Paragraph 3.5 shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3.6 If the Authority approves the draft Detailed Implementation Plan, it shall replace the Outline Implementation Plan from the date of the Authority's notice of approval.

4 UPDATES TO AND MAINTENANCE OF THE DETAILED IMPLEMENTATION PLAN

4.1 Following the approval of the Detailed Implementation Plan by the Authority:

- (a) the Supplier shall submit a revised Detailed Implementation Plan to the Authority every month starting 1 month from the date of the Authority's notice of approval;
- (b) without prejudice to Paragraph 4.1(a), the Authority shall be entitled to request a revised Detailed Implementation Plan at any time by giving written notice to the Supplier and the Supplier shall submit a draft revised Detailed Implementation Plan to the Authority within 20 Working Days of receiving such a request from the Authority (or such longer period as the Parties may agree provided that any failure to agree such longer period shall be referred to the Dispute Resolution Procedure);

- (c) any revised Detailed Implementation Plan shall (subject to Paragraph 4.2) be submitted by the Supplier for approval in accordance with the procedure set out in Paragraph 3; and
- (d) the Supplier's performance against the Implementation Plan shall be monitored at meetings of the Delivery Board (as defined in Schedule 8.1 (*Governance*)). In preparation for such meetings, the current Detailed Implementation Plan shall be provided by the Supplier to the Authority not less than 5 Working Days in advance of each meeting of the Delivery Board.

4.2 Save for any amendments which are of a type identified and notified by the Authority (at the Authority's discretion) to the Supplier in writing as not requiring approval, any material amendments to the Detailed Implementation Plan shall be subject to the Change Control Procedure provided that:

- (a) any amendments to elements of the Detailed Implementation Plan which are based on the contents of the Outline Implementation Plan shall be deemed to be material amendments; and
- (b) in no circumstances shall the Supplier be entitled to alter or request an alteration to any Milestone Date except in accordance with Clause 35 (*Authority Cause*).

4.3 Any proposed amendments to the Detailed Implementation Plan shall not come into force until they have been approved in writing by the Authority.

ANNEX 1: OUTLINE IMPLEMENTATION PLAN

Ref	Milestone	Description and Deliverables (<i>showing all Deliverables (and associated tasks) required for each Milestone</i>)	Duration	Milestone Date	Authority Responsibilities (<i>if applicable</i>)	Estimated development costs to achieve milestone
CD1	Concept Design	<p>The Supplier shall complete the initial concept design (including initial backlog review/prioritisation) for the LDAPP Service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • Detailed Implementation Plan • Backlog for Live Product including high-level estimations of effort • System architecture and design specification • Cloud hosting architecture and specification • Testing Strategy and Plan • LDAPP Risk Management Documentation (see paragraph 6.3 of Schedule 2.4 (<i>Security Management</i>)) • Initial Service Management Plan 	6 weeks	23/11/18	<p>The Authority shall input into and review all documentation produced by the Supplier</p> <p>The Authority shall provide information on:</p> <ul style="list-style-type: none"> • User stories and Requirements • Interface requirements • Example documents of each relevant type • The cloud hosting environment selected by the Authority 	Text Redacted

SE1	Security documentation	<ul style="list-style-type: none"> Outline BCDR plan (see Schedule 8.6 (<i>Business Continuity and Disaster Recovery</i>)) 	40 working days	07/12/18	<p>The Authority shall provide information on:</p> <ul style="list-style-type: none"> Existing Disaster Recovery infrastructure of Partner Organisations (where relevant to LDAPP) 	
DE1	Basic setup	<p>The Supplier shall configure the necessary environments and set-up/integrate essential services (including Oxygen, TeraText for Legislation, Jira, source code repository and wiki for documentation) to enable the development and deployment of the LDAPP Service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> Development and test environments configured on Authority's specified hosting service Source code and documentation environment configured on Authority's specified hosting service 	4 weeks	21/12/18	<p>The Authority shall provide access to the relevant cloud hosting environment (including user credentials).</p> <p>The Authority shall provide input to all development work including providing example data and feedback on work-in-progress.</p> <p>The Authority shall work with the Supplier to refine requirements in relation to future milestones.</p>	Text Redacted

		<ul style="list-style-type: none"> • Core applications deployed development and test environments and integrated • Sprint, source code and documentation management tools (e.g Jira) deployed and configured within their own environment • Initial identity authentication and access control established for all environments • any Software Licenses required to commence work towards milestone “Initial Deployment” 				
SE2	Initial accreditation	<p>The Supplier shall ensure Accreditation (as set out in Schedule 2.4 (Security Management)) of the initial release of the LDAPP service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • An IT Health Check and the associated report • Confirmation that any required Vulnerability Correction Plan has been complied with • Updated LDAPP Risk Management Documentation 		26/04/19	The Authority shall carry out its responsibilities in relation to the Accreditation process as set out in paragraph 6 of Schedule 2.4 (Security Management) including issuing statements as appropriate under paragraph 6.8 of that schedule.	Text Redacted

		<ul style="list-style-type: none"> • Risk Management Approval Statement (issued by the Authority under paragraph 6.7.1 of Schedule 2.4 (Security Management)) 				
DE2	Initial deployment	<p>The Supplier shall develop and deploy a release to the production environment which enables the drafting and management of Scottish Bills (and the testing of functionality in relation to UK Bills) (the “User Needs”)</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • Production environment set up and configured; • Working build deployed to the production environment that has passed user acceptance testing in relation to the User Needs; • Test documentation/certification for the release • Technical documentation for the release • All Software Licenses required for the release 	14 weeks	26/04/19	<p>The Authority shall provide input to all development work including providing example data and feedback on work-in-progress.</p> <p>The Authority shall work with the Supplier to refine requirements in relation to future milestones.</p> <p>The Authority shall carry out user acceptance testing prior to the release to Production and issue a test certificate in accordance with Schedule 6.2 – (Testing Procedures)</p>	Text Redacted

		Commencement of work towards this milestone is conditional on the milestone DE1 being achieved first.				
DE3	Subsequent deployment	<p>The Supplier shall develop and deploy one or more releases to the production environment which build on the previous release and enable the following additional functionality (the “User Needs”):</p> <ul style="list-style-type: none"> • Drafting and managing traditional format Scottish amendments • Drafting SI/SSIs • Drafting and publishing UK Bills • Drafting and managing traditional format UK amendments (incl. Ping pong) <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • Working build deployed to the production environment that has passed user acceptance testing in relation to the User Needs; • Test documentation/certification in relation to each release • Technical documentation for each release 	28 weeks	22/11/19	<p>The Authority shall provide input to all development work including providing example data and feedback on work-in-progress.</p> <p>The Authority shall work with the Supplier to refine requirements in relation to future milestones.</p> <p>The Authority shall carry out user acceptance testing prior to the release to Production and issue a test certificate in accordance with Schedule 6.2 (Testing Procedures)</p>	Text Redacted

		<ul style="list-style-type: none"> • All further Software Licenses required for the releases • Internal IT Health Check <p>Commencement of work towards this milestone is conditional on the milestones DE2 and SE2 being achieved first.</p>				
SE3	Subsequent accreditation	<p>The Supplier shall ensure Accreditation (as set out in Schedule 2.4 (Security Management)) of the subsequent releases of the LDAPP service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • An IT Health Check and the associated report • Confirmation that any required Vulnerability Correction Plan has been complied with • Updated LDAPP Risk Management Documentation • Risk Management Approval Statement (issued by the Authority under paragraph 6.7.1 of Schedule 2.4 (Security Management)) 		22/11/19	The Authority shall carry out its responsibilities in relation to the Accreditation process as set out in paragraph 6 of Schedule 2.4 (Security Management) including issuing statements as appropriate under paragraph 6.8 of that schedule.	Text Redacted

SU1	Commencement of beta LDAPP Service support	<p>The Supplier shall commence the provision of the beta support service for the LDAPP service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • updated Service Management Plan <p>This milestone is conditional on the achievement of the DE3 and SE3 milestones.</p>	26 weeks	25/11/19		
DE4	Further deployment	<p>The Supplier shall develop and deploy one or more releases to the production environment which build on the previous releases and enable the following additional functionality (the “User Needs”):</p> <ul style="list-style-type: none"> • Drafting and managing inline amendments and automated application of amendments to the bill • Advanced editor features and offline working • Other documents (Finance bill resolution books, church measures, private bills, consolidation bills) <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • Working build deployed to the production environment that has 	28 weeks	19/06/20	<p>The Authority shall provide input to all development work including providing example data and feedback on work-in-progress.</p> <p>The Authority shall carry out user acceptance testing prior to the release to Production and issue a test certificate in accordance with Schedule 6.2 (Testing Procedures)</p> <p>The Authority shall ensure representatives attend “train the</p>	Text Redacted

		<p>passed user acceptance testing in relation to the User Needs;</p> <ul style="list-style-type: none"> • Test documentation/certification in relation to each release • Technical documentation for each release • Any further Software Licenses required for the releases • Internal IT Health Check <p>Commencement of work towards this milestone is conditional on the milestones DE3 and SE3 being achieved first.</p>			<p>trainer” events and carry out user training as appropriate.</p>	
SE4	Live service accreditation	<p>The Supplier shall ensure Accreditation (as set out in Schedule 2.4 (Security Management)) of the further releases of the LDAPP service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • An IT Health Check and the associated report • Confirmation that any required Vulnerability Correction Plan has been complied with 		19/6/20	<p>The Authority shall carry out its responsibilities in relation to the Accreditation process as set out in paragraph 6 of Schedule 2.4 (Security Management) including issuing statements as appropriate under paragraph 6.8 of that schedule.</p>	Text Redacted

		<ul style="list-style-type: none"> • Updated LDAPP Risk Management Documentation • Risk Management Approval Statement (issued by the Authority under paragraph 6.7.1 of Schedule 2.4 (Security Management)) 				
SU2	Commencement of LDAPP Service support	<p>The Supplier shall commence the provision of the live support service for the LDAPP service.</p> <p>The following items must be delivered by the Milestone Date:</p> <ul style="list-style-type: none"> • Updated Service Management Plan • Full BCDR plan <p>This milestone is conditional on the achievement of the DE4 and SE4 milestones.</p>		22/06/20	The Authority shall provide feedback and input into the process to enable continuous improvement.	Text Redacted

SCHEDULE 6.2

TESTING PROCEDURES

Testing Procedures

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Component”	any constituent parts of the infrastructure for a Service, hardware or Software;
“Material Test Issue”	a Test Issue of Severity Level 1 or Severity Level 2;
“Severity Level”	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
“Test Certificate”	a certificate materially in the form of the document contained in Annex 2 issued by the Authority when a Deliverable has satisfied its relevant Test Success Criteria;
“Test Issue”	any variance or non-conformity of a Deliverable from its requirements (such requirements being set out in the relevant Test Success Criteria);
“Test Issue Threshold”	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan ;
“Test Issue Management Log”	a log for the recording of Test Issues as described further in Paragraph 7.1;
“Test Plan”	a plan: (a) for the Testing of Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones, as described further in Paragraph 5;
“Test Reports”	the reports to be produced by the Supplier setting out the results of Tests;
“Test Specification”	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6;
“Test Strategy”	a strategy for the conduct of Testing as described further in Paragraph 4;
“Test Success Criteria”	in relation to a Test, the test success criteria for that Test as agreed between the Parties pursuant to the relevant Test Plan;
“Test Witness”	any person appointed by the Authority pursuant to Paragraph Error! Reference source not found. ; and
“Testing Procedures”	the applicable testing procedures and Test Success Criteria set out in this Schedule.
“User Acceptance Testing”	Tests carried out by the Authority to ensure that functionality provided meets specified requirements.

2 **RISK**

- 2.1 The issue of a Test Certificate, a Milestone Achievement Certificate and/or a conditional Milestone Achievement Certificate shall not:
- (a) operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Authority's requirements for that Deliverable or Milestone; or
 - (b) affect the Authority's right subsequently to reject:
 - (i) all or any element of the Deliverables to which a Test Certificate relates; or
 - (ii) any Milestone to which the Milestone Certificate relates.
- 2.2 Notwithstanding the issuing of any Milestone Achievement Certificate the Supplier shall remain solely responsible for ensuring that:
- (a) the Supplier Solution as designed and developed is suitable for the delivery of the Services and meets the Authority Requirements;
 - (b) the Services are implemented in accordance with this Agreement; and
 - (c) each Target Performance Level is met.

3 **TESTING OVERVIEW**

- 3.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy and any relevant Test Plan.
- 3.2 The Supplier shall not submit any Deliverable for Testing:
- (a) unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
 - (b) unless the Supplier is reasonably confident that it will satisfy the Authority's User Acceptance Testing;
 - (c) until all changes have been subject to the Supplier's internal testing procedures, including regression testing and system/unit tests;
 - (d) until the Authority has issued a Test Certificate in respect of any prior, dependant Deliverable(s); and
 - (e) until the Parties have agreed the Test Plan relating to the relevant Deliverable(s).
- 3.3 The Authority will conduct User Acceptance Tests for all development work. All changes to the LDAPP System will need to be approved by the Authority before they can be released into the production environment.
- 3.4 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 3.5 Prior to the issue of a Test Certificate, the Authority shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

- 3.6 Any Disputes between the Authority and the Supplier regarding Testing shall be referred to the Dispute Resolution Procedure using the Expedited Dispute Timetable.

4 TEST STRATEGY

- 4.1 The Supplier shall develop a Test Strategy for the development of the LDAPP Service no later than 20 Working Days (or such other period as the Parties may agree in writing) after the Effective Date.

- 4.2 The Test Strategy shall include:

- (a) the overall approach to testing during development of the LDAPP Service and subsequently, including in particular the approach to:
 - (i) unit and system testing,
 - (ii) regression testing,
 - (iii) performance and load testing,
 - (iv) testing of interfaces between Components,
 - (v) testing of XML-related functionality,
- (b) the process to be used to capture and record Test results and the categorisation of Test Issues;
- (c) the method for mapping the expected Test results to the Test Success Criteria;
- (d) the procedure to be followed if a Deliverable fails to satisfy the Test Success Criteria or produces unexpected results, including a procedure for the resolution of Test Issues;
- (e) the procedure to be followed to sign off each Test;
- (f) the mechanism for ensuring the quality, completeness and relevance of the Tests;
- (g) the process for the production and maintenance of Test Reports and reporting, including templates for the Test Reports and the Test Issue Management Log, and a sample plan for the resolution of Test Issues;
- (h) the names and contact details of the Authority's and the Supplier's Test representatives;
- (i) a high level identification of the resources required for Testing, including facilities, infrastructure, personnel and Authority and/or third party involvement in the conduct of the Tests;
- (j) the technical environments required to support the Tests; and
- (k) the procedure for managing the configuration of the Test environments.

- 4.3 The Supplier shall keep the Test Strategy under review and update it from time to time and, in particular, at the commencement of any Optional Service Development.

5 TEST PLANS

- 5.1 During the release planning phase of a Service Release, the parties shall agree a Test Plan for that release.

- 5.2 The Test Plan shall include (unless otherwise agreed):
- (a) the scope of Tests to be carried out,
 - (b) the Test Success Criteria or the means for determining those criteria during the release,
 - (c) the Testing mechanism;
 - (d) dates for when Testing will be handed over to the Authority for User Acceptance Testing;
 - (e) the re-Test procedure, the timetable and the resources which would be required for re-Testing; and;
 - (f) the process for escalating Test Issues from a re-Test situation to the taking of specific remedial action to resolve the Test issue.

6 TESTING

- 6.1 Before submitting any Deliverables for User Acceptance Testing by the Authority the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 6.2 The Supplier shall manage the progress of, and carry out, Testing in accordance with the relevant Test Plan.
- 6.3 The Supplier shall maintain the necessary test scripts and documentation to enable Testing and shall make them available to the Authority.
- 6.4 Where practicable, as agreed with the Authority, the Supplier shall develop and maintain scripts to enable the automated regression Testing of user interactions with the LDAPP Service.
- 6.5 The Supplier shall ensure the Authority has access to Testing environments reasonably necessary to carry out testing.
- 6.6 The Authority shall conduct User Acceptance Tests which may differ from those conducted by the Supplier and may raise Test Issues in respect of any Testing.
- 6.7 The Supplier shall resolve issues with any Defective Deliverable before a Test Issue is closed.
- 6.8 In relation to Testing conducted in respect of a Deliverable, the Supplier shall make the following information available to the Authority, in the form of a Test Report or otherwise (for example, against user stories within an agile project management tool):
- (a) an overview of the Testing conducted;
 - (b) identification of the relevant Test Success Criteria that have been satisfied;
 - (c) identification of the relevant Test Success Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;

- (d) the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
- (e) the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Annex 1; and
- (f) the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.

7 TEST ISSUES

- 7.1 Where Test Issues are identified, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log shall describe and list Test Issues reflecting the Severity Level allocated to each Test Issue.
- 7.2 Where appropriate, the Supplier and the Authority shall maintain in collaboration the Test Issue Management Log ensuring that its contents accurately represent the current status of each Test Issue at all relevant times.
- 7.3 Where appropriate, the Authority shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with Schedule 8.3 (*Dispute Resolution Procedure*) using the Expedited Dispute Timetable.

8 TEST WITNESSING

- 8.1 The Authority may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Authority, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 8.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 8.3 The Test Witnesses:
 - (a) shall actively review the Test documentation;
 - (b) will attend and engage in the performance of the Tests on behalf of the Authority so as to enable the Authority to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - (c) shall not be involved in the execution of any Test;
 - (d) shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan;
 - (e) may produce and deliver their own, independent reports on Testing,

- which may be used by the Authority to assess whether the Tests have been Achieved;
- (f) may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
 - (g) may require the Supplier to demonstrate the modifications made to any Defective Deliverable before a Test Issue is closed.

9 OUTCOME OF TESTING

- 9.1 The Authority shall issue a Test Certificate as soon as reasonably practicable when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 9.2 Where appropriate, if the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Authority shall notify the Supplier and:
- (a) the Authority may issue a Test Certificate conditional upon the remediation of the Test Issues;
 - (b) where the Parties agree that there is sufficient time prior to the relevant Milestone Date, the Authority may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing.

10 ISSUE OF MILESTONE ACHIEVEMENT CERTIFICATE

- 10.1 The Authority shall issue a Milestone Achievement Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- (a) the issuing by the Authority of Test Certificates and/or conditional Test Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
 - (b) performance by the Supplier to the reasonable satisfaction of the Authority of any other tasks identified in the Implementation Plan as associated with that Milestone (which may include the submission of a Deliverable that is not due to be Tested, such as the production of Documentation).
- 10.2 If a Milestone is not Achieved, the Authority shall promptly issue a report to the Supplier setting out:
- (a) the applicable Test Issues ; and
 - (b) any other reasons for the relevant Milestone not being Achieved.
- 10.3 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Authority shall issue a Milestone Achievement Certificate.
- 10.4 If there is one or more Material Test Issue(s), the Authority shall refuse to issue a

Milestone Achievement Certificate and, without prejudice to the Authority's other rights and remedies, such failure shall constitute a Notifiable Default for the purposes of Clause 27.1 (Rectification Plan Process).

- 10.5 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Authority may at its discretion (without waiving any rights in relation to the other options) choose to issue a Milestone Achievement Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- (a) any Rectification Plan shall be agreed before the issue of a conditional Milestone Achievement Certificate unless the Authority agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Authority within 10 Working Days of receipt of the Authority's report pursuant to Paragraph 13.3); and
 - (b) where the Authority issues a conditional Milestone Achievement Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

11 RELEASE MANAGEMENT

- 11.1 The Supplier shall document within the Detailed Implementation Plan a change control and release management process for all changes, fixes and patches to the LDAPP service in accordance with industry best practise.
- 11.2 The Supplier shall operate a change control and release management process in accordance with the Detailed Implementation Plan.

ANNEX 1: TEST ISSUES – SEVERITY LEVELS

1. **Severity Level 1 Test Issue:** a Test Issue that causes non-recoverable conditions, e.g. it is not possible to continue using a Component, a Component crashes, there is database or file corruption, or data loss;
2. **Severity Level 2 Test Issue:** a Test Issue for which, as reasonably determined by the Authority, there is no practicable workaround available, and which:
 - (a) causes a Component to become unusable;
 - (b) causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
 - (c) has an adverse impact on any other Component(s) or any other area of the Services;
3. **Severity Level 3 Test Issue:** a Test Issue which: causes a Component to become unusable;
 - (d) causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
 - (e) has an impact on any other Component(s) or any other area of the Services;but for which, as reasonably determined by the Authority, there is a practicable workaround available;
4. **Severity Level 4 Test Issue:** a Test Issue which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Services;
5. **Severity Level 5 Test Issue:** a Test Issue that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Services

ANNEX 2: TEST CERTIFICATE

TO: [NAME OF SUPPLIER]
FROM : [NAME OF AUTHORITY]
[Date]
Dear,

Deliverables: *[insert description of Deliverables]*

We refer to the agreement (the “**Agreement**”) relating to the provision of the Services between the *[name of Authority]* (the “**Authority**”) and *[name of Supplier]* (the “**Supplier**”) dated *[date]*.

Capitalised terms used in this certificate have the meanings given to them in Schedule 1 (*Definitions*) or Schedule 6.2 (*Testing Procedures*) of the Agreement.

We confirm that the Deliverables listed above have been tested successfully in accordance with the Test Plan relevant to those Deliverables.

Yours faithfully

[Name]

[Position]

acting on behalf of *[name of Authority]*

SCHEDULE 7.1

CHARGES AND INVOICING

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SCHEDULE 7.2

PAYMENTS ON TERMINATION

Payments on Termination

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Applicable Supplier Personnel”	<p>any Supplier Personnel who:</p> <ul style="list-style-type: none">(i) at the Termination Date:<ul style="list-style-type: none">a) are employees of the Supplier;b) are Dedicated Supplier Personnel;c) have not transferred (and are not in scope to transfer at a later date) to the Authority or the Replacement Supplier by virtue of the Employment Regulations; and(ii) are dismissed or given notice of dismissal by the Supplier within:<ul style="list-style-type: none">a) 40 Working Days of the Termination Date; orb) such longer period required by Law, their employment contract (as at the Termination Date) or an applicable collective agreement; and <p>have not resigned or given notice of resignation prior to the date of their dismissal by the Supplier; and</p> <ul style="list-style-type: none">(iii) the Supplier can demonstrate to the satisfaction of the Authority:<ul style="list-style-type: none">are surplus to the Supplier's requirements after the Termination Date notwithstanding its obligation to provide services to its other customers;are genuinely being dismissed for reasons of redundancy; andhave been selected for redundancy by the Supplier on objective grounds other than the fact that the Supplier is entitled to reimbursement under this provision in respect of such employees;
“Breakage Costs Payment”	<p>an amount equal to the Contract Breakage Costs as at the Termination Date as determined in accordance with Paragraph 3;</p>
“Compensation Payment”	<p>the payment calculated in accordance with Paragraph 6;</p>
“Contract Breakage Costs”	<p>the amounts payable by the Supplier to its Key Sub-contractors or other third parties (as applicable) for terminating all relevant Key Sub-contracts or Third Party Contracts as a direct result of the early termination of this Agreement;</p>
“Dedicated Supplier Personnel”	<p>all Supplier Personnel then assigned to the Services or any part of the Services. If the Supplier is unsure as to whether Supplier Personnel are or should be regarded as so assigned, it shall consult with the Authority whose view shall be determinative</p>

	provided that the employee has been materially involved in the provision of the Services or any part of the Services;
“Profit Already Paid”	the Supplier Profit paid or payable to the Supplier under this Agreement for the period from the Effective Date up to (and including) the Termination Date;
“Redundancy Costs”	<p>the total sum of any of the following sums paid to Applicable Supplier Personnel,:</p> <ul style="list-style-type: none"> (a) any statutory redundancy payment; and (b) in respect of an employee who was a Transferring Former Supplier Employee or a Transferring Authority Employee, any contractual redundancy payment (or where such a contractual benefit on redundancy is a benefit payable from a pension scheme, the increase in cost to the Supplier as a net present value compared to the benefit payable on termination of employment without redundancy), provided that such employee was entitled to such contractual redundancy payment immediately prior to his or her transfer to the Supplier under the Employment Regulations;
“Request for Estimate”	a written request sent by the Authority to the Supplier, requiring that the Supplier provide it with an accurate estimate of the Termination Payment and Compensation Payment that would be payable if the Authority exercised its right under Clause 37.1(a) (<i>Termination by the Authority</i>) to terminate this Agreement for convenience on a specified Termination Date;
“Shortfall Period”	has the meaning given in Paragraph 6.2;
“Termination Estimate”	has the meaning given in Paragraph 11.2;
“Third Party Contract”	a contract with a third party entered into by the Supplier exclusively for the purpose of delivering the Services, as listed in Schedule 4.4 (<i>Third Party Contracts</i>);
“Total Costs Incurred”	the Costs incurred by the Supplier up to the Termination Date in the performance of this Agreement and detailed in the Financial Model (but excluding Contract Breakage Costs, and any costs the Supplier would not otherwise be able to recover through the Charges) less any Deductions up to (and including) the Termination Date;
“Unrecovered Costs”	the Costs incurred by the Supplier in the performance of this Agreement (as summarised in the Financial Model) to the extent that the same remain at the Termination Date to be recovered through Charges that but for the termination of this Agreement would have been payable by the Authority after the Termination Date in accordance with Schedule 7.1 (<i>Charges and Invoicing</i>) as such Costs and Charges are forecast in the Financial Model;

- “Unrecovered Payment”** an amount equal to the lower of:
- (a) the sum of the Unrecovered Costs and the Unrecovered Profit; and
 - (b) the amount specified in Paragraph 4; and
- “Unrecovered Profit”** (Total Costs Incurred x Anticipated Contract Life Profit Margin) - Profit Already Paid + Milestone Retentions remaining unpaid at the Termination Date.

2 TERMINATION PAYMENT

- 2.1 The Termination Payment payable pursuant to Clause 38.3(a) (*Payments by the Authority*) shall be an amount equal to the aggregate of the Breakage Costs Payment and the Unrecovered Payment.

3 BREAKAGE COSTS PAYMENT

- 3.1 The Supplier may recover through the Breakage Costs Payment only those costs incurred by the Supplier directly as a result of the termination of this Agreement which:
- (a) would not have been incurred had this Agreement continued until expiry of the Initial Term, or in the event that the Term has been extended, the expiry of the Extension Period;
 - (b) are unavoidable, proven, reasonable, and not capable of recovery;
 - (c) are incurred under arrangements or agreements that are directly associated with this Agreement;
 - (d) are not Contract Breakage Costs relating to contracts or Sub-contracts with Affiliates of the Supplier; and
 - (e) relate directly to the termination of the Services.

Limitation on Breakage Costs Payment

- 3.2 The Breakage Costs Payment shall not exceed the lower of:
- (a) the relevant limit set out in Annex 1; and
 - (b) 120% of the estimate for the Breakage Costs Payment set out in any relevant Termination Estimate.

Contract Breakage Costs

- 3.3 The Supplier shall be entitled to Contract Breakage Costs only in respect of Third Party Contracts or Sub-contracts which:
- (a) are not assigned or novated to a Replacement Supplier at the request of the Authority in accordance with Schedule 8.5 (Exit Management); and
 - (b) the Supplier can demonstrate:
 - (i) are surplus to the Supplier’s requirements after the Termination Date, whether in relation to use internally within its business or

- (ii) in providing services to any of its other customers; and
have been entered into by it in the ordinary course of business.

3.4 The Supplier shall seek to negotiate termination of any Third Party Contracts or Sub-contracts with the relevant third party or Sub-contractor (as the case may be) using all reasonable endeavours to minimise the cancellation or termination charges.

3.5 Except with the prior written agreement of the Authority, the Authority shall not be liable for any costs (including cancellation or termination charges) that the Supplier is obliged to pay in respect of:

- (a) the termination of any contractual arrangements for occupation of, support of and/or services provided for Supplier premises which may arise as a consequence of the termination of this Agreement; and/or
- (b) Assets not yet installed at the Termination Date.

4 UNRECOVERED PAYMENT

4.1 The Unrecovered Payment shall not exceed the lowest of:

- (i) the relevant limit set out in Annex 1;
- (ii) 120% of the estimate for the Unrecovered Payment set out in any relevant Termination Estimate; and
- (iii) the Charges that but for the termination of this Agreement would have been payable by the Authority after the Termination Date in accordance with Schedule 7.1 (Charges and Invoicing) as forecast in the Financial Model.

5 MITIGATION OF CONTRACT BREAKAGE COSTS, AND UNRECOVERED COSTS

5.1 The Supplier agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs and Unrecovered Costs by:

- (i) the appropriation of Assets, employees and resources for other purposes;
- (ii) at the Authority's request, assigning any Third Party Contracts and Sub-contracts to the Authority or a third party acting on behalf of the Authority; and
- (iii) in relation Third Party Contracts and Sub-contract that are not to be assigned to the Authority or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.

5.2 If Assets, employees and resources can be used by the Supplier for other purposes, then there shall be an equitable reduction in the Contract Breakage Costs and Unrecovered Costs payable by the Authority or a third party to the Supplier. In the event of any Dispute arising over whether the Supplier can use any Assets,

employees and/or resources for other purposes and/or over the amount of the relevant equitable reduction, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 8.3 (*Dispute Resolution Procedure*).

6 COMPENSATION PAYMENT

6.1 The Compensation Payment payable pursuant to Clause 38.3(b) (Payments by the Authority) shall be an amount equal to the total forecast Charges over the Shortfall Period (as stated in the Financial Model) multiplied by the Anticipated Contract Life Profit Margin.

6.2 For the purposes of Paragraph 6.1, the “**Shortfall Period**” means:

- (a) where the Authority terminates this Agreement pursuant to Clause 37.1(a) (*Termination by the Authority*), a number of days equal to the number of days by which the notice given (or deemed given pursuant to Paragraph 2.1(a) of Part D of Schedule 7.1 (*Charges and Invoicing*)) falls short of 365 days;

but in each case subject to the limit set out in Paragraph 6.3.

6.3 The Compensation Payment shall be no greater than the lower of:

- (a) the relevant limit set out in Annex 1; and
- (b) 120% of the estimate for the Compensation Payment set out in the relevant Termination Estimate.

7 FULL AND FINAL SETTLEMENT

7.1 Any Termination Payment and/or Compensation Payment paid under this Schedule shall be in full and final settlement of any claim, demand and/or proceedings of the Supplier in relation to any termination by the Authority pursuant to Clause 33.1(a) (*Termination by the Authority*).

8 INVOICING FOR THE PAYMENTS ON TERMINATION

8.1 All sums due under this Schedule shall be payable by the Authority to the Supplier in accordance with the payment terms set out in Schedule 7.1 (*Charges and Invoicing*).

9 SET OFF

9.1 The Authority shall be entitled to set off any outstanding liabilities of the Supplier against any amounts that are payable by it pursuant to this Schedule.

10 NO DOUBLE RECOVERY

10.1 If any amount payable under this Schedule (in whole or in part) relates to or arises from any Transferring Assets then, to the extent that the Authority makes any payments pursuant to Schedule 8.5 (Exit Management) in respect of such

Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.

- 10.2 The value of the Termination Payment and/or the Compensation Payment shall be reduced or extinguished to the extent that the Supplier has already received the Charges or the financial benefit of any other rights or remedy given under this Agreement so that there is no double counting in calculating the relevant payment.
- 10.3 Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.

11 ESTIMATE OF TERMINATION PAYMENT AND COMPENSATION PAYMENT

- 11.1 The Authority may issue a Request for Estimate at any time during the Term provided that no more than 2 Requests for Estimate may be issued in any 6 month period.
- 11.2 The Supplier shall within 20 Working Days of receiving the Request for Estimate (or such other timescale agreed between the Parties), provide an accurate written estimate of the Termination Payment and the Compensation Payment that would be payable by the Authority based on a postulated Termination Date specified in the Request for Estimate (such estimate being the "Termination Estimate"). The Termination Estimate shall:
- (a) be based on the relevant amounts set out in the Financial Model;
 - (b) include:
 - (i) details of the mechanism by which the Termination Payment is calculated;
 - (ii) full particulars of the estimated Contract Breakage Costs in respect of each Sub-contract or Third Party Contract and appropriate supporting documentation; and
 - (iii) such information as the Authority may reasonably require; and
 - (c) state the period for which that Termination Estimate remains valid, which shall be not less than 20 Working Days.
- 11.3 The Supplier acknowledges that issue of a Request for Estimate shall not be construed in any way as to represent an intention by the Authority to terminate this Agreement.
- 11.4 If the Authority issues a Termination Notice to the Supplier within the stated period for which a Termination Estimate remains valid, the Supplier shall use the same mechanism to calculate the Termination Payment as was detailed in the Termination Estimate unless otherwise agreed in writing between the Supplier and the Authority.

ANNEX 1: MAXIMUM PAYMENTS ON TERMINATION

TEXT REDACTED

SCHEDULE 7.3

FINANCIAL DISTRESS

Financial Distress

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Credit Rating Level” a credit rating level as specified in Annex 2;

“Credit Rating Threshold” the minimum Credit Rating Level for the Supplier as set out in Annex 3 and for each Key Sub-contractor as set out in Schedule 4.3 (*Notified Key Sub-contractors*); and

“Rating Agencies” the rating agencies listed in Annex 1.

2 CREDIT RATING AND DUTY TO NOTIFY

2.1 The Supplier warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date the long term credit ratings issued for the Supplier by each of the Rating Agencies are as set out in Annex 3.

2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for the Supplier (and in any event within 5 Working Days of the occurrence of the downgrade).

2.3 If there is any downgrade credit rating issued by any Rating Agency for the Supplier, the Supplier shall ensure that the Supplier’s auditors thereafter provide the Authority within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by the Authority (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Supplier as at the end of each Contract Year or such other date as may be requested by the Authority. For these purposes the “quick ratio” on any date means:

$$\frac{A + B + C}{D}$$

where:

A is the value at the relevant date of all cash in hand and at the bank of the Supplier;

B is the value of all marketable securities held by the Supplier determined using closing prices on the Working Day preceding the relevant date;

C is the value at the relevant date of all account receivables of the Supplier; and

D the value at the relevant date of the current liabilities of the Supplier.

- 2.4 The Supplier shall:
- (a) regularly monitor the credit ratings of the Supplier and each Key Sub-contractor with the Rating Agencies; and
 - (b) promptly notify (or shall procure that its auditors promptly notify) the Authority in writing following the occurrence of a Financial Distress Event or Key Sub-contractor Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event or a Key Sub-contractor Financial Distress Event (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event, the Key Sub-contractor Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event or a Key Sub-contractor Financial Distress Event).
- 2.5 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 the Supplier or relevant Key Sub-contractor (as the case may be) shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the Supplier or relevant Key Sub-contractor (as the case may be) at or below the applicable Credit Rating Level.

3 CONSEQUENCES OF A FINANCIAL DISTRESS EVENT

- 3.1 In the event of:
- (a) the credit rating of the Supplier or any Key Sub-contractor dropping below the applicable Credit Rating Threshold;
 - (b) the Supplier or any Key Sub-contractor 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 the Supplier or any Key Sub-contractor;
 - (d) the Supplier or any Key Sub-contractor committing a material breach of covenant to its lenders;
 - (e) a Key Sub-contractor notifying the Authority that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute; or
 - (f) any of the following:
 - (i) commencement of any litigation against the Supplier or any Key Sub-contractor with respect to financial indebtedness greater than **Text Redacted** or obligations under a service contract with a total contract value greater than **Text Redacted**;
 - (ii) non-payment by the Supplier or any Key Sub-contractor of any financial indebtedness;

- (iii) any financial indebtedness of the Supplier or any Key Sub-contractor becoming due as a result of an event of default; or
 - (iv) the cancellation or suspension of any financial indebtedness in respect of the Supplier or any Key Sub-contractor,
- in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Agreement;

then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 3.3 to 3.6.

3.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1(e), the Authority shall not exercise any of its rights or remedies under Paragraph 3.3 without first giving the Supplier 10 Working Days to:

- (a) rectify such late or non-payment; or
- (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.

3.3 The Supplier shall (and shall procure that any relevant Key Sub-contractor shall):

- (a) at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the 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 Agreement; and
- (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 3.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Agreement:
 - (i) submit to the Authority for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Supplier in writing); and
 - (ii) provide such financial information relating to the Supplier as the Authority may reasonably require.

3.4 The Authority shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If the Authority does not approve the draft Financial Distress Service Continuity 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 Service Continuity Plan, which shall be resubmitted to the Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated

until the Financial Distress Service Continuity Plan is approved by the Authority or referred to the Dispute Resolution Procedure under Paragraph 3.5.

- 3.5 If the Authority considers that the draft Financial Distress Service Continuity 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 Agreement, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.
- 3.6 Following approval of the Financial Distress Service Continuity Plan by the Authority, the Supplier shall:
- (a) on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance and delivery of the Services in accordance with this Agreement;
 - (b) where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 3.6(a), submit an updated Financial Distress Service Continuity Plan to the Authority for its approval, and the provisions of Paragraphs 3.4 and 3.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
 - (c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 3.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 3.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 3.6.

4 TERMINATION RIGHTS

- 4.1 The Authority shall be entitled to terminate this Agreement under Clause 33.1(b) (*Termination by the Authority*) if:
- (a) the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.4(b);
 - (b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 3.3 to 3.5; and/or
 - (c) the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 3.6(c).

5 PRIMACY OF CREDIT RATINGS

- 5.1 Without prejudice to the Supplier's obligations and the Authority's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1(b) to 3.1(f), the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:
- (a) the Supplier shall be relieved automatically of its obligations under Paragraphs 3.3 to 3.6; and
 - (b) the Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 3.3(b)(ii).

ANNEX 1: RATING AGENCIES

Moody's

Standard and Poor

ANNEX 2: CREDIT RATING LEVELS

Credit Rating Level 1

- Moody's High Grade (Aa1-Aa3)
- Standards & Poor High Grade (AA+-AA-)

Credit Rating Level 2

- Moody's Upper Medium Grade (A1-A3)
- Standards & Medum High Grade (A+-A-)

Credit Rating Level 3

- Moody's Lower Medium Grade (Baa1-Baa3)
- Standards & Poor Lower Medium Grade (BBB+-BBB-)

Credit Rating Level 4

- Moody's speculative (Ba1-Ba3)
- Standards & Poor speculative (BB+-BB-)

Credit Rating Level 5

- Moody's highly speculative (B1-B3)
- Standards & Poor Lower Medium Grade (B+-B-)

ANNEX 3: CREDIT RATINGS AND CREDIT RATING THRESHOLDS

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier	Ba1 (Moody's)	Credit Rating Level B1
	BBB (Standards and Poor)	Credit Rating Level B+

SCHEDULE 7.4

FINANCIAL TRANSPARENCY AND AUDIT RIGHTS

Financial Transparency and Audit Rights

1 **DEFINITIONS**

1.1 In this Schedule, the following definitions shall apply:

- | | |
|--|--|
| “Audit Agents” | (a) the Authority’s internal and external auditors;
(b) the Authority’s statutory or regulatory auditors;
(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
(d) HM Treasury or the Cabinet Office;
(e) any party formally appointed by the Authority to carry out audit or similar review functions; and
(f) successors or assigns of any of the above; |
| “Financial Representative” | a reasonably skilled and experienced member of the Supplier’s staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and Financial Reports; |
| “Financial Transparency Objectives” | has the meaning given in Paragraph 1 of Part A; |
| “Open Book Data” | complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:
(a) the Supplier’s Costs;
(b) operating expenditure relating to the provision of the Services including:
(i) the unit costs and quantity of consumables and bought-in services;
(ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade; and
(iii) Reimbursable Expenses;
(c) Overheads; and
(d) the actual Costs profile for each Service Period. |

PART A: FINANCIAL TRANSPARENCY

OBJECTIVES AND OPEN BOOK DATA

1 FINANCIAL TRANSPARENCY OBJECTIVES

- 1.1 The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Authority in order to achieve, the following objectives:

Understanding the Charges

- (a) for the Authority to understand any payment sought from it by the Supplier including an analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Personnel in providing the Services;
- (b) for both Parties to be able to understand the Financial Model and Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;

Agreeing the impact of Change

- (c) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges;
- (d) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

Continuous improvement

- (e) for the Parties to challenge each other with ideas for efficiency and improvements; and
- (f) to enable the Authority to demonstrate that it is achieving value for money for the tax payer relative to current market prices, (together the "Financial Transparency Objectives").

2 OPEN BOOK DATA

- 2.1 The Supplier acknowledges the importance to the Authority of the Financial Transparency Objectives and the Authority's need for complete transparency in the way in which the Charges are calculated.
- 2.2 During the Term, and for a period of 7 years following the end of the Term, the Supplier shall:
- (a) maintain and retain the Open Book Data; and
 - (b) allow the Authority and/or the Audit Agents access to the Open Book Data.

PART B: FINANCIAL REPORTS

NOT USED

PART C: AUDIT RIGHTS

1 AUDIT RIGHTS

1.1 The Authority, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of 18 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors of the Supplier's obligations under this Agreement, including for the following purposes:

- (a) to verify the accuracy of the Charges and any other amounts payable by the Authority under this Agreement (and proposed or actual variations to such Charges and payments);
- (b) to verify the Costs (including the amounts paid to all Sub-contractors and any third party suppliers);
- (c) to verify the Certificate of Costs and/or the Open Book Data;
- (d) to verify the Supplier's and each Key Sub-contractor's compliance with this Agreement and applicable Law;
- (e) to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- (f) to identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Key Sub-contractors or their ability to perform the Services;
- (g) to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (h) to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Agreement;
- (i) to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
- (j) to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- (k) to verify the accuracy and completeness of any Management Information delivered or required by this Agreement;
- (l) to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records;
- (m) to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
- (n) to review the accuracy and completeness of the Registers;

- (o) to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - (p) to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
 - (q) to review the Supplier's compliance with the Standards;
 - (r) to inspect the Authority Assets, including the Authority's IPRs, equipment and facilities, for the purposes of ensuring that the Authority Assets are secure and that any register of assets is up to date; and/or
 - (s) to review the integrity, confidentiality and security of the Authority Data.
- 1.2 Except where an audit is imposed on the Authority by a regulatory body or where the Authority has reasonable grounds for believing that the Supplier has not complied with its obligations under this Agreement, the Authority may not conduct an audit of the Supplier or of the same Key Sub-contractor more than twice in any Contract Year.
- 1.3 Nothing in this Agreement shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

2 CONDUCT OF AUDITS

- 2.1 The Authority shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Authority deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 2.2 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:
 - (a) all information requested by the Authority within the permitted scope of the audit;
 - (b) reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - (c) access to the Supplier System; and
 - (d) access to Supplier Personnel.
- 2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance with the Performance Indicators.
- 2.4 The Authority shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention to conduct an audit.

- 2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in connection with the audit.

3 USE OF SUPPLIER'S INTERNAL AUDIT TEAM

- 3.1 As an alternative to the Authority's right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, the Authority may require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1.
- 3.2 Following the receipt of a request from the Authority under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Authority has unfettered access to:
- (a) the resultant audit reports; and
 - (b) all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

4 RESPONSE TO AUDITS

- 4.1 If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:
- (a) the Supplier has committed a Default, the Authority may (without prejudice to any rights and remedies the Authority may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;
 - (b) the Authority has overpaid any Charges, the Supplier shall pay to the Authority:
 - (i) the amount overpaid;
 - (ii) interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of overpayment by the Authority up to the date of repayment by the Supplier; and
 - (iii) the reasonable costs incurred by the Authority in undertaking the audit,the Authority may exercise its right to deduct such amount from the Charges if it prefers; and/or
 - (c) the Authority has underpaid any Charges, the Supplier shall not be entitled to increase the Charges paid or payable by the Authority.

SCHEDULE 7.5

ANTICIPATED SAVINGS

NOT USED

SCHEDULE 8: GOVERNANCE

SCHEDULE 8.1

GOVERNANCE

1 Definitions

- 1.1 For the purposes of this Schedule 8.1, the following terms will have the meanings referred to below:

“Board Member”	Means a member of the Authority or Supplier staff who is appointed as a member to a Board;
“Board(s)”	Means the Project Board and Delivery Board;
“Delivery Board”	Means the body described in Paragraph 6 of this Schedule;
“LDAPP Programme Board”	Means the board established by the Partner Organisations with responsibility for the overall strategic governance and oversight of LDAPP, including the Services under this Agreement
“Performance Monitoring Information”	Means the management information required under Schedule 2.2 (<i>Performance Monitoring and Service Levels</i>);
“Project Board”	Means the body described in Paragraph 8 of this Schedule.

2 Introduction

- 2.1 This Schedule 8.1 (Governance) describes the procedures that the Authority shall use to:
- (a) manage the strategic direction for Services under this Agreement;
 - (b) manage the development of Services under this Agreement.

3 Establishment of the Boards

- 3.1 Boards shall be established by the Authority under this Agreement on which both the Supplier and the Authority shall be represented.
- 3.2 The Project Board shall provide senior level guidance and leadership for delivery against the requirements of this Agreement, as set out in Paragraph 5 below.
- 3.3 The Delivery Board shall report into the Project Board.

4 Board Structures and Representation

- 4.1 Paragraphs 9 and 10 to this Schedule describe in relation to each Board:
- (a) the Authority members of that Board;
 - (b) the Supplier members of that Board;

- (c) the frequency that the Board will meet (unless otherwise agreed between the Parties);
 - (d) the location of the Board's meetings; and
 - (e) the planned start date by which the Board will be established.
- 4.2 In the event that the Supplier wishes to replace any Board Member, the Supplier shall notify the Authority in writing of the proposed change for agreement by the Authority (such agreement not to be unreasonably withheld or delayed). All Board Members put forward by the Supplier shall be of suitable seniority and expertise, to the satisfaction of the Authority.
- 4.3 In the event that the Authority wishes to replace any Board Member, the Authority shall notify the Supplier in writing of the proposed change.
- 4.4 Each Party will ensure that its Board Members make all reasonable efforts to attend Board meetings at which that Board Member's attendance is required. If any Board Member is not able to attend a Board meeting, that person will use all reasonable endeavours to ensure that:
 - (a) a delegate attends the relevant Board meeting in his/her place who (wherever possible) is properly briefed and prepared; and
 - (b) that he/she is debriefed by such delegate after the Board meeting within a reasonable time.
- 4.5 The Boards shall be chaired by the Authority. The chairperson will be responsible for:
 - (a) scheduling Board meetings;
 - (b) setting the agenda for Board meetings and making arrangement for meeting paperwork to be circulated to all attendees in advance of such meeting;
 - (c) chairing the Board meetings;
 - (d) monitoring the progress of any follow up tasks and activities agreed to be carried out following Board meetings;
 - (e) ensuring that minutes for Board meetings are recorded and disseminated electronically to the appropriate persons and to all Board meeting participants within ten (10) Working Days after the Board meeting; and
 - (f) facilitating the process or procedure by which any decision agreed at any Board meeting is given effect in the appropriate manner.
- 4.6 Board meetings will be quorate as long as at least two (2) representatives from the Authority and one (1) representative of the Supplier are in attendance.
- 4.7 The Parties will ensure that all Boards will, as soon as reasonably practicable, resolve the issues and achieve the objectives placed before them. Each Party will use best endeavours to ensure that Board Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this.

5 Role of the Project Board

5.1 The Project Board shall:

- (a) provide senior level strategic direction, forward planning and leadership for the operation, maintenance and development of the LDAPP Service;
- (b) monitor delivery against the Milestones as set out in the Implementation Plan;
- (c) monitor ongoing delivery against the requirements for Services set out in this Agreement;
- (d) confirm the achievement of Milestones DE2, DE3, DE4 and SU2 as set out in Schedule 6.1 (Implementation Plan);
- (e) review the financial performance against expected expenditure as set out in Schedule 7.1 (Charges and Invoicing);
- (f) review and approve the Supplier's initial detailed Implementation Plan, as required under Schedule 6.1 (Implementation Plan).
- (g) receive and review reports from the Delivery Board that summarise delivery against the Key Performance Indicators as set out in Schedule 2.2 (Performance Management);
- (h) receive and review the risk register which shall be updated by the Supplier;
- (i) review and approve the initiation of Optional Service Development; and
- (j) consider and resolve Disputes (including Disputes as to the cause of a delay to the Project or the performance of the Services) escalated to the Project Board.

6 Role of the Delivery Board

6.1 The Delivery Board shall:

- (a) oversee the operation, maintenance and development of the LDAPP Service, and all other Services under this Agreement;
- (b) have oversight of and review progress against the Detailed Implementation Plan as required under Schedule 6.1 (Implementation Plan);
- (c) report to the LDAPP Project Board on significant issues requiring decision and resolution;
- (d) Review the Performance Monitoring information referred to in Schedule 2.2 (Performance Monitoring and Service Levels) prepared by the Supplier;
- (e) Review the reports set out in Schedule 2.3 (*Reporting*); and
- (f) consider Disputes (including Disputes as to the cause of a delay to the Project or the performance of the Services) and if necessary escalate the Dispute to the Project Board.

7 The LDAPP Programme Board

- 7.1 The Supplier recognises and accepts that they may be requested to attend LDAPP Programme Board meetings, and will make reasonable efforts to attend either in person or remotely.

8 Project Board Representation and Structure

Chairperson	Text Redacted
Authority members of the Project Board	Text Redacted
Supplier members for Project Board	Text Redacted
Date of first meeting	At the appropriate time prior to the approval of Milestone CD1
Frequency of Project Board meetings	At the appropriate time for the approval of Milestones DE2, DE3, DE4 and SU2. Subsequently, to meet twice yearly, unless otherwise directed by the Authority
Location of Project Board meetings	The Authority's offices in Kew, unless otherwise agreed with the Authority

9 Delivery Board Representation and Structure

Chairperson	Text Redacted
Authority Members of the Delivery Board	Text Redacted
Supplier Members for Delivery Board	Text Redacted
Date of first meeting	One month after Effective Date
Frequency of Delivery Board meetings	Monthly or as otherwise agreed with the Authority
Location of Delivery Board meetings	As agreed with the Authority (including by videoconference or teleconference)

SCHEDULE 8.2

CHANGE CONTROL PROCEDURE

Change Control Procedure

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Authority Change Manager”	the person appointed to that position by the Authority from time to time and notified in writing to the Supplier or, if no person is notified, the Authority Representative;
“Change Request”	a written request for a Contract Change which shall be substantially in the form of Annex 1;
“Change Communication”	any Change Request or other communication sent or required to be sent pursuant to this Schedule;
“Change Control Note”	the completed form in Annex 2 of this Schedule;
“Fast-track Change”	any Contract Change which the Parties agree to expedite in accordance with Paragraph 7;
“Receiving Party”	the Party which receives a proposed Contract Change; and
“Supplier Change Manager”	the person appointed to that position by the Supplier from time to time and notified in writing to the Authority or, if no person is notified, the Supplier Representative.

2 GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE

2.1 This Schedule sets out the procedure for dealing with Changes.

2.2 Operational Changes shall be processed in accordance with Paragraph 8. If either Party is in doubt about whether a change falls within the definition of an Operational Change, then it must be processed as a Contract Change.

2.3 The Parties shall deal with Contract Change as follows:

- (a) either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4;
- (b) the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 5;
- (c) the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 6;
- (d) save as otherwise provided in this Agreement, no proposed Contract Change shall be implemented by the Supplier until a Change Control Note has been agreed and signed by the Authority in accordance with Paragraph 5.2; and
- (e) if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 7.

2.4 To the extent that any Contract Change requires testing and/or a programme for

implementation, then the Parties shall follow the procedures set out in Schedule 6.2 (*Testing Procedures*), and, where appropriate, the Change Control Note relating to such a Contract Change shall specify Milestones and/or a Key Milestone and Milestone Date(s) in respect of such Contract Change for the purposes of such procedures.

2.5 Until a Change Control Note has been signed and issued by the Authority in accordance with Paragraph 6.2, then:

- (a) unless the Authority expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Services in accordance with the existing terms of this Agreement as if the proposed Contract Change did not apply; and
- (b) any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Agreement.

2.6 The Supplier shall:

- (a) within 10 Working Days of the Authority's signature and issue of a Change Control Note, deliver to the Authority a copy of this Agreement updated to reflect all Contract Changes agreed in the relevant Change Control Note and annotated with a reference to the Change Control Note pursuant to which the relevant Contract Changes were agreed; and
- (b) thereafter provide to the Authority such further copies of the updated Agreement as the Authority may from time to time request.

3 COSTS

3.1 Subject to Paragraph 3.3, the costs of preparing each Change Request shall be borne by the Party making the Change Request.

3.2 The cost of any Contract Change shall be calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Schedule 7.1 (*Charges and Invoicing*). The Supplier shall be entitled to increase the Charges only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Contract Change.

3.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Supplier shall be paid for by the Supplier.

4 CHANGE REQUEST

- 4.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.
- 4.2 Change Requests shall be made through the governance routes set out in Schedule 8.1 (*Governance*).

5 AUTHORITY'S RIGHT OF APPROVAL

- 5.1 Within 15 Working Days of receiving the Change Request from the Supplier or within 10 Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:
- (a) approve the proposed Contract Change;
 - (b) in its absolute discretion reject the Contract Change, in which case it shall notify the Supplier of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Supplier or the Services to comply with any Changes in Law. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or
 - (c) in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within 5 Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within 10 Working Days.
- 5.2 If the Authority approves the proposed Contract Change and it has not been rejected by the Supplier in accordance with Paragraph 6, then it shall inform the Supplier and the Supplier shall prepare two copies of a Change Control Note as set out in Annex 2, which it shall sign and deliver to the Authority for its signature. Following receipt by the Authority of the Change Control Note, it shall sign both copies and return one copy to the Supplier. On the Authority's signature the Change Control Note shall constitute (or, where the Authority has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Agreement.
- 5.3 If the Authority does not sign the Change Control Note within 10 Working Days, then the Supplier shall have the right to notify the Authority and if the Authority does not sign the Change Authorisation Note within 5 Working Days of such notification, then the Supplier may refer the matter to the Expedited Dispute Timetable pursuant to the

Dispute Resolution Procedure.

6 SUPPLIER'S RIGHT OF APPROVAL

- 6.1 If the Supplier reasonably believes that any proposed Contract Change which is requested by the Authority would:
- (a) materially and adversely affect the risks to the health and safety of any person; and/or
 - (b) require the Services to be performed in a way that infringes any Law; and/or
 - (c) the Supplier demonstrates to the Authority's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and neither the Supplier Solution nor the Services Description state that the Supplier does have the technical capacity and flexibility required to implement the proposed Contract Change,
- then the Supplier shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within 5 Working Days.

7 FAST-TRACK CHANGES

- 7.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

- 7.2 If:
- (a) the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 month period; and
 - (b) both Parties agree the value of the proposed Contract Change over the remaining Term and any period for which Termination Services may be required does not exceed **Text Redacted** and the proposed Contract Change is not significant (as determined by the Authority acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4, **Error! Reference source not found.**, 5 and 7 but with reduced timescales, such that any period of 15 Working Days is reduced to 5 Working Days, any period of 10 Working Days is reduced to 2 Working Days and any period of 5 Working Days is reduced to 1 Working Day.

- 7.3 The Parties may agree in writing to revise the parameters set out in Paragraph 8.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed 4 in a 12 month period.

8 OPERATIONAL CHANGE PROCEDURE

- 8.1 Any Operational Changes identified by the Supplier to improve operational efficiency

of the Services may be implemented by the Supplier without following the Change Control Procedure for proposed Contract Changes provided they do not:

- (a) have an impact on the business of the Authority;
- (b) require a change to this Agreement;
- (c) have a direct impact on use of the Services; or
- (d) involve the Authority in paying any additional Charges or other costs.

8.2 The Authority may request an Operational Change by submitting a written request for Operational Change ("**RFOC**") to the Supplier Representative.

8.3 The RFOC shall include the following details:

- (a) the proposed Operational Change; and
- (b) the time-scale for completion of the Operational Change.

8.4 The Supplier shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.

8.5 The Supplier shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC, and shall promptly notify the Authority when the Operational Change is completed.

9 COMMUNICATIONS

9.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Authority Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 48 (Notices) shall apply to a Change Communication as if it were a notice.

ANNEX 1: CHANGE REQUEST FORM

CR NO.:	TITLE:	TYPE OF CHANGE:
CONTRACT:		REQUIRED BY DATE:
ACTION:	NAME:	DATE:
RAISED BY:		
AREA(S) IMPACTED (<i>OPTIONAL FIELD</i>):		
ASSIGNED FOR IMPACT ASSESSMENT BY:		
ASSIGNED FOR IMPACT ASSESSMENT TO:		
SUPPLIER REFERENCE NO.:		
FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING PROPOSED CHANGES TO THE WORDING OF THE CONTRACT):		
DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:		
REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:		
SIGNATURE OF REQUESTING CHANGE OWNER:		
DATE OF REQUEST:		

ANNEX 2: CHANGE CONTROL NOTE

CHANGE CONTROL NOTE (CCN)

Dated: _____

CCN NUMBER: [insert number]

BETWEEN

1 THE NATIONAL ACRHIVES of Kew, Richmond, Surrey TW9 4DU (the Authority)

AND

2 LEIDOS PTY LTD, of Level 5 385 Bourke Street, GPO Box 5109, Melbourne, VIC 3001, Australia (the Supplier)

This CCN [insert number] is made to the Contract in relation to the Legislation Drafting and Amending Service dated [insert date] between the above Parties.

Description of requested contract change:

Reasons for requested contract change:

IT IS HEREBY AGREED AS FOLLOWS:

The Parties agree to Change [insert section or Schedule of the Contract]
[Details of Change]

Signed (Authority)Date.....

Print Name

Signed (Contractor)Date.....

Print Name

SCHEDULE 8.3

DISPUTE RESOLUTION PROCEDURE

Dispute Resolution Procedure

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“CEDR”	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
“Counter Notice”	has the meaning given in Paragraph 7.2;
“Expert”	in relation to a Dispute, a person appointed in accordance with Paragraph 6.2 to act as an expert in relation to that Dispute;
“Expert Determination”	determination by an Expert in accordance with Paragraph 6;
“Mediation Notice”	has the meaning given in Paragraph 4.2;
“Mediator”	the independent third party appointed in accordance with Paragraph 5.2 to mediate a Dispute;
“Multi-Party Dispute”	a Dispute which involves the Parties and one or more Related Third Parties;
“Multi-Party Dispute Representatives”	has the meaning given in Paragraph 9.6;
“Multi-Party Dispute Resolution Board”	has the meaning given in Paragraph 9.6;
“Related Third Party”	a party to: another contract with the Authority or the Supplier which is relevant to this Agreement; or a Sub-contract; and
“Supplier Request”	a notice served by the Supplier requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

2 DISPUTE NOTICES

2.1 If a Dispute arises then:

- (a) the Authority Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute; and
- (b) if such attempts are not successful within a reasonable period, not being longer than 20 Working Days, either Party may issue to the other a Dispute Notice.

- 2.2 A Dispute Notice:
- (a) shall set out:
 - (i) the material particulars of the Dispute;
 - (ii) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
 - (iii) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable, the reason why; and
 - (b) may specify in accordance with the requirements of Paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of the Authority) or considers (in the case of the Supplier) that the Dispute is a Multi-Party Dispute, in which case Paragraph 2.3 shall apply.
- 2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a Multi-Party Dispute pursuant to Paragraph (b), then:
- (a) if it is served by the Authority it shall be treated as a Multi-Party Procedure Initiation Notice; and
 - (b) if it is served by the Supplier it shall be treated as a Supplier Request, and in each case the provisions of Paragraph 9 shall apply.
- 2.4 Subject to Paragraphs 2.5 and 3.2 and so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:
- (a) first by commercial negotiation (as prescribed in Paragraph 4);
 - (b) then, if either Party serves a Mediation Notice, by mediation (as prescribed in Paragraph 5); and
 - (c) lastly by recourse to arbitration (as prescribed in Paragraph 7) or litigation (in accordance with Clause 50 (*Governing Law and Jurisdiction*)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in Paragraph 6) where specified under the provisions of this Agreement and may also be referred to Expert Determination where otherwise appropriate as specified in Paragraph 6.1.
- 2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Agreement regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under Paragraph 8 (*Urgent Relief*).

3 EXPEDITED DISPUTE TIMETABLE

- 3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the

Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within 5 Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.

3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of Paragraph 3.1 or is otherwise specified under the provisions of this Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable Paragraphs:

- (a) in Paragraph (c), 10 Working Days;
- (b) in Paragraph 5.2, 10 Working Days;
- (c) in Paragraph 6.2, 5 Working Days; and
- (d) in Paragraph 7.2, 10 Working Days.

3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within 2 Working Days after the deadline has passed, the Authority may set a revised deadline provided that it is no less than 5 Working Days before the end of the period of time specified in the applicable paragraphs (or 2 Working Days in the case of Paragraph 6.2). Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Authority fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

4 COMMERCIAL NEGOTIATION

4.1 Following the service of a Dispute Notice, then, so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Authority and the Supplier shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between the Authority and the Supplier's .

4.2 If:

- (a) either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution;
- (b) the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this Paragraph 4; or
- (c) the Parties have not settled the Dispute in accordance with Paragraph 4.1 within 30 Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation in accordance with Paragraph 5 (a "**Mediation Notice**").

5 MEDIATION

- 5.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with the version of CEDR's Model Mediation Procedure which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).
- 5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within 20 Working Days from (and including) the service of a Mediation Notice then either Party may apply to CEDR to nominate such a person.
- 5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

6 EXPERT DETERMINATION

- 6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with Paragraph 4 or, if applicable, mediation in accordance with Paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.
- 6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within 10 Working Days of the relevant request made pursuant to Paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:
- (a) if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);
 - (b) if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or
 - (c) if the Dispute relates to a matter of a technical nature not falling within Paragraphs 6.2(a) or (b), on the instructions of the president (or equivalent) of:

- (ii) an appropriate body agreed between the Parties; or
- (iii) if the Parties do not reach agreement on the relevant body within 15 Working Days of the relevant request made pursuant to Paragraph 6.1, such body as may be specified by the President of the Law Society on application by either Party.

6.3 The Expert shall act on the following basis:

- (a) he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- (b) the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- (c) the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within 30 Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- (d) any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within 20 Working Days of the Expert's determination being notified to the Parties;
- (e) the process shall be conducted in private and shall be confidential; and
- (f) the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7 **ARBITRATION**

7.1 Subject to compliance with its obligations under Paragraph 4.1 and to the provisions of Paragraph 6, the Authority may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of Paragraph 7.5.

7.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Authority of its intentions and the Authority shall have 15 Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with Paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Supplier shall not commence any court proceedings or arbitration until the expiry of such 15 Working Day period.

7.3 If the Authority serves a Counter Notice, then:

- (a) if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of Paragraph 7.5 shall apply; or
- (b) if the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Supplier shall not commence arbitration proceedings.

- 7.4 If the Authority does not serve a Counter Notice within the 15 Working Day period referred to in Paragraph 7.2, the Supplier may either commence arbitration proceedings in accordance with Paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.
- 7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to Paragraphs 7.1 to 7.4:
- (a) the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to Paragraphs 7.5(e), (f) and (g));
 - (b) the arbitration shall be administered by the LCIA;
 - (c) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - (d) if the Parties fail to agree the appointment of the arbitrator within 10 Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - (e) the chair of the arbitral tribunal shall be British;
 - (f) the arbitration proceedings shall take place in London and in the English language; and
 - (g) the seat of the arbitration shall be London.

8 URGENT RELIEF

- 8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:
- (a) for interim or interlocutory remedies in relation to this Agreement or infringement by the other Party of that Party’s Intellectual Property Rights; and/or
 - (b) where compliance with Paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

9 MULTI-PARTY DISPUTES

- 9.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this Paragraph 9 (the “**Multi-Party Dispute Resolution Procedure**”).
- 9.2 If at any time following the issue of a Dispute Notice, the Authority reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Authority shall be entitled to determine that the Dispute is a

Multi-Party Dispute and to serve a notice on the Supplier which sets out the Authority's determination that the Dispute is a Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure, such notice a "**Multi-Party Procedure Initiation Notice**".

- 9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with Paragraph 7, the Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Supplier may serve a Supplier Request on the Authority.
- 9.4 The Authority shall (acting reasonably) consider each Supplier Request and shall determine within 5 Working Days whether the Dispute is:
- (a) a Multi-Party Dispute, in which case the Authority shall serve a Multi-Party Procedure Initiation Notice on the Supplier; or
 - (b) not a Multi-Party Dispute, in which case the Authority shall serve written notice of such determination upon the Supplier and the Dispute shall be treated in accordance with Paragraphs 3 to 8.
- 9.5 If the Authority has determined, following a Supplier Request, that a Dispute is not a Multi-Party Dispute, the Supplier may not serve another Supplier Request with reference to the same Dispute.
- 9.6 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the "**Multi-Party Dispute Resolution Board**") comprising representatives from the following parties to the Multi-Party Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the Multi-Party Dispute:
- (a) the Authority;
 - (b) the Supplier;
 - (c) each Related Third Party involved in the Multi-Party Dispute; and
 - (d) any other representatives of any of the Parties and/or any Related Third Parties whom the Authority considers necessary,
- (together "**Multi-Party Dispute Representatives**").
- 9.7 The Parties agree that the Multi-Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:
- (a) the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-Party Dispute Resolution Board in respect of the Multi-Party Dispute;
 - (b) the Multi-Party Dispute Resolution Board shall first meet within 10 Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if

the Parties do not reach agreement on the time and place within 5 Working Days of service of the relevant Multi-Party Procedure Initiation Notice, at the time and place specified by the Authority, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and

- (c) in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

9.8 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within 25 Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

- (a) either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case Paragraph 5 shall apply;
- (b) either Party may request that the Multi-Party Dispute is referred to an expert in which case Paragraph 6 shall apply; and/or
- (c) subject to Paragraph 9.9, Paragraph 7 shall apply to the Multi-Party Dispute,

and in each case references to the “Supplier” or the “Parties” in such provisions shall include a reference to all Related Third Parties.

9.9 If a Multi-Party Dispute is referred to arbitration in accordance with Paragraph 7 or a Dispute becomes a Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, the Authority or the Supplier may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub-Contractor, by the Supplier.

SCHEDULE 8.4

RECORDS PROVISIONS

Records Provisions

1 RECORDS

- 1.1 The Supplier shall retain and maintain all the records (including superseded records) referred to in Paragraph **Error! Reference source not found.** and Annex 1 (together “**Records**”):
- (a) in accordance with the requirements of The National Archives and Good Industry Practice;
 - (b) in chronological order;
 - (c) in a form that is capable of audit; and
 - (d) at its own expense.
- 1.2 The Supplier shall make the Records available for inspection to the Authority on request, subject to the Authority giving reasonable notice.
- 1.3 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to the Authority.
- 1.4 The Supplier shall, during the Term and a period of at least 7 years following the expiry or termination of this Agreement, maintain or cause to be maintained complete and accurate documents and records in relation to the provision of the Services including but not limited to all Records.
- 1.5 Records that contain financial information shall be retained and maintained in safe storage by the Supplier for a period of at least 7 years after the expiry or termination of this Agreement.
- 1.6 Without prejudice to the foregoing, the Supplier shall provide the Authority:
- (a) as soon as they are available, and in any event within 60 Working Days after the end of the first 6 months of each financial year of the Supplier during the Term, a copy, certified as a true copy by an authorised representative of the Supplier, of its un-audited interim accounts and, if applicable, of consolidated un-audited interim accounts of the Supplier and its Affiliates which would (if the Supplier were listed on the London Stock Exchange (whether or not it is)) be required to be sent to shareholders as at the end of and for each such 6 month period; and
 - (b) as soon as they shall have been sent to its shareholders in order to be laid before an annual general meeting of the Supplier, but not later than 130 Working Days after the end of each accounting reference period of the Supplier part or all of which falls during the Term, the Supplier's audited accounts and if applicable, of the consolidated audited accounts of the Supplier and its Affiliates in respect of that period together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.

ANNEX 1: Records to be kept by the Supplier

The records to be kept by the Supplier are:

1. This Agreement, its Schedules and all amendments to such documents.
2. All other documents which this Agreement expressly requires to be prepared.
3. Records relating to the appointment and succession of the Supplier Representative and each member of the Key Personnel.
4. Notices, reports and other documentation submitted by any Expert.
5. All operation and maintenance manuals prepared by the Supplier for the purpose of maintaining the provision of the Services and the underlying IT Environment and Supplier Equipment.
6. Documents prepared by the Supplier or received by the Supplier from a third party relating to a Force Majeure Event.
7. All formal notices, reports or submissions made by the Supplier to the Authority Representative in connection with the provision of the Services.
8. All certificates, licences, registrations or warranties in each case obtained by the Supplier in relation to the provision of the Services.
9. Documents prepared by the Supplier in support of claims for the Charges.
10. Documents submitted by the Supplier pursuant to the Change Control Procedure.
11. Documents submitted by the Supplier pursuant to invocation by it or the Authority of the Dispute Resolution Procedure.
12. Documents evidencing any change in ownership or any interest in any or all of the shares in the Supplier and/or the Guarantor, where such change may cause a change of Control; and including documents detailing the identity of the persons changing such ownership or interest.
13. Invoices and records related to VAT sought to be recovered by the Supplier.
14. Financial records, including audited and un-audited accounts of the Guarantor and the Supplier.
15. Records required to be retained by the Supplier by Law, including in relation to health and safety matters and health and safety files and all consents.
16. All documents relating to the insurances to be maintained under this Agreement and any claims made in respect of them.
17. All journals and audit trail data referred to in Schedule 2.4 (*Security Management Plan*).
18. All other records, notices or certificates required to be produced and/or maintained by the Supplier pursuant to this Agreement.

SCHEDULE 8.5

EXIT MANAGEMENT

Exit Management

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Emergency Exit”	any termination of this Agreement which is a: <ul style="list-style-type: none">(a) termination of the whole or part of this Agreement in accordance with Clause 37 (Termination Rights), except where the period of notice given under that Clause is greater than or equal to 6 months;(b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause 37 (Termination Rights); or(c) wrongful termination or repudiation of this Agreement by either Party;
“Exclusive Assets”	those Assets used by the Supplier or a Key Sub-contractor which are used exclusively in the provision of the Services;
“Exit Information”	has the meaning given in Paragraph 3.1;
“Exit Manager”	the person appointed by each Party pursuant to Paragraph 2.3 for managing the Parties' respective obligations under this Schedule;
“Net Book Value”	the net book value of the relevant Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Authority of the same date as this Agreement;
“Non-Exclusive Assets”	those Assets (if any) which are used by the Supplier or a Key Sub-contractor in connection with the Services but which are also used by the Supplier or Key Sub-contractor for other purposes of material value;
“Ordinary Exit”	any termination of this Agreement which occurs: <ul style="list-style-type: none">(a) pursuant to Clause 37 (Termination Rights) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to 6 months; or(b) as a result of the expiry of the Initial Term or any Extension Period;
“Registers”	the register and configuration database referred to in Paragraphs (a) and (b);
“Transferable Assets”	those of the Exclusive Assets which are capable of legal transfer to the Authority;
“Transferable Contracts”	the Sub-contracts, licences for Supplier's Software, licences for Third Party Software or other agreements

which are necessary to enable the Authority or any Replacement Supplier to perform the Services or the Replacement Services, including in relation to licences all relevant Documentation; and

“Transferring Contracts” has the meaning given in Paragraph (c).

2 OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

2.1 During the Term, the Supplier shall:

- (a) create and maintain a register of all:
 - (i) Assets, detailing their:
 - (A) make, model and asset number;
 - (B) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (C) Net Book Value;
 - (D) condition and physical location; and
 - (E) use (including technical specifications); and
 - (ii) Sub-contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services;
- (b) create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Services, which shall contain sufficient detail to permit the Authority and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
- (c) agree the format of the Registers with the Authority as part of the process of agreeing the Exit Plan; and
- (d) at all times keep the Registers up to date, in particular in the event that Assets, Sub-contracts or other relevant agreements are added to or removed from the Services.

2.2 The Supplier shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Agreement.

2.3 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within 3 months of the Effective Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-contractors comply with this Schedule. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Agreement and

all matters connected with this Schedule and each Party's compliance with it.

3 OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 3.1 On reasonable notice at any point during the Term, the Supplier shall provide to the Authority and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
- (a) details of the Service(s);
 - (b) a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - (c) an inventory of Authority Data in the Supplier's possession or control;
 - (d) details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
 - (e) a list of on-going and/or threatened disputes in relation to the provision of the Services;
 - (f) to the extent permitted by applicable Law, all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Agreement; and
 - (g) such other material and information as the Authority shall reasonably require,
- (together, the “**Exit Information**”).
- 3.2 The Supplier acknowledges that the Authority may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not under this Paragraph 3.2 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-contractors' prices or costs).
- 3.3 The Supplier shall:
- (a) notify the Authority within 5 Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Authority regarding such proposed material changes; and
 - (b) provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Authority.
- 3.4 The Supplier may charge the Authority for its reasonable additional costs to the extent the Authority requests more than 4 updates in any 6 month period.
- 3.5 The Exit Information shall be accurate and complete in all material respects and the

level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:

- (a) prepare an informed offer for those Services; and
- (b) not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

4 EXIT PLAN

4.1 The Supplier shall, within 3 months after the Effective Date, deliver to the Authority an Exit Plan which:

- (a) sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Authority and/or its Replacement Supplier on the expiry or termination of this Agreement;
- (b) complies with the requirements set out in Paragraph 4.3; and
- (c) is otherwise reasonably satisfactory to the Authority.

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 20 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- (a) how the Exit Information is obtained;
- (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Supplier may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Supplier of all such reasonable assistance as the Authority shall require to enable the Authority or its sub-contractors to provide the Services;
- (c) the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
- (d) the management structure to be employed during the Termination Assistance Period;
- (e) a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
- (f) how the Services will transfer to the Replacement Supplier and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Supplier or its Sub-contractors (where applicable);
- (g) the scope of the Termination Services that may be required for the benefit of the Authority (including such of the services set out in Annex 1 as are applicable);

- (h) a timetable and critical issues for providing the Termination Services;
- (i) any charges that would be payable for the provision of the Termination Services (calculated in accordance with the methodology that would apply if such Services were being treated as a Contract Change), together with a capped estimate of such charges;
- (j) how the Termination Services would be provided (if required) during the Termination Assistance Period;
- (k) how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.

4.4 The Parties acknowledge that the migration of the Services from the Supplier to the Authority and/or its Replacement Supplier may be phased, such that certain of the Services are handed over before others.

4.5 The Supplier shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year) to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Supplier shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that 20 Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Finalisation of the Exit Plan

4.6 Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Agreement, the Supplier will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.

4.7 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Authority then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Supplier shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

5 TERMINATION SERVICES

Notification of Requirements for Termination Services

- 5.1 The Authority shall be entitled to require the provision of Termination Services at any time during the Term by giving written notice to the Supplier (a “**Termination Assistance Notice**”) at least 4 months prior to the date of termination or expiry of this Agreement or as soon as reasonably practicable (but in any event, not later than 1 month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- (a) the date from which Termination Services are required;
 - (b) the nature of the Termination Services required; and
 - (c) the period during which it is anticipated that Termination Services will be required, which shall continue no longer than 24 months after the date that the Supplier ceases to provide the Services.
- 5.2 The Authority shall have an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than 6 months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than 20 Working Days prior to the date on which the provision of Termination Services is otherwise due to expire. The Authority shall have the right to terminate its requirement for Termination Services by serving not less than 20 Working Days' written notice upon the Supplier to such effect.

Termination Assistance Period

- 5.3 Throughout the Termination Assistance Period, or such shorter period as the Authority may require, the Supplier shall:
- (a) continue to provide the Services (as applicable) and, if required by the Authority pursuant to Paragraph 5.1, provide the Termination Services;
 - (b) in addition to providing the Services and the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Supplier;
 - (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 5.3(b) without additional costs to the Authority;
 - (d) provide the Services and the Termination Services at no detriment to the Target Performance Levels, save to the extent that the Parties agree otherwise in accordance with Paragraph 5.5; and
 - (e) at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority.
- 5.4 Without prejudice to the Supplier's obligations under Paragraph (c), if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in

Paragraph (b) without additional costs to the Authority, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.

- 5.5 If the Supplier demonstrates to the Authority's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Target Performance Level(s), the Parties shall vary the relevant Target Performance Level(s) and/or the applicable Service Credits to take account of such adverse effect.

Termination Obligations

- 5.6 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 5.7 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), the Supplier shall:
- (a) cease to use the Authority Data;
 - (b) provide the Authority and/or the Replacement Supplier with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
 - (c) erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Authority Data and promptly certify to the Authority that it has completed such deletion;
 - (d) return to the Authority such of the following as is in the Supplier's possession or control:
 - (i) all copies of the Authority Software and any other software licensed by the Authority to the Supplier under this Agreement;
 - (ii) all materials created by the Supplier under this Agreement in which the IPRs are owned by the Authority;
 - (iii) any parts of the IT Environment and any other equipment which belongs to the Authority; and
 - (iv) any items that have been on-charged to the Authority, such as consumables;
 - (e) vacate any Authority Premises;
 - (f) provide access during normal working hours to the Authority and/or the Replacement Supplier for up to 12 months after expiry or termination to:
 - (i) such information relating to the Services as remains in the possession or control of the Supplier; and

- (ii) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Authority and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this Paragraph 5.7(f)(ii).
- 5.8 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Services or for statutory compliance purposes.
- 5.9 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the Authority to the Supplier in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

6 ASSETS, SUB-CONTRACTS AND SOFTWARE

- 6.1 Following notice of termination of this Agreement and during the Termination Assistance Period, the Supplier shall not, without the Authority's prior written consent:
 - (a) terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Services or the Charges;
 - (b) (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Assets or acquire any new Assets; or
 - (c) terminate, enter into or vary any licence for software in connection with the Services.
- 6.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to Paragraph (e), the Authority shall provide written notice to the Supplier setting out:
 - (a) which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Supplier ("**Transferring Assets**");
 - (b) which, if any, of:
 - (i) the Exclusive Assets that are not Transferable Assets; and
 - (ii) the Non-Exclusive Assets,the Authority and/or the Replacement Supplier requires the continued use of; and
 - (c) which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Supplier

(the “Transferring Contracts”),
in order for the Authority and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Authority and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Authority and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Authority and/or its Replacement Supplier requires to provide the Services or Replacement Services.

- 6.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Authority and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where:
- (a) a Termination Payment is payable by the Authority to the Supplier, in which case, payment for such Assets shall be included within the Termination Payment; or
 - (b) the cost of the Transferring Asset has been partially or fully paid for through the Charges at the time of expiry or termination of this Agreement, in which case the Authority shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Charges.
- 6.4 Risk in the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) on payment for the same.
- 6.5 Where the Supplier is notified in accordance with Paragraph (c) that the Authority and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- (a) procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Authority) for the Authority and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - (b) procure a suitable alternative to such assets and the Authority or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 6.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Authority and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.
- 6.7 The Authority shall:
- (a) accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - (b) once a Transferring Contract is novated or assigned to the Authority

and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

6.8 The Supplier shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Supplier has been effected.

6.9 The Supplier shall indemnify the Authority (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Authority (and/or Replacement Supplier) pursuant to Paragraph 6.6 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract.

7 SUPPLIER PERSONNEL

7.1 The Authority and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Schedule 9.1 (*Staff Transfer*) shall apply.

7.2 The Supplier shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Supplier.

7.3 During the Termination Assistance Period, the Supplier shall give the Authority and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Authority and/or the Replacement Supplier.

7.4 The Supplier shall not for a period of 12 months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-contractors whose employment or engagement is transferred to the Authority and/or the Replacement Supplier, except that this paragraph shall not apply where the employee, supplier or Sub-contractor applies in response to a public advertisement of a vacancy.

8 CHARGES

8.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Supplier to provide the Termination Services), the Authority shall pay the Charges to the Supplier in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination

Services, the estimate may be varied in accordance with the Change Control Procedure.

- 8.2 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.
- 8.3 Except as otherwise expressly specified in this Agreement, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Authority shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

9 APPORTIONMENTS

- 9.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Authority and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
 - (b) the Authority shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - (c) the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 9.2 Each Party shall pay (and/or the Authority shall procure that the Replacement Supplier shall pay) any monies due under Paragraph 9.1 as soon as reasonably practicable.

ANNEX 1: Scope of the Termination Services

- 1.1 The Termination Services to be provided by the Supplier shall include such of the following services as the Authority may specify:
- (a) ceasing all non-critical Software changes (except where agreed in writing with the Authority);
 - (b) notifying the Sub-contractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - (c) providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Authority and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - (d) delivering to the Authority the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the 12 month period immediately prior to the commencement of the Termination Services);
 - (e) providing details of work volumes and staffing requirements over the 12 month period immediately prior to the commencement of the Termination Services;
 - (f) with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;
 - (g) providing the Authority with any problem logs which have not previously been provided to the Authority;
 - (h) providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during and for a period of 12 months after the Termination Assistance Period;
 - (i) providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
 - (j) reviewing all Software libraries used in connection with the Services and providing details of these to the Authority and/or the Replacement Supplier;
 - (k) making available to the Authority and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff as are nominated by the Authority (acting reasonably) at the time of termination or expiry;
 - (l) assisting in establishing naming conventions for any new production site;
 - (m) analysing and providing information about capacity and performance

requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth across these areas;

- (n) generating a computer listing of the Source Code of [insert details of relevant Software] in a form and on media reasonably requested by the Authority;
- (o) agreeing with the Authority a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- (p) delivering copies of the production databases (with content listings) to the Authority's and/or the Replacement Supplier's operations staff (on appropriate media) as reasonably requested by the Authority;
- (q) assisting with the loading, testing and implementation of the production databases;
- (r) assisting in the execution of a parallel operation until the effective date of expiry or termination of this Agreement;
- (s) in respect of the maintenance and support of the Supplier System, providing historical performance data for the previous [insert time period];
- (t) assisting in the execution of a parallel operation of the maintenance and support of the Supplier System until the end of the Termination Assistance Period or as otherwise specified by the Authority (provided that these Services shall end on a date no later than the end of the Termination Assistance Period);
- (u) providing an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Services;
- (v) answering all reasonable questions from the Authority and/or the Replacement Supplier regarding the Services;
- (w) agreeing with the Authority and/or the Replacement Supplier a plan for the migration of the Authority Data to the Authority and/or the Replacement Supplier;
- (x) providing access to the Authority and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 months afterwards for the purpose of the smooth transfer of the Services to the Authority and/or the Replacement Supplier:
 - (i) to information and documentation relating to the Transferring Services that is in the possession or control of the Supplier or its Sub-contractors (and the Supplier agrees and shall procure that its Sub-contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
 - (ii) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Personnel who have been involved in the provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors; and
- (y) knowledge transfer services, including:

- (i) transferring all training material and providing appropriate training to those Authority and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Services;
- (ii) providing for transfer to the Authority and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents; and
- (iii) providing the Supplier and/or the Replacement Supplier with access to such members of the Supplier's or its Sub-contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Supplier or its Sub-contractors.

1.2 The Supplier shall:

- (a) provide a documented plan relating to the training matters referred to in Paragraph (k) for agreement by the Authority at the time of termination or expiry of this Agreement;
- (b) co-operate fully in the execution of the handover plan agreed pursuant to Paragraph (o), providing skills and expertise of a suitable standard; and
- (c) fully co-operate in the execution of the Authority Database migration plan agreed pursuant to Paragraph (w), providing skills and expertise of a reasonably acceptable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Authority and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Authority and/or the Replacement Supplier.

1.4 The information which the Supplier shall provide to the Authority and/or the Replacement Supplier pursuant to Paragraph (y) shall include:

- (a) copies of up-to-date procedures and operations manuals;
- (b) product information;
- (c) agreements with third party suppliers of goods and services which are to be transferred to the Authority and/or the Replacement Supplier;
- (d) key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Authority pursuant to this Schedule;
- (e) information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
- (f) details of physical and logical security processes and tools which will be available to the Authority; and

- (g) any relevant interface information.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and Suppliers) of the Replacement Supplier and/or the Authority access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

- (a) any such agent or personnel (including employees, consultants and suppliers) having access to any Sites pursuant to this Paragraph 1.5 shall:
 - (i) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - (ii) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Authority deems reasonable; and
- (b) the Authority and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

SCHEDULE 8.6

BUSINESS CONTINUITY AND DISASTER RECOVERY

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Business Continuity Plan” has the meaning given in Paragraph (ii);

“Business Continuity Services” has the meaning given in Paragraph (b);

“Disaster” the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for period of 12 hours or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable for that period;

“Disaster Recovery Plan” has the meaning given in Paragraph (iii);

“Disaster Recovery Services” the services embodied in the processes and procedures for restoring the Services following the occurrence of a Disaster;

“Disaster Recovery System” the system identified by the Supplier in the Supplier Solution which shall be used for the purpose of delivering the Disaster Recovery Services;

“Related Service Provider” any person who provides services to the Authority in relation to this Agreement from time to time which persons include as at the Effective Date from time to time.

2 BCDR PLAN

2.1 Within 40 Working Days from the Effective Date the Supplier shall prepare and deliver to the Authority for the Authority’s written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- (a) ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and
- (b) the recovery of the Services in the event of a Disaster.

2.2 The BCDR Plan shall:

- (a) be divided into three parts:
 - (i) Part A which shall set out general principles applicable to the BCDR Plan;
 - (ii) Part B which shall relate to business continuity (the **“Business Continuity Plan”**); and
 - (iii) Part C which shall relate to disaster recovery (the **“Disaster Recovery Plan”**); and

- (b) unless otherwise required by the Authority in writing, be based upon and be consistent with the provisions of Paragraphs 3, 4 and 5.
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Authority shall:
 - (a) review and comment on the draft BCDR Plan as soon as reasonably practicable; and
 - (b) notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than 20 Working Days after the date on which the draft BCDR Plan is first delivered to the Authority.
- 2.4 If the Authority rejects the draft BCDR Plan:
 - (a) the Authority shall inform the Supplier in writing of its reasons for its rejection; and
 - (b) the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft BCDR Plan to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 2.3 and this Paragraph 2.4 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3 PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A of the BCDR Plan shall:
 - (a) set out how the business continuity and disaster recovery elements of the Plan link to each other;
 - (b) provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the Services and any services provided to the Authority by a Related Service Provider;
 - (c) contain an obligation upon the Supplier to liaise with the Authority and (at the Authority's request) any Related Service Provider with respect to issues concerning business continuity and disaster recovery where applicable;
 - (d) detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Authority and any of its other Related Service Providers in each case as notified to the Supplier by the Authority from time to time;
 - (e) contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Authority;
 - (f) contain a risk analysis, including:

- (i) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
- (ii) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
- (iii) identification of risks arising from the interaction of the Services with the services provided by a Related Service Provider; and
- (iv) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- (g) provide for documentation of processes, including business processes, and procedures;
- (h) set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-contractors) and for the Authority;
- (i) identify the procedures for reverting to “normal service”;
- (j) set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
- (k) identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
- (l) provide for the provision of technical advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority’s business continuity plans.

3.2 The BCDR Plan shall be designed so as to ensure that:

- (a) the Services are provided in accordance with this Agreement at all times during and after the invocation of the BCDR Plan;
- (b) the adverse impact of any Disaster, service failure, or disruption on the operations of the Authority is minimal as far as reasonably possible;
- (c) it complies with the relevant provisions of ISO/IEC 27002 and all other industry standards from time to time in force; and
- (d) there is a process for the management of disaster recovery testing detailed in the BCDR Plan.

3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the Services.

3.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Agreement.

4 BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Authority expressly states otherwise in writing:
- (a) the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and
 - (b) the steps to be taken by the Supplier upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- (a) address the various possible levels of failures of or disruptions to the Services;
 - (b) set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the “**Business Continuity Services**”);
 - (c) specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Business Continuity Plan; and
 - (d) clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5 DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Authority supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
- (a) the technical design and build specification of the Disaster Recovery System;
 - (b) details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (i) data centre and disaster recovery site audits;
 - (ii) backup methodology and details of the Supplier's approach to data back-up and data verification;

- (iii) identification of all potential disaster scenarios;
- (iv) risk analysis;
- (v) documentation of processes and procedures;
- (vi) hardware configuration details;
- (vii) network planning including details of all relevant data networks and communication links;
- (viii) invocation rules;
- (ix) Service recovery procedures; and
- (x) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- (c) any applicable Performance Indicators with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Performance Indicators in respect of other Services during any period of invocation of the Disaster Recovery Plan;
- (d) 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;
- (e) access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
- (f) testing and management arrangements.

6 REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
- (a) on a regular basis and as a minimum once every 6 months;
 - (b) within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 8; and
 - (c) where the Authority requests any additional reviews (over and above those provided for in Paragraphs 6.1(a) and 6.1(b)) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The costs of both Parties of any such additional reviews shall be met by the Authority except that the Supplier shall not be entitled to charge the Authority for any costs that it may incur above any estimate without the Authority's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable

future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Authority shall reasonably require. The Supplier shall, within 20 Working Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a “**Review Report**”) setting out:

- (a) the findings of the review;
- (b) any changes in the risk profile associated with the Services; and
- (c) 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 following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.

6.3 Following receipt of the Review Report and the Supplier's Proposals, the Authority shall:

- (a) review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
- (b) notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than 20 Working Days after the date on which they are first delivered to the Authority.

6.4 If the Authority rejects the Review Report and/or the Supplier's Proposals:

- (a) the Authority shall inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Authority for the Authority's approval within 20 Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 6.3 and this Paragraph 6.4 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

6.5 The Supplier shall as soon as is reasonably practicable after receiving the Authority's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7 TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to Paragraph 7.2, the Authority may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Authority considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Authority 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 the Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority in this regard. Each test shall be carried out under the supervision of the Authority or its nominee.
- 7.4 The Supplier shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 7.5 The Supplier shall, within 20 Working Days of the conclusion of each test, provide to the Authority a report setting out:
- (a) the outcome of the test;
 - (b) any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - (c) the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Authority, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Authority, by the date reasonably required by the Authority and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Agreement.
- 7.8 The Supplier shall also perform a test of the BCDR Plan in the event of any major

reconfiguration of the Services or as otherwise reasonably requested by the Authority.

8 INVOCATION OF THE BCDR PLAN

- 8.1 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 Authority promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Authority.

SCHEDULE 8.7

CONDUCT OF CLAIMS

1 INDEMNITIES

- 1.1 This Schedule shall apply to the conduct, by a Party from whom an indemnity is sought under this Agreement (the "Indemnifier"), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the "Beneficiary").
- 1.2 If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Agreement (a "Claim"), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within 10 Working Days of receipt of the same.
- 1.3 Subject to Paragraph 2, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim and, subject to Paragraph 2.2, the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.
- 1.4 With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:
- (a) the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
 - (b) the Indemnifier shall not bring the name of the Beneficiary into disrepute;
 - (c) the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and
 - (d) the Indemnifier shall conduct the Claim with all due diligence.
- 1.5 The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:
- (a) the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;
 - (b) the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or

- (c) the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

2 SENSITIVE CLAIMS

- 2.1 With respect to any Claim which the Beneficiary, acting reasonably, considers is likely to have an adverse impact on the general public's perception of the Beneficiary (a "**Sensitive Claim**"), the Indemnifier shall be entitled to take conduct of any defence, dispute, compromise or appeal of the Sensitive Claim only with the Beneficiary's prior written consent. If the Beneficiary withholds such consent and elects to conduct the defence, dispute, compromise or appeal of the Sensitive Claim itself, it shall conduct the Sensitive Claim with all due diligence and if it fails to do so, the Indemnifier shall only be liable to indemnify the Beneficiary in respect of that amount which would have been recoverable by the Beneficiary had it conducted the Sensitive Claim with all due diligence.
- 2.2 The Beneficiary shall be free at any time to give written notice to the Indemnifier that it is retaining or taking over (as the case may be) the conduct of any Claim, to which Paragraph 1.3 applies if, in the reasonable opinion of the Beneficiary, the Claim is, or has become, a Sensitive Claim.

3 RECOVERY OF SUMS

- 3.1 If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever is the lesser of:
- (a) an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and
 - (b) the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

4 MITIGATION

- 4.1 Each of the Authority and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

SCHEDULE 9.1

STAFF TRANSFER

1.1 In this Schedule, the following definitions shall apply:

“Replacement Sub-contractor”	a sub-contractor of the Replacement Supplier;
“Relevant Transfer”	a transfer of employment to which the Employment Regulations apply (or are alleged to apply) as a consequence of the full or partial termination or expiry of the Supplier's provision of all or any Services under this Agreement;
“Service Transfer Date”	the date upon which a Relevant Transfer takes place or is alleged to take place;
“Transferring Supplier Employees”	as defined in paragraph 1.6 of this Schedule 9.1.

1.2 For the purposes of this Schedule 9.1, "Replacement Supplier" shall include the Authority.

1.3 Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Replacement Supplier or Replacement Sub-contractor, as the case may be.

1.4 During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

1.5 The Supplier shall indemnify the Authority and any Replacement Supplier and any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

- (a) 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 relevant Service Transfer Date;
- (b) the breach or non-observance by the Supplier or any Sub-contractor occurring on or before the relevant Service Transfer Date of:
 - (i) any collective agreement applicable to any Transferring Supplier Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the relevant Service Transfer Date;
 - (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the relevant Service Transfer Date;
 - (e) a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the relevant Service Transfer Date.

1.6 If any person (or their representative) claims, or it is determined, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive or otherwise (any such person being a "Transferring Supplier Employee"), then:

- (a) the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 10 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
- (b) the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Supplier and/or any Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

1.7 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately

release or procure the release of the person from his/her employment or alleged employment.

- 1.8 If after the 15 Working Day period specified in Paragraph 1.6(b) has elapsed:
- (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or
 - (c) the situation has not otherwise been resolved
- the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 10 Working Days give notice to terminate the employment or alleged employment of such person.
- 1.9 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 1.6 to 1.8, the Supplier shall indemnify the Replacement Supplier and Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 1.8.
- 1.10 For the avoidance of doubt, this Schedule reflects the parties' agreement that:
- (a) they do not consider the Employment Regulations to be triggered by the commencement of the provision of any of the Services under this Agreement; and
 - (b) they do not expect the Employment Regulations to be triggered by the full or partial termination or expiry of the provision (by the Supplier or any of its Sub-contractors) of any or all of the Services under this Agreement.

SCHEDULE 9.2

KEY PERSONNEL

Key Personnel Text Redacted

SCHEDULE 10

GUARANTEE

NOT USED

SCHEDULE 11
PROCESSING PERSONAL DATA

1 **Processing Personal Data**

- 1.1 The contact details of the Authority's Data Protection Officer are: Linda Steward, Data Protection Officer, The National Archives, Kew, Richmond, Surrey, United Kingdom, TW9 4DU.
- 1.2 The contact details of the Contractor's Data Protection Officers are:
- UK DPO, Brendan Turley, Skypark 1, 8 Elliott Place, Glasgow, POST-L G3 8EP United Kingdom
 - Australian DPO, Genevieve Ryan, 42 Lakeview Drive, Scoresby, VIC, 3179, Australia
 - Project DPO, Timothy Arnold-Moore, Level 5, 385 Bourke St, Melbourne, VIC, 3001, Australia.
- 1.3 The Processor shall comply with any further written instructions with respect to processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	The Parties acknowledge that in accordance with Clause 23.1 and for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor of the following Personal Data: LDAPP Service User Account details
Duration of the processing	Contract Term

Nature and purposes of the processing	<p>Collection of personal information for the creation and maintenance of LDAPP Service user accounts, so that users can log in to the service, plus correspondence by email or telephone in relation to that account. This information is only to be used in relation to the use and maintenance of the LDAPP Service.</p> <p>The purpose is to allow users access to the LDAPP Service in exercising the functions of a Minister of the Crown</p>
Type of Personal Data	Name, e-mail address, IP address, department, work team, contact details (in the event of correspondence with the Authority of Supplier)
Categories of Data Subject	Registered users of the LDAPP Service
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	<p>Data will be stored for as long as is necessary to provide the account. When the account is no longer required, the email address will be removed from the system, however the name may be retained to provide a business audit trail.</p> <p>Data relating to correspondence by email or telephone will be retained for as long as the Authority deems necessary for review and response to the query, as well as long term improvements to the Service</p>